

**ARKANSAS STATE BOARD OF COLLECTION AGENCIES  
DIVISION OF CHECK-CASHERS**

**Administrative Hearing  
June 28, 2006**

**ADMINISTRATIVE ORDER**

NOW BEFORE THE BOARD is a Notice of Hearing to determine if certain business operations owned and operated by Dennis Bailey are operating in violation of the Arkansas Check-Casher's Act.

A Notice of Hearing was served upon Dennis Bailey, setting a hearing date of May 9, 2006. In response to the Notice, Mr. Bailey's attorney requested, by letter dated April 30, 2006, that the hearing be continued to a later date. Pursuant to the request of Mr. Bailey's attorney, the hearing was rescheduled for June 28, 2006.

The subjects of this investigation are Dennis D. Bailey and fourteen businesses owned and/or operated by him in Arkansas: Beebe Fast Cash, Inc., Bryant Fast Cash, Inc., Corning Fast Cash, Inc., Harrison Fast Cash, Inc., Little Rock Fast Cash, Inc., Mountain Home Fast Cash, Inc., Searcy Fast Cash, Inc., Sheridan Fast Cash, Inc., Walnut Ridge Fast Cash, Inc., Bailey's Fast Cash, Inc. [doing business in Fordyce], Fast Cash Check Cashers, Inc. [doing business in Camden], Cash Advance in Hot Springs (this location formerly operated as "Garland County Cash Advance, Inc.), Cash Advance in Cabot, and Central Arkansas Check Cashing, Inc. [doing business as Fast Cash in Newport]. (Note: Fast Cash previously operated locations in Magnolia and Pine Bluff but those entities are now closed.)

From the evidence presented, the Board finds as follows:

## **PINE BLUFF**

Mr. Bailey operated Pine Bluff Fast Cash, Inc., without a permit from the Arkansas State Board of Collection Agencies. In October, 2004, an investigator for the Check-cashers Division found many violations at this location including, in addition to operating without a permit, 61 occurrences of excess fees 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. A Notice of Violation was issued to Mr. Bailey and a fine of \$20,200 was proposed. By letter dated February 9, 2004, Mr. Bailey's attorney submitted a \$20,200 check for the violations by the Pine Bluff Fast Cash. The check to pay the fines against the Pine Bluff store was written on the Harrison Fast Cash, Inc. bank account. Mr. Bailey caused a stop-payment order to be issued on the \$20,200 check he had forwarded in payment of the fine. This fine has never been paid. Thereafter, the Pine Bluff operation was closed.

## **LICENSE APPLICATION**

Applications for the licensing of thirteen check-cashing locations (excluding Pine Bluff) operated by Mr. Bailey were delivered to the Board of January 28, 2005. During the course of processing and consideration of Mr. Bailey's applications for check-cashing permits, it was discovered that Mr. Bailey and other businesses owned/operated by him had previously been found in violation of state laws. More specifically, on June 3, 2004, in Arkansas Tobacco Control Board Case Number 2004-1010, Mr. Bailey had been found to be in violation of A.C.A. §26-57-226 and fined for selling without a permit. Violation by Mr. Bailey's business was also found by the Alcohol Beverage Control. As a result of Mr. Bailey's blatant and knowing failure to license his Pine Bluff location and the extensive list of violations found there, the violations

cited by the Tobacco Control Board and Alcohol Beverage Control, and other considerations, the State Board of Collection Agencies declined to issue check-cashing permits to Mr. Bailey. By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board returned the applications and related items and advised the 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." Additionally, on March 1, 2005, the Board faxed messages to Mr. Bailey's store, advising the employees as follows: "Last week we learned that some of Mr. Bailey's stores are cashing tax refund checks. Please be aware that none of Mr. Bailey's stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law."

Mr. Bailey applied to the State of Missouri for organization of BMB Finance Company, LLC. On March 4, 2005, the State of Missouri certified the organization of BMB Finance Company, LLC, as a Missouri limited liability company. The office of BMB Finance Company LLC is located in West Plains, Missouri. Mr. Bailey thereafter structured the deferred presentment transactions conducted at his fourteen Arkansas locations as loans from BMB Finance Company, LLC, the Missouri limited liability company, which are then said to be merely "serviced" by Mr. Bailey's Arkansas operations. By letter dated January 26, 2006, Joe Crider, Supervisor of Consumer Credit, Division of Finance, State of Missouri, advised BMB Finance Company that the Missouri license held by it authorized it to conduct business only at its West Plains, Missouri, location. The letter expressly states that "[t]here is no authorization to conduct business at any other location" -- specifically referring to Mr. Bailey's operation of offices in Arkansas and stating that "the conducting of loan closings or payment acceptance at any address or location other than the one stated above is not allowed."

