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Fri, Apr. 18, 2008

CONTENT & ONLINE PARTNERS INFORMATION

CONTENT

FRONT PAGE

NEWS

COLUMNISTS

[John Brummett](#)

[Dennis Byrd](#)

[David Sanders](#)

[Doug Thompson](#)

[Harry King \(Sports\)](#)

[Roby Brock \(Business\)](#)

[Joe Mosby \(Outdoors\)](#)

[Micki Bare \(Lifestyles\)](#)

HARVILLE'S CARTOONS

WASHINGTON D.C. BUREAU

Brummett's Blog

A political blog by columnist John Brummett

Today's Vic Harville Cartoon

JOHN MCCAIN ADDRESSES THE ECONOMY



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Payday lender must pay \$1.3 million fine

Friday, Apr 18, 2008

By Rob Moritz

Arkansas News Bureau

LITTLE ROCK - The state Supreme Court on Thursday upheld a \$1.4 million fine levied against the owner of 14 payday lending businesses in Arkansas for operating the check-cashing outlets without a license.

The high court affirmed decisions by a Pulaski County circuit judge and the Arkansas State Board of Collection Agencies.

In 2005, the board that regulates the check-cashing industry in Arkansas ordered Dennis Bailey to close his businesses because he did not have a license. Investigators later determined he was still issuing payday loans, and the board fined Bailey \$1.3 million.

Circuit Judge Marion Humphrey upheld the board's decision in 2006.

In his appeal, Bailey asked Arkansas' highest court to send his case back to the Board of Collection Agencies, arguing that the decision to fine him was based on hearsay testimony, not sworn testimony.

The high court rejected the argument in a unanimous decision Thursday, saying Bailey never made such an argument before the board.

The 14 stores operated by Bailey include Fast Cash stores in Beebe, Bryant, Corning, Fordyce, Harrison, Little Rock, Mountain Home, Searcy, Sheridan and Walnut Ridge. The others are Fast Cash Cashers in Camden, Cash Advance in Hot Springs, Cash Advance in Cabot and Central Arkansas Check Cashing in Newport.

Bailey originally applied to the state board for a license to open 13 payday-lending businesses in 2005. He was denied, however, after the board discovered that other businesses he owned in the state had previously been found to be in violation of state laws, according to court records.

Bailey later applied to the state of Missouri to operate a company named BMB Finance Co. He was awarded the Missouri license and then set up his Arkansas businesses, structuring them so they received loans from BMB, according the record.

The supervisor of Consumer Credit in the Missouri Division of Finance informed Bailey in January 2006 that the Missouri business license only

authorized him to conduct business at BMB's West Plains, Mo., location.

Thursday's decision comes on the heels of an Arkansas attorney general's office crackdown on the state's payday lending industry.

Attorney General Dustin McDaniel recently ordered payday-lending outlets in the state to shut down and stop collecting debts or face lawsuits accusing them of charging high interest rates that violate the state constitution.

The attorney general moved against the industry after the state Supreme Court ruled the practice of charging what opponents say is triple-digit interest on short-term loans violated the constitutionally set state usury limit of 17 percent.

The high court said the 1999 Check Cashers Act, which declares payday-lending charges are fees and not interest, does not give operators blanket protection against allegations of constitutional violations.

Opponents of the practice contend payday lenders prey upon the poor and other consumers who are unable to get loans from conventional lenders. Payday lenders contend their service meets a consumer demand and that its demise would hurt some consumers.

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