Arkansans Against Abusive Payday Lending

www.StopPaydayPredators.org

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Payday lenders respond to Attorney General McDaniel's crackdown; most comply, some defy

Latest report documents 101 outlets stopped making loans; 55 still in business, including stores owned by president of state trade association and industry representative on state regulatory board

LITTLE ROCK—Arkansans Against Abusive Payday Lending (AAAPL) today released an updated study that shows 101 of the 156 payday lenders ordered by Arkansas Attorney General Dustin McDaniel in March to stop making loans have complied, with 55 still operating in defiance of the order.

On March 18, 2008, Attorney General McDaniel ordered all 156 licensed and regulated payday lending stores in Arkansas to "cease their lending practices immediately, void any and all current and past-due loans, and refrain from any collection activities related to these type loans." The Attorney General's action followed two Arkansas Supreme Court decisions (one in January 2008 and another in February 2008) indicating that payday lenders charging triple-digit interest rates were violating the Arkansas Constitution's usury limit of 17 percent annual interest for consumer loans; the Arkansas Deceptive Trade Practices Act; and the rules and regulations of the Arkansas State Board of Collection Agencies.

Overall, the number of payday lenders in Arkansas has shrunk by 43 percent since Attorney General McDaniel's March order—from 237 to 136. The 136 still in operation include the 55 operating in defiance of Attorney General McDaniel's order, and 81 that currently operate outside of state regulation. Attorney General McDaniel and his staff have said these 81 will face scrutiny and potential action given the Attorney General's long-term goal that all payday lenders in Arkansas cease operations.

AAAPL's latest independent research report—the fifth such report issued by the organization since September 2004—details the business models used by the 55 defiant payday lenders in an effort to evade the Attorney General's order. The 55 holdouts from compliance include stores owned by the president of the state payday lender trade association; by the payday lending industry's representative on the state board charged with regulating the industry; and by Advance America, which bills itself as the nation's largest payday lender.

"We commend Attorney General McDaniel for his decisive crackdown on behalf of consumers, which over a period of just a few months has significantly reduced the number of predatory payday lenders in our state," said AAAPL Chairman Michael Rowett, Research and Communications Manager for AAAPL member Southern Good Faith Fund. "It's disappointing that the industry, particularly its leaders, refuse to recognize the clear, unmistakable signals sent by the Arkansas Supreme Court and the Attorney General—that charging customers triple digit interest rates is no longer business as usual in Arkansas."

The 55 defiant payday lending stores are using four business models in an effort to evade the Attorney General's order. A complete list of the 55 stores and their owners is attached.

- ***Money Order (or Check) Payday Lenders – 40 stores.*** Loans are issued as a corporate check or money order. Borrowers are then coerced into cashing the check or money order at the payday lender for a 10 percent fee—which results in a loan with triple digit annual percentage rate interest. This model is based on the money order payday loan operations currently employed by First American Cash Advance, an unregulated lender with 28 locations in Arkansas. Four stores owned by Bradley Rogers, the industry's representative on the Arkansas State Board of Collection Agencies, and another two owned by his relatives, use this model—as do all 30 Advance America stores.

- ***Credit Services Organization (CSO) Payday Lenders – eight stores*.** In this model, popular in Texas and Florida, a payday lender, for a large fee, "finds" a loan from another lender to "fund" the loan for the borrower. Usually, the payday lender that "finds" the lender and the lender that "funds" the loans are owned by or affiliated with the same individuals or corporate entities. This is the case in Arkansas with the eight stores that use the CSO model, all owned by Chaney Pruett, current president of the Arkansas Financial Services Association, the state payday lender trade association.

- ***Rent-a-Finance (South Dakota) Payday Lenders—six stores***. This model, employed by six stores owned by two members of the same family—Jay Breslau and Kelly Breslau—is based on the model used by 53 unregulated payday lending outlets operated by W. Cosby Hodges of Fort Smith and Robert Srygley of Fayetteville. In this model, Arkansas payday lenders obtain a payday lender license from the state of South Dakota and attempt to export that license into Arkansas to grant payday loans to Arkansas consumers in stores located in Arkansas.

- ***Loans made in Arkansas, cash received in Texas – one store.*** A single store, Cash Advance of Hope, owned by Dan Hughes, is still making loans in a novel arrangement. The customer goes into the store in Hope to apply for the payday loan. Once the loan is processed and approved the borrower is given a folder with his or her paperwork to take to another Hughes-owned store on Stateline Road in Texarkana, Texas. The employees at the Texas store then complete the loan and give the borrower the cash.

"Many of these stores call what they're doing 'restructuring'; we call it a masquerade," Rowett said. "Calling what they do something other than payday lending is like claiming the sky is green and the grass is blue. We are confident that like the 101 others targeted by the Attorney General, these 55 eventually will be shut down, but unfortunately, more consumers will be victimized in the meantime."

Finally, as noted above, the Attorney General has signaled his office's long-term intention to pursue the 81 currently unregulated payday lenders. In the meantime, the State Board of Collection Agencies could take a proactive, pro-consumer stand by requiring these 81 lenders to comply with the ASBCA's own rules and regulations governing payday lending, which offer more protections than customers of these stores currently receive.

AAAPL is a coalition of 40 Arkansas individuals and organizations dedicated to improving the lives of their fellow citizens (particularly the working poor) by removing the abuses of payday lending from our state. Coalition partners are: AARP Arkansas; Air Force Sergeants Association - Chapter 658; Arkansas Advocates for Children and Families; Arkansas Consumer Law Center; Arkansas Education Association; Arkansas Hunger Coalition; Arkansas State Representative David Johnson; Arkansas Trial Lawyers Association; Arnold, Batson, Turner & Turner, Attorney-at-Law; Association for Community Organizations for Reform Now (ACORN); AFL/CIO; Best Credit Services, Inc.; Better Business Bureau of Arkansas; Central Arkansas Development Council; Clark County Quorum Court Justice of the Peace Wayne Bowen; College Station Community Development Corporation; Community Development Department of the City of Jacksonville; Consumer Credit Counseling Service (CCCS); Crawford-Sebastian Community Development Council, Inc.; Family Council; Family Service Agency; Family Support on Little Rock Air Force Base (ex officio); Federal Reserve Bank of Little Rock; Jewish War Veterans of the U.S.A. - Arkansas Post 436; League of Latin American Citizens (LULAC); Legal Aid of Arkansas, Inc.; Military Officers Association of America (MOAA) - Arkansas Council of Chapters; NAACP/Arkansas; Nicholson Communications; North Little Rock Ministerial Alliance; private citizens; Pulaski County Cooperative Extension Service; Silver Haired Legislators Alumni Association (SHLAA); Southern Good Faith Fund; Springer's of Granite Mountain; The Interfaith Alliance of Arkansas; The Law Offices of Blankenship & Warner; United Way-Heart of Arkansas; U.S. Citizens for Fair Credit Card Terms, Inc.; and victims.