

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING

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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA :  
DEPARTMENT OF BANKING, BUREAU :  
OF COMPLIANCE AND LICENSING :

v. :

Docket No.: 11 20020 (ENF-CO)

EAST SIDE LENDERS, LLC :

**CONSENT AGREEMENT AND ORDER**

The Commonwealth of Pennsylvania acting through the Department of Banking (“Department”) Bureau of Compliance and Licensing (“Bureau”) enters into this Consent Agreement and Order (“Order”) with East Side Lenders, LLC (“the Company”) to resolve all issues arising from an Order issued against the Company by the Bureau<sup>1</sup> on September 8, 2010, Docket No. 100186 (ENF-C&D).

The September 8, 2010 Order provided that the Company violated the Consumer Discount Company Act (“CDCA”), 7 P.S. §§ 6201- 6219, and the Act of January 30, 1974, P.L. 13, No. 6 known as the Loan Interest Protection Law (“LIPL”), 41 P.S. §§ 101-605, when it engaged in the business of soliciting, advertising, negotiating and making payday loans for Pennsylvania residents in amounts less than \$25,000 in which the interest charged on the loans exceeded 6% per annum. The parties to the above-captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in settlement of the above-captioned

<sup>1</sup> When the September 8, 2010 Order was issued, the Bureau’s title was Bureau of Compliance, Investigation and Licensing. Recently, the name of the Bureau was changed to the Bureau of Compliance and Licensing as a result of a reorganization of the Department.

matter and, intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order (“Order”).

### **BACKGROUND**

1. The Department is the Commonwealth of Pennsylvania’s administrative agency authorized and empowered to administer and enforce the CDCA and LIPL.

2. The Bureau is primarily responsible for administering and enforcing the CDCA and LIPL.

3. The Company is a Delaware limited liability company that does business at 314 E. Main Street, Suite 304, Newark, Delaware 19808.

4. The Company offers and makes payday loans of \$1000 or less to consumers through its website at [www.eastsidelenders.com](http://www.eastsidelenders.com).

5. Commencing February 1, 2009, the Department required persons that engage in the business of negotiating and making loans of \$25,000 or less to Pennsylvania residents where the interest and other charges on the loans exceed 6% per annum to obtain a consumer discount company license from the Department. *See Cash America Net of Nevada, LLC v. Department of Banking*, 978 A.2d 1028 (Pa. Cmwlth. July 10, 2009), *affirmed by* 8 A.3d 282 (Pa. 2010); *see also* 38 Pa.B. 3986 (2008).

6. The Company is not licensed by the Department as a consumer discount company and has never been licensed by the Department.

7. In 2010, several Pennsylvania residents filed complaints with the Department regarding loans that they obtained from the Company; the consumers asserted that they could not afford to pay back the loans due to the excessive interest charged by the Company.

8. On September 8, 2010, the Bureau issued an Order against the Company (“September Order”).

9. The September Order provided that the Company violated the CDCA and LIPL by:

engaging in the business of negotiating and making loans of less than \$25,000 to Pennsylvania residents and by charging fees, interest, charges or other considerations in excess of 6% on the principal loan amount per year, without being licensed by the Department . . . . [and]

soliciting and holding itself out as willing or able to arrange for or negotiate loans of \$25,000 or less to Pennsylvania residents where the interest, fees, charges, or other considerations in the aggregate exceed 6% on the principal loan amount per year, without being licensed by the Department . . . .

*See 7 P.S. § 6203; see also 41 P.S. § 201(a).*

10. To address the ongoing violations of the CDCA and LIPL, the September Order required the Company to, in relevant part:

(a) cease and desist from negotiating, making, advertising, soliciting and arranging loans for Pennsylvania residents of \$25,000 or less and charging interest in excess of 6% per annum without being licensed by the Department; and

(b) cease and desist from attempting to collect or collecting, directly or indirectly through third parties such as collection agencies, interest or any other considerations that exceed 6% per annum for loans of \$25,000 or less made to Pennsylvania residents; and

(c) provide the Department with specific information regarding the consumers and loans within 10 days; and

(d) refund Pennsylvania residents the excessive interest they paid for the loans; and

(e) pay a fine of \$30,000 for the loans made to Pennsylvania residents referenced therein.

11. The Company did not respond to the September Order, thus, it became final on September 18, 2010.

12. Thereafter, the Department received complaints from 13 additional Pennsylvania residents regarding loans that they obtained from the Company.

13. The 13 residents asserted that the Company charged them excessive interest on the loans. Several of the 13 residents asserted that the Company solicited them through email to renew their loans, and they received collection calls for the outstanding monies allegedly owed on the loans at their homes, cell phones and/or places of employment.

14. Further, the Company did not comply with the remaining terms of the September Order. The Company did not provide information to the Bureau, did not refund the consumers the excessive interest, and did not pay the fine required by the September Order.

15. Because the Company failed to comply with the September Order, on June 7, 2011, the Bureau sent the Company a "Notice of Intent to Enforce Order in Commonwealth Court."

16. In response to the Notice, the Company obtained legal counsel and informed the Bureau that an enforcement action was not necessary because the Company intended to get into compliance with the September Order.

17. To this end, the Company represented to the Bureau that it ceased making payday loans to Pennsylvania residents as of June 19, 2011 and provided the Bureau with information regarding its activities.

18. The Company also represented to the Bureau that it ceased collecting interest in excess of 6% per annum from Pennsylvania residents that were still paying on loans that the residents had obtained from the Company.

19. Further, the Company changed its website so that Pennsylvania residents cannot apply for payday loans.

20. Finally, the Company agreed to pay a fine. As a demonstration of good faith, the Company refunded all of the consumers that complained to the Department prior to and after the September Order regarding their payday loans prior to executing this Order.