**LITTLE ROCK FAST CASH, INC.**

According to the sworn and verified personal affidavit of Mr. Bailey, given in support of his applications, he was the president, owner/individual proprietor, and owned 100% of the stock of Little Rock Fast Cash, Inc.

By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board advised the 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." Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey's stores, including Little Rock Fast Cash, advising the employees as follows: "Last week we learned that some of Mr. Bailey's stores are cashing tax refund checks. Please be aware that none of Mr. Bailey's stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law." Thereafter, the Board's Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as "Director of Operations" sent a memo to all stores instructing the employees not to "give out our check cashing information over the telephone" and that any customer who called should be asked to come into the store and the employees could "see what you can do" once they saw the check.

On January 31, 2006, the Board's Investigator visited the location of Fast Cash in Little Rock and noted that its exterior signage included the following: "FAST CASH LOANS\$/CHECKS CASHED." The Investigator asked the Fast Cash employee what identification was required to cash a check and she advised that a driver's license and a social security card were required. The Investigator then asked the rates charged for cashing checks and the employee gave the rates for government, payroll, insurance and tax refund checks and advised that personal checks were not

cash. The employee referred to her computer to confirm the rates she had given. However, when asked to provide a print-out of the rates, the employee advised that she would make a telephone call to ask management if it was permissible to provide such documentation. The Investigator heard the employee advise the person on the other end of the call, thereafter identified as assistant director of operations Tony Anthony, of Investigator's presence and relay the request for documentation. The employee was heard assuring Mr. Anthony that she had not allowed the Investigator into the office portion of the business. She failed to provide the requested documentation and thereafter insisted that the business did not cash checks. The employee did admit that the business was continuing to handle loan type transactions through BMB Finance Company.

On February 15, 2006, the Board wrote to this location and advised that all loan activities must immediately cease and all that all signage and advertisement for such loans be removed.

The evidence establishes that Little Rock Fast Cash, Inc., made at least 547 loans through BMB Finance Company during the period February 1, 2006 to April 27, 2006, totaling \$210,634.00 upon which loan fees were charged to the location's customers.

The evidence further establishes that Little Rock Fast Cash, Inc., cashed checks and charged fees thereof. In the month immediately preceding the inspector's first visit to this location – January, 2006 – the location's employee(s) cashed 40 checks totaling \$22,284.98 and charged fees of \$1,301.29 for such service. The location continued to cash checks after the inspector's visit. In February 2006, 26 checks totaling \$9,626.67 were cashed and fees of \$391.01 were charged; in March 2006, 30 checks totaling \$18,787.45 were cashed and fees of \$787.30 were charged; and in April 2006, 37 checks totaling \$14,102.97 were cashed and fees of \$605.73 were charged.

## **BRYANT**

According to the sworn and verified personal affidavit of Mr. Bailey, as of January 2005, he was the president, owner/individual proprietor, and owned 100% of the stock of Bryant Fast Cash, Inc.

By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board advised the 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." Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey's stores, including Bryant Fast Cash, advising the employees as follows: "Last week we learned that some of Mr. Bailey's stores are cashing tax refund checks. Please be aware that none of Mr. Bailey's stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law." Thereafter, the Board's Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as "Director of Operations" sent a memo to all stores instructing the employees not to "give out our check cashing information over the telephone" and that any customer who called should be asked to come into the store and the employees could "see what you can do" once they saw the check.

On January 31, 2006, the Board's Investigator visited the Fast Cash location in Bryant. The Investigator entered the business just behind a woman with a check and a drivers license in her hand and heard the woman state to the employee "Here I am, back again." The employee immediately turned his attention away from the woman and asked if he could help Investigator in some way. After Investigator told employee to finish assisting the woman, the employee stated to the woman "Sorry, I can't help you" and she then left. The employee stated that he had only worked there a

couple of weeks and had been told not to cash checks. Investigator pointed out to the employee that the external signage on the business stated “CHECKS CASHED” and that the location was listed in the Yellow Pages under “Check Cashing.” The employee continued to deny that the store was engaged in cashing checks for a fee. The employee advised that he handled loans through BMB Finance, that checks were issued by BMB, that he cashed the BMB checks for customers, and that these were the only checks he cashed. However, the Investigator spoke with the aforesaid woman who advised that she had been trying to cash a tax refund check from Santa Barbara Bank. The woman said she was confused by the employee’s refusal to cash her check because the same employee had cashed a similar check for her about a month earlier. Investigator asked the woman if she was sure it was the same employee who had cashed the earlier check and she stated: “oh yes, didn’t you hear me say to him ‘here I am, back again’?”

On February 15, 2006, the Board wrote to this location and advised that all loan activities must immediately cease and all that all signage and advertisement for such loans be removed.

