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News

FORDYCE MAN FACES OVER \$1.3 MILLION IN FINES FOR CHECK CASHING BUSINESS

By Millie McClain/GRANT COUNTY CORRESPONDENT
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A former Pine Bluff businessman and owner of numerous other businesses faces over \$1.3 million in fines and an order to cease all check cashing operations in Arkansas after a June 28 hearing with the Arkansas State Board of Collection Agencies.

Dennis D. Bailey of Fordyce was found in violation of Arkansas regulations. He's the owner of 14 businesses across the state. He was also cited for violations by the Arkansas Tobacco Control Board and the Arkansas Alcohol Beverage Control Board in 2004 at the former Pine Bluff Fast Cash.

His businesses are Sheridan Fast Cash Inc., Beebe Fast Cash Inc., Bryant Fast Cash Inc., Corning Fast Cash Inc., Harrison Fast Cash Inc., Little Rock Fast Cash Inc., Walnut Ridge Fast Cash Inc., Bailey's Fast Cash Inc. in Fordyce, Fast Cash Check Cashers Inc. in Camden, Cash Advance (formerly Garland County Cash Advance Inc.) in Hot Springs, Cash Advance in Cabot, and Central Arkansas Check Cashing Inc. in Newport. Bailey also previously operated locations in Magnolia and Pine Bluff, which are now closed.

An administrative order issued by the ASBCA explains that Bailey operated Pine Bluff Fast Cash Inc., without a permit from the ASBCA, and in October 2004 an investigator for the Check-Cashers Division found multiple violations at this location including "61 occurrences of excess fees being charged, 17 occurrences of deferring presentments longer than the maximum 31 days, 45 occurrences of impermissible holding of more than one check per customer, and 29 occurrences of deferring presentments in amounts exceeding the permissible limit of \$400."

Peggy Matson, executive director of Arkansas State Board of Collection Agencies, said that under the Arkansas Check-Cashers Act a check-casher can hold only one check per customer at a time.

She added that presentment means making a demand for payment.

The Check-Cashers Act limits the dollar amount for a deferred presentment transaction, she said.

As a result of these violations, Bailey was fined \$20,200 for which Bailey's attorney presented a check to the ASBCA. However, according to Matson, a stop payment was placed on the check and the fine has yet to be paid.

Applications for the licensing of 13 check cashing locations operated by Bailey (excluding

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Pine Bluff) were delivered to the ASBCA on Jan. 28, 2005.

During the process and consideration of these applications the ASBCA learned that Bailey and other businesses he owned or operated were previously found in violation of state laws by the Arkansas Tobacco Control Board in June 2004 for selling without a permit, and that Bailey had also been cited with violations by the Arkansas Alcohol Beverage Control.

Matson said these findings then led to the ASBCA's decision to deny Bailey permits for his check-cashing businesses.

The order said that the board returned the applications and related items and advised Bailey's attorney to "instruct (Mr. Bailey) to cease all check cashing as he does not have a check-cashing license and is operating in violation of the law."

Faxes were sent to Bailey's stores stating that none of Bailey's stores had check-cashing licenses and that anyone cashing checks for a fee were in violation of the law.

However, Bailey continued to operate his businesses in Arkansas without having received permits.

The administrative order said that Bailey applied to the State of Missouri for organization of BMB Finance Co. LLC., which received certification on March 4, 2005, as a Missouri limited liability company. The office of BMB Finance is located in West Plains, Mo.

"(Bailey) claimed that the loans he was making in Arkansas were not deferred presentments as defined in the Check-Cashers Act but were, instead, loans," Matson said. "The State of Missouri informed Mr. Bailey that he could not make loans or accept loan payments anywhere other than the licensed location in West Plains, Mo. The State (Arkansas) Board of Collection Agencies told him the same thing. Mr. Bailey continued to operate in defiance of the law."

Joe Crider, the State of Missouri's Supervisor of Consumer Credit, Division of Finance, wrote a letter to Bailey on Jan. 26, 2006, stating, as written in the administrative order, "there is no authorization to conduct business at any other location...the conducting of loan closings or payment acceptance at any address or location other than (the West Plains, Mo. location) is not allowed."

Crider also said that his department has had no trouble with Bailey or BMB Finance.

The ASBCA stated in its order that the "loan transactions of the Bailey Check-Cashing businesses utilizing BMB Finance are nothing more than deferred presentment transactions regulated by the Arkansas State Board of Collection Agencies — Division of Check-Cashing. The Bailey Check-Cashing businesses are entering into deferred presentment transactions in violation of the Arkansas Check-Casher's Act." ASBCA also said that, as well as not being authorized to make deferred presentment transactions in Arkansas, BMB Finance is not authorized to enter into loan transactions in Arkansas.

The ASBCA's general findings also found that Bailey has not properly and fully complied with the board's subpoenas for the records of his businesses, which were served to Bailey's attorney on May 5 and required the requested documents be produced no later than May 11. That deadline was not met neither were two more demands for the records.

Bailey was ordered to refund fees charged to check-cashing customers and loan customers. When asked how customers could go about getting their reimbursements, Matson said, "Considering Mr. Bailey's refusal to cooperate I do not know that his customers will ever receive money from him. However, we would like his customers to contact us so that we will have a list of customers who are entitled to refunds. They may call us at (501) 371-1434 or write us at State Board of Collection Agencies, 523 Louisiana, Suite 460, Little Rock, AR 72201."

The board's order that all deferred presentment transactions or loans be null and void and obligations for repayment be canceled may be even difficult to control. A customer leaves a personal check with the check-cashing business when making a deferred presentment transaction or loan. If the customer does not come in to pay off the loan the check could be deposited to the business' account and withdrawn from the customer's bank account.

As far as Bailey being able to take legal action against a customer if they do not repay their

loan, Matson said, "We do not know to what lengths Mr. Bailey will go to collect on his loans. However, if he tries to have the checks prosecuted as "hot checks" the customer may use the Board's order as a defense. If Mr. Bailey tried to file suit in small claims court, the customer could use the same defense, i.e., the Board instructed Mr. Bailey not to pursue repayment of the loans."

According to representatives of the 7th Judicial District Malvern office, if a person put a stop payment on his or her check, Bailey could not have it turned over as a "hot check" and the prosecutor's office would not take it as a hot check because when money is paid to have the check stopped it becomes a different matter.

Grant County Deputy Prosecuting Attorney Norman Frisby said with the ASBCA declaring these transactions null and void, Bailey should not have any legal precedence if he did take any customers to court over not repaying loans made during the allotted time or putting stop payments and/or blocks on their accounts.

However, this does not mean that Bailey could not at least try to take some kind of legal action so consumers should be prepared to have to defend their actions if Bailey decides to pursue any repayments.

The ASBCA listed in its conclusions several findings including that Bailey and each of his check-cashing business:

n Shall be fined \$1,000 for each check-cashing transaction in 2006 totaling \$562,000

n Shall be fined \$250 for each deferred presentment transaction in 2006 totaling \$725,250

n Shall be fined \$20,200 for the illegal operation of the Pine Bluff store, which fine has been outstanding since 2005 and remains unpaid.

n Are hereby required to refund any fees collected from any person for the service of check cashing.

n Are hereby required to refund any fees collected for any purpose from the service of providing deferred presentment transactions and/or loans from the BMB Finance Company, LLC.

n Shall be required to pay attorney's fees to the State Board of Collection Agencies — Division of Check-Cashing in the amount of \$10,000.



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