21. Due to the Company's cooperation with the Bureau and to save the parties considerable time and resources in litigation, the Bureau has agreed to enter into this Order to resolve the issues arising from the September Order.

#### **RELIEF**

22. Fine. The Company shall pay the Department a fine in the amount of \$150,000.00 within 30 days of the Effective Date of this Order as defined in Paragraph 30. The payment shall be made by certified check or money order made payable to the "Pennsylvania Department of Banking" and mailed or delivered to the Compliance Division, Bureau of Compliance and Licensing, 17 N. Second Street, Suite 1300, Harrisburg, PA 17101.

23. Corrective Action.

(a) Consumer Credits. To the extent that Pennsylvania residents are currently paying back loans of \$25,000 or less obtained from the Company from July 10, 2009 (date the Pennsylvania Commonwealth Court ruled on payday loans in *Cash America Net of Nevada, LLC v. Department of Banking*, 978 A.2d 1028 (Pa. Cmwlth. July 10, 2009) through June 19, 2011, the Company shall credit the monies to the principal owed on the loans and shall not collect interest or any other fees that aggregate in excess of 6% per annum.

Although the Department has agreed to require the Company to credit consumers the excess interest that they paid for payday loans commencing July 10, 2009, by negotiating this term the Department in no way waives its authority to require persons, other than the Company, that engage or have engaged in unlicensed activity in

Pennsylvania to credit or refund consumers all monies paid for payday loans from February 1, 2009 forward.

(b) Cease and Desist Unlicensed Activity. From the Effective Date of this Order as defined in Paragraph 30, the Company shall do all of the following:

(i) Cease and desist from advertising, soliciting, arranging, negotiating and making loans of \$25,000 or less to Pennsylvania residents in which the interest and other charges in the aggregate exceeds 6% per annum unless licensed by the Department as a consumer discount company; and

(ii) Cease and desist from attempting to collect or collecting, directly or indirectly, through third parties such as collection agencies, interest or other considerations that exceed 6% per annum for loans of \$25,000 or less made to Pennsylvania residents from February 1, 2009 through June 19, 2011; and

(iii) Cease and desist from transferring, assigning or selling to any persons, companies or entities of any kind whatsoever any loans that it has made to Pennsylvania residents of \$25,000 or less in which it has charged interest in excess of 6% per annum nor shall it purchase any loans that meet these parameters from February 1, 2009 through June 19, 2011; and

(iv) Cease and desist from directly or indirectly, through third persons, filing a negative report with any credit reporting agency regarding any Pennsylvania resident to which it has provided a loan of \$25,000 or less from

February 1, 2009 through June 19, 2011 in which it has charged interest in excess of 6% per annum.

(v) In the event the Department receives additional consumer complaints within any applicable statute of limitations for any action required by the Corrective Action obligations set forth in this Paragraph 23, the Company, upon written request from the Department, shall promptly take the required Corrective Action.

(c) Department Remedies. Should the Department ascertain that the Company either (i) continued to offer loans of \$25,000 or less to Pennsylvania residents and charge interest in excess of 6% for the loans after June 19, 2011, or (ii) failed to undertake or comply with any of its obligations in this Paragraph or failed to pay the fine as set forth in Paragraph 22, the Bureau expressly reserves the right to seek enforcement in the Commonwealth Court or otherwise as provided by law.

#### **FURTHER PROVISIONS**

24. Consent. The Company hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order, and agrees that it understands all of the terms and conditions contained herein. The Company, by voluntarily entering into this Order, waives any right to hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

25. Publication and Release. The Department will publish this Order pursuant to its authority in Section 302.A(5) of the Department of Banking Code. 71 P.S. § 733-302.A.(5).



26. Consumer Rights. This Order shall not limit or impair the consumers' rights under the LIPL. *See* 41 P.S. §§ 501-507.

27. Entire Agreement. This Order contains the whole agreement between the parties. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the parties.

28. Binding Nature. The Department and the Company intend to be and are legally bound by the terms of this Order. This Order shall be enforceable in a court of competent jurisdiction by the Department and the Company. This Order shall be admissible in court if relevant to the proceedings. This Order shall be binding upon and inure to the benefit of any of the Company, present and future owners, principals, directors, officers, members, partners, managers, agents, successors and assigns.

29. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

30. Effectiveness. The Company stipulates and agrees that this Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

31. Other Enforcement Action.

(a) The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against the Company in the future regarding all matters not resolved by this Order.

(b) The Company acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

(c) Except as otherwise provided in Paragraph 23(c) of this Order, once the Company has fully complied with all of its obligations under this Order, the Department agrees that it will not bring an enforcement action of any kind against the Company or against any of its present or future members, principals, officers, managers, agents, employees, successors, or assigns for any conduct arising out of or related to the Company's lending activities with Pennsylvania consumers prior to the Effective Date of this Order related to the investigation by the Department that resulted in the September Order or which is otherwise covered by this Order.

32. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

33. Counterparts. This Order may be executed in separate counterparts and by facsimile or email.

34. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

**WHEREFORE**, in consideration of the foregoing, including the recital paragraphs, the Commonwealth of Pennsylvania, Department of Banking, Bureau of Compliance and Licensing and East Side Lenders, LLC do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF BANKING  
BUREAU OF COMPLIANCE AND LICENSING:**

By: \_\_\_\_\_  
Ryan Walsh  
Acting Chief of Compliance

Dated: February 21, 2012

**FOR EAST SIDE LENDERS, LLC:**

By: \_\_\_\_\_  
Christy Finazzo JJ  
Manager

Dated: 2/13/2012