On April 14, 2006, Investigator Shelly Cripps went to the Bryant Fast Cash and requested a payday advance. The employee gathered information from Ms. Cripps and, ultimately, gave Ms. Cripps a BMB Finance Co. “loan” in the amount of \$250, for which there was a \$50 charge. Ms. Cripps was required to give a personal check in the amount of \$300. In exchange, she was given a BMB Finance Company check in the amount of \$250, which she endorsed in exchange for \$250 in cash. Fast Cash listed the “due” date for payment as May 4, 2006. Until that date, Ms. Cripps could go in and pay off the debt and recover her personal check. Ms. Cripps did not go in and pay off the “loan.” Fast Cash, having held Ms. Cripps personal check, thereupon made the presentment it had deferred by including the check in a deposit to Fast Cash’s bank account. The transaction clearly

meets the Act's definition of a deferred presentment and was conducted in violation of Arkansas law.

The evidence establishes that Bryant Fast Cash, Inc., made at least 589 loans through BMB Finance Company during the period January through April, 2006, totaling \$189,897 upon which loan fees were charged to the location's customers.

The evidence further establishes that Bryant Fast Cash, Inc., cashed checks and charged fees therefore. Checks totaling \$237 were cashed and fees totaling \$7063.98 were collected.

### **SEARCY**

According to the sworn and verified personal affidavit of Mr. Bailey, as of January 2005, he was the president, owner/individual proprietor, and owned 100% of the stock of Searcy Fast Cash, Inc.

By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board advised the 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." Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey's stores, including Searcy Fast Cash, advising the employees as follows: "Last week we learned that some of Mr. Bailey's stores are cashing tax refund checks. Please be aware that none of Mr. Bailey's stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law." Thereafter, the Board's Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as "Director of Operations" sent a memo to all stores instructing the employees not to "give out our check cashing information over the telephone" and that any customer who called should be asked to come into the store and the employees could "see what you can do" once they saw the check.

On February 8, 2006, Investigator visited the Fast Cash location in Searcy and observed a large green and yellow exterior sign next to the street which read “Fast Cash CHECKS CASHED.” The words “CHECKS CASHED” also appeared in large yellow letters on each of the store’s front windows. The Board’s Investigator asked the employee if she was cashing checks for a fee. The employee stated that she was no longer cashing checks because it had not been profitable for the store and that she had not cashed checks “since the license expired.” The evidence shows this Searcy Fast Cash never had a license with the Board. The employee confirmed that she was making loans through BMB Finance.

On February 15, 2006, the Board wrote to this location and advised that all loan activities must immediately cease and all that all signage and advertisement for such loans be removed.

On March 1, 2006, Investigator re-visited the Searcy location and observed the employee making BMB loans.

The evidence establishes that Searcy Fast Cash, Inc., made at least 404 loans through BMB Finance Company during the period January 2, 2006 through May 31, 2006, totaling approximately \$108,971.00, upon which loan fees were charged to the location’s customers.

The evidence further establishes that Searcy Fast Cash, Inc., cashed checks for fees. In January, 2006, the location cashed 21 checks totaling \$18,519.81 upon which the employee charged fees totaling \$827.16. Following the visit of the Board’s investigator to the Little Rock store on January 31 – and notice thereby to the operation that their practices were being investigated – the employee cashed no more checks until March 24, 2006. From March 24, 2006 to May 31, 2006, the store cashed 11 checks, totaling \$4,428.03, upon which it charged \$177.99 in fees.

## NEWPORT

According to the sworn and verified personal affidavit of Mr. Bailey, as of January 2005, he was the president, owner/individual proprietor, and owned 100% of the stock of Central Arkansas Check Cashing, Inc., operating in Newport.

By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board advised the 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." Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey's stores, including Central Arkansas Check Cashing in Newport, advising the employees as follows: "Last week we learned that some of Mr. Bailey's stores are cashing tax refund checks. Please be aware that none of Mr. Bailey's stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law." Thereafter, the Board's Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as "Director of Operations" sent a memo to all stores instructing the employees not to "give out our check cashing information over the telephone" and that any customer who called should be asked to come into the store and the employees could "see what you can do" once they saw the check.

On February 8, 2006, the Board's Investigator visited the location of Central Arkansas Check Cashing, Inc., doing business as Fast Cash in Newport and observed the employee handle a payday loan type transaction for a customer. The employee confirmed she was handling these transactions through BMB Finance. Investigator asked the employee if the location cashed checks and she said she'd recently been instructed by her employer that the store would not cash checks anymore.

On February 15, 2006, the Board wrote to this location and advised that all loan activities must immediately cease and all that all signage and advertisement for such loans be removed.

On March 1, 2006, Investigator made a return visit to Newport and found that the business had relocated since the initial visit of February 8<sup>th</sup>. The new location features signage for “Checks Cashed.” However, the employee denied she was cashing checks. She did confirm she was still transacting BMB loans.

