

Payday lender running shops despite order

BY DAVID SMITH ARKANSAS DEMOCRAT-GAZETTE

The payday lender who was fined \$1.3 million by a state agency last week and ordered to shut down his 14 stores is still in business.

Without a court order, the state Board of Collection Agencies can't close Dennis Bailey's stores because they perform business other than payday lending or check cashing — such as selling money orders — which isn't regulated by the state board, Peggy Matson, the board's executive director, said Friday.

Bailey was ordered to stop collecting any payments, making new loans and cashing checks for a fee. He was also ordered to reimburse fees to all customers, and all his payday loans were declared null and void, Matson said.

The next step may be criminal prosecution, Matson said.

"We know that they are out collecting checks," Matson said. "They have figured out that [customers] are putting stop payments on the checks. So what [Bailey's staff] is doing is that rather than depositing the checks, which would have float time involved and give their customers that much more time to stop a payment, [Bailey's employees] now are driving directly to the customer's bank and cashing the check. These are loans that aren't even due yet."

Or, when customers return to one of Bailey's stores to buy back their earlier check with cash, Bailey's employees are keeping the cash, Matson said.

Many customers of Bailey's stores have called Matson's office to learn what they should do, she said.

"We do know that some of his employees have quit because they've been asked to do what they think is illegal," Matson said.

The attorney general probably will not get involved in the case against Bailey, said Matt DeCample, a spokesman. The attorney general's office only has civil authority to take action, DeCample said.

"If [the state board] looked for any remedies as far as criminal charges, that would have to be through the prosecutor's office," DeCample said.

Bailey declined to comment Friday, but his attorney, Paul Johnson of Little Rock, said the June administrative order is being appealed.

"Whatever [Matson] wants to do she can do, but the law is the law," Johnson said. "We will be pursuing a judicial review" of the order.

Last year Pulaski County Circuit Judge Barry Sims ruled that the Check Cashers Act is constitutional. That ruling was appealed to the state Supreme Court, and a final decision could be handed down this year.

In Arkansas, a payday loan typically works like this: The customer writes a check for \$400, for example, and receives \$350. The lender normally keeps the check for two weeks, but does not cash it. The \$50 charge on a \$350 loan for 14 days equates to 371 percent in annual interest, much higher than Arkansas' usury limit of 17 percent.

Many times the customer can't afford to buy back the check for \$400 in two weeks. So on payday, the customer is required to bring in \$400 in cash to get his original check back. Then the customer writes a new check for \$400 and gets \$350 back from the lender.

This adds another \$50 charge for the customer, who still must repay the loan in two weeks or repeat the process. This procedure prevents payday lenders from rolling over fees on a single check, which violates the state law.

A customer at one of Bailey's stores, a paralegal who asked not to be identified, said Friday that she visited one of the stores June 29, the day after the administrative order was issued against Bailey.

She paid \$600 in cash expecting to receive the \$600 check she had written two weeks earlier. But instead of giving her \$500 back and requesting that she write another \$600 check, the clerk kept the \$600, the customer said.

"That left me \$500 short this month," said the customer, who added that she had been doing business with Bailey's store since January. "They offered to give me \$200 back and keep the \$400, but it would be off the books. I got furious; I went to the moon over that."

At first, the clerk refused to return her check from two weeks earlier but eventually relented and gave it back. The customer immediately tore up the check, she said.

"I'm really broke this month," the customer said. "But you know, I'm really glad this is over."

Kevin Gullett of Searcy, who has gotten loans at Searcy Fast Cash, said he planned to pay off a loan at the store Friday, but decided to stop payment on his \$350 check after talking with the State Board of Collection Agencies.

A Searcy Fast Cash employee called Gullett on Friday and told him he could come in and get another loan, Gullett said. The stores are supposed to cease making loans because of the order.

Bailey's 14 stores include 10 that go by the name of Fast Cash in Beebe, Bryant, Corning, Fordyce, Harrison, Little Rock, Mountain Home, Searcy, Sheridan and Walnut Ridge. The others are Fast Cash Check Cashers in Camden, Cash Advance in Hot Springs, Cash Advance in Cabot and Central Arkansas Check Cashing in Newport.