



Lenders must use state law, consumer groups say

Coalition has asked attorney general to look into out-of-state loan companies

By **JOHN HOFHEIMER**

Leader staff writer

A coalition of local consumer groups and the Consumer Federation of America Friday petitioned state Attorney General Mike Beebe to stop payday lenders from using South Dakota's liberal lending and banking laws to make high-interest payday loans in Arkansas.

The letter to Beebe was signed by Jean Ann Fox of the Consumer Federation of America and co-signed by representatives of the member groups in Arkansas Against Abusive Payday Lending (AAAPL).

Those include Arkansas Advocates for Children and Families, AARP, the Arkansas AFL-CIO, ACORN, the Better Business Bureau of Arkansas, Family Service Agency, the NAACP, the Pulaski County Cooperative Extension Service, Arkansas Federal Credit Union and Todd Turner, of the law firm Arnold, Batson, Turner & Turner.

AAAPL, headed by Hank Klein of the Arkansas Federal Credit Union, says that the interstate banking compact under which the payday lenders say they are operating pertains only to banks, credit unions and savings and loans, not to payday lenders or finance companies.

More than a third of the payday lenders in Arkansas identified by an AAAPL study claim they are independent contractors doing business with Mount Rushmore Loan Company, LLC in South Dakota, and thus able to make larger loans than the \$400 allowed by Arkansas law.

LLC stands for limited liability corporation.

W. Cosby Hodges Jr., of Fort Smith, has incorporated about 20 payday advance companies — including two in Jacksonville — in several Arkansas cities.

"All decisions are made in South Dakota," Hodges said Monday.

What he didn't say, until asked, was that he is listed as the organizer of the Mount Rushmore Loan Company, according to documents on file with the South Dakota Secretary of State's Office.

He and Robert Srygley, of Springdale, also are listed as co-managers of Mount Rushmore Loan Company.

As for Klein's allegation that the loan company was just a one-person storefront, Hodges said there were at least two on the payroll and \$250,000 worth of computer equipment in the office.

Hodges referred further questions to Jeff Forsey, the CEO of Hodges' ACC Management Company in Ft. Smith.

Roger Novotny, South Dakota director of banking, in a letter to Klein said that by holding a South Dakota Money Lending License a company could lend money from the location shown on the license to the residents of South Dakota.

Mount Rushmore Loan Company, LLC, organized (that is, incorporated) July 7, 2001 has yet to make a single loan in South Dakota, but it uses its South Dakota license to make loans every day for more than 60 payday lenders in Arkansas.

Forsey said the company would soon start making loans in South Dakota.

Forsey said that Hodges' name

as on the articles of organization as organizer of Mount Rushmore Loan Company, LLC didn't mean he was the owner.

Asked who the owner was, he said Mount Rushmore Loan Company, S-corp. — meaning S corporation.

Asked who owned the S corporation, Forsey said, "We don't need to go into any more detail."

An S-Corporation is an IRS designation for a business whose revenues and losses are reported on an individual's income tax return.

He would not say if Hodges was that person.

Hodges, a former business manager for DonRey Media newspapers in Pine Bluff and Fort Smith, said Klein was waging a vendetta.

"I wish he'd come to my office,"

he said. "I have nothing to hide. I don't think I'm breaking any law."

Klein has charged that the Mount Rushmore Loan Company is just a front to allow Hodges to skirt Arkansas' lending laws.

He says the loan money doesn't come from Mount Rushmore and neither do the interest payments go to Mount Rushmore, citing bank markings on checks from those who took out loans.

Forsey said Klein must understand that the banking is done locally by each store, but that at the end of the day, the money is automatically swept into the Mount Rushmore account in South Dakota.

Hodges said his company operating for tax and other purposes out of South Dakota was not different than Citibank, Dillard's, or GMAC doing business in Arkansas, but having a headquarters elsewhere to process their credit business.