

BEFORE THE SUPERINTENDENT OF BANKING
OF THE STATE OF IOWA

IN THE MATTER OF:)	IDOB File No.
)	2012-NRR-2003-0154
)	
CashCall, Inc.)	
1600 South Douglass Road)	STATEMENT OF CHARGES
Anaheim, CA 92806,)	
)	
Respondent.)	
)	

TO THE ABOVE-NAMED RESPONDENT:

COMES NOW the Iowa Superintendent of Banking (“Superintendent”) and files this Statement of Charges pursuant to Iowa Code Section 17A.12(2) and 187 IAC 11.5. CashCall, Inc. (“Respondent”) was issued Iowa Nonresident Regulated Loan company license No. NRR 2003-0154 on October 23, 2003. That license is active through December 31, 2012, and is subject to renewal on or before December 1, 2012.

TIME, PLACE AND NATURE OF HEARING

1. Hearing. A disciplinary contested case hearing will be at the time and place designated in the Notice of Hearing to which this Statement of Charges is attached.
2. Answer. Within twenty (20) days of the date you are served this Statement of Charges you are required by 187 Iowa Administrative Code 11.2(2) to file an Answer. In that Answer, you should also state whether you will require a continuance of the date and time of the hearing.
3. Presiding Officer. An Administrative Law Judge (“ALJ”) with the Iowa Department of Inspections and Appeals’ Administrative Hearings Division shall serve as presiding officer. The ALJ will issue a proposed decision, and the proposed decision will

become a final decision of the agency unless the decision is appealed in accordance with 187 IAC 11.27(1) or the Superintendent initiates a review of the proposed decision in accordance with 187 IAC 11.27(2).

4. Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 187 Iowa Administrative Code chapter 11. At hearing, you will be allowed the opportunity to present evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally or be represented by counsel at your own expense. If you need to request an alternative time or date for hearing, you must review the requirements in 187 Iowa Administrative Code 11.17. The hearing will be open to the public.

5. Prosecution. The office of the Attorney General is responsible for representing the public interest (the State) in this proceeding. Pleadings shall be filed with the Iowa Department of Inspections and Appeals' Administrative Hearings Division at the following address:

Administrative Law Judge
Re: In the Matter of CashCall, Inc.
IDOB File No. 2012-NRR 2003-0154
Administrative Hearings Division
Wallace State Office Building – 3rd Floor
502 E. 9th St.
Des Moines, IA 50319

Filing pleadings with the Department of Inspections and Appeals' Administrative Hearings Division shall constitute filing with the division pursuant to 187 IAC 11.12(3). Copies of all pleadings should be provided to counsel for the State at the following address:

Shauna Russell Shields

Assistant Attorney General
c/o Iowa Division of Banking
200 East Grand Avenue, Suite 300
Des Moines, Iowa 50309

6. Communications. You may not contact the Superintendent by phone, letter, facsimile, e-mail, or in person about this Statement of Charges. The Superintendent may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Superintendent's office and serve upon all parties in the case. You should direct any questions to Rodney Reed, the Iowa Division of Banking's Finance Bureau Chief at 515-281-4014 or to Assistant Attorney General Shauna Russell Shields at 515-281-4014.

LEGAL AUTHORITY AND JURISDICTION

7. Jurisdiction. The Superintendent has jurisdiction in this matter pursuant to Iowa Code chapters 17A and 536.

8. Legal Authority. If any of the allegations against you are founded, the Superintendent has authority to take disciplinary action against you under Iowa Code chapters 17A and 536 and 187 Iowa Administrative Code chapter 15.

9. Default. If you fail to appear at the hearing, the Superintendent may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 187 Iowa Administrative Code 11.22.

A. SECTIONS OF STATUTES AND RULES INVOLVED

Count I

10. Respondent is charged under Iowa Code § 536.9(1)(a) (2011) with violating a provision of Iowa Code chapter 536, a rule adopted under chapter 536, and a

state or federal law applicable to the conduct of its business by violating, or by aiding and abetting the violation of Iowa Code § 536.13 and 187 IAC 187.15(5) by charging interest rates exceeding the maximum permitted by Iowa Code.