The evidence establishes that Central Arkansas Check Cashing, Inc., in Newport made at least 87 loans through BMB Finance Company during March, 2006, totaling \$2,321.00, upon which loan fees were charged to the location’s customers. In April 2006, 80 loans totaling \$23,507.00 were made and in May, 2006, there were 80 loans totaling \$23,313.00. This location was also found to have occasionally cashed checks for a fee.

### **BEEBE**

According to the sworn and verified personal affidavit of Mr. Bailey, as of January 2005, he was the president, owner/individual proprietor, and owned 100% of the stock of Beebe Fast Cash, Inc.

By letter dated March 10, 2005, to Mr. Bailey’s attorney, the Board advised the 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.” Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey’s stores, including Beebe Fast Cash, advising the employees as follows: “Last week we learned that some of Mr. Bailey’s stores are cashing tax refund checks. Please be aware that none of Mr. Bailey’s stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law.” Thereafter, the Board’s Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as “Director of Operations” sent a memo to all stores instructing the employees not to “give out our check cashing information over the telephone” and that any customer who called

should be asked to come into the store and the employees could “see what you can do” once they saw the check.

On the afternoon of February 8, 2006, Investigator visited the Fast Cash location in Beebe and asked the employee if the business was currently cashing checks for a fee. The employee stated that it was not. Investigator pointed out that the signage on the store window read “CHECK\$ CASHED!!,” that the same signage was posted above the store front, and that there was a large yellow banner beside the window which also advertised “CHECKS CASHED.” The employee stated that she had just been told to remove the signage and, in fact, that same day she had done so from a mobile sign at the street in front of the store. Investigator asked the employee what date she had been instructed by her employer to remove the check cashing signage and she said it was about January 31, 2006. The employee stated that she had stopped cashing checks for a fee on the same date she was instructed to remove the signage (i.e. on or about January 31, 2006). This location also advertised payday loans and the employee confirmed that she was still making loans through BMB Finance.

On February 15, 2006, the Board wrote to this location and advised that all loan activities must immediately cease and all that all signage and advertisement for such loans be removed.

On March 1, 2006, Investigator re-visited the Beebe Fast Cash, where the employee advised she was still making BMB loans.

The evidence establishes that Beebe Fast Cash, Inc., made at least 56 loans through BMB Finance Company during January 2006, totaling approximately \$18,050.00, upon which sum loan fees were charged to the location’s customers. The evidence further establishes that, during this same month long period, Beebe Fast Cash, Inc., cashed 18 checks for which it collected \$1,119.30 in fees from its customers.

## FORDYCE

According to the sworn and verified personal affidavit of Mr. Bailey, as of January 2005, he was the president, owner/individual proprietor, and owned 100% of the stock of Bailey's Fast Cash, Inc., in Fordyce.

By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board advised the 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." Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey's stores, including Fordyce Fast Cash, advising the employees as follows: "Last week we learned that some of Mr. Bailey's stores are cashing tax refund checks. Please be aware that none of Mr. Bailey's stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law." Thereafter, the Board's Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as "Director of Operations" sent a memo to all stores instructing the employees not to "give out our check cashing information over the telephone" and that any customer who called should be asked to come into the store and the employees could "see what you can do" once they saw the check.

On February 10, 2006, Investigator visited the Bailey's Fast Cash, Inc., in Fordyce and asked the two employees if they had stopped cashing checks for a fee. The employees responded that they were cashing payroll checks but not personal checks. Investigator asked what rate they charged for cashing payroll checks and they advised that the rate charged was 3%. One of the employees confirmed that they were still making advances through BMB Finance. Exterior signage advertises both "PAYDAY ADVANCE" and "CASH CHECKS HERE." Based on the signage at this location, Ms. Gunter's instructions to the employees regarding check cashing, and the statements

of the employees to the Board's investigator, it appears that this location has been cashing checks for a fee.

On February 15, 2006, the Board wrote to this location and advised that all loan activities must immediately cease and all that all signage and advertisement for such loans be removed.

On February 27, 2006, Investigator made a follow-up visit to the Fordyce Fast Cash where employees advised they were still making loans through BMB Finance Company. Mr. Bailey arrived at the location and admitted that his stores were all continuing to make BMB loans in spite of Mr. Crider's letter. Pursuant to subpoena duces tecum, the Board's inspector's visited the Fordyce location on or about June 23, 2006, and found records evidencing that 210 BMB loans had been made during the period 2/15/06-6/23/06 totaling \$77,700.00, for which fees of \$16,900.00 had been charged to the business' customers.

### **SHERIDAN**

According to the sworn and verified personal affidavit of Mr. Bailey, as of January 2005, he was the president, owner/individual proprietor, and owned 100% of the stock of Sheridan Fast Cash, Inc.

By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board advised the 