Count II

11. Respondent is charged under Iowa Code § 536.9(1)(a) (2011) with violating a state or federal law applicable to the conduct of its business by violating, or by aiding and abetting the violation of Iowa Code §§ 536.13 and 537.2401(3) by calculating interest charges using a 360-day year rather than a 365-day year.

Count III

12. Respondent is charged under Iowa Code § 536.9(1)(a) (2011) with violating a state or federal law applicable to the conduct of its business by violating, or by aiding and abetting the violation of Iowa Code §§ 536.13 and 537.2502(1)(b) by charging borrowers a late fee greater than the maximum late fee of 5% of the unpaid amount of the installment or \$15.00.

Count IV

13. Respondent is charged under Iowa Code § 536.9(1)(a) (2011) with violating a state or federal law applicable to the conduct of its business by violating, or by aiding and abetting the violation of Iowa Code §§ 536.13 and 537.2501 by charging borrowers an insufficient funds fee which was not included in the finance charge nor specifically permitted as an additional charge by Iowa law.

Count V

14. Respondent is charged under Iowa Code § 536.9(1)(a) (2011) with violating a state or federal law applicable to the conduct of its business by violating, or by

aiding and abetting the violation of Iowa Code §§ 536.13 and 537.2510 by assessing borrowers a prepaid finance charge of which no portion is rebated upon prepayment.

B. FACTUAL CIRCUMSTANCES

15. The Superintendent, through Iowa Division of Banking Finance Bureau examiner Randy Johnson, conducted an examination of Respondent's business beginning June 20, 2012 pursuant to the provisions of Iowa Code §536.10.

16. The loan review period for the examination was January 1, 2009 through July 6, 2012. The examiner reviewed 52 of the 1231 loans Respondent made to Iowa consumers during the period of examination.

17. Respondent's loans reviewed by the examiner charged the borrowers interest rates ranging from 89% to 169%. The rates on all loans reviewed exceeded the maximum interest rate permitted by Iowa Code § 536.13 and 187 IAC 15(5) by a significant amount.

18. All of Respondent's loans reviewed by the examiner calculated interest charges using a 360 day per year basis.

19. Respondent's contract provides for a late fee of \$29 when a borrower's payment is 15 days late.

20. Respondent collected a \$29 late fee from borrowers in 15 of the 52 (28.84%) loan files reviewed by the examiner.

21. Respondent charged insufficient fund fees borrowers in 17 of the 52 (32.69%) files reviewed by the examiner. But, Respondent had not included the insufficient funds fees in the calculation of the finance charge, and the Iowa Consumer Credit Code does not specifically authorize an additional charge for an insufficient fund

fee.

22. Respondent failed to rebate any portion of the prepaid finance charge in any of the 16 loan files reviewed by the examiner where the borrower repaid the loan early.

23. The Banking Division provided the Respondent with an opportunity to respond to the examiner's report of examination and requested the Respondent to correct the violations noted in the report.

24. The Respondent refused to make any of the requested corrections and instead asserted an untenable legal theory that the loans in question are not subject to Iowa law.

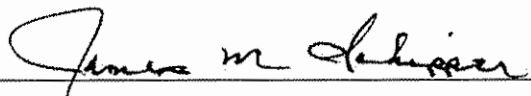
SETTLEMENT

25. This matter may be resolved by settlement agreement. The settlement process is governed by Iowa Code section 17A.10. If you are interested in pursuing settlement of this matter, please contact Rodney Reed or Shauna Russell Shields at 515-281-4014.

F. PROBABLE CAUSE FINDING

26. On this 26th day of November, 2012, the Superintendent found probable cause to file this Statement of Charges.

James M. Schipper
Superintendent of Banking



Copies to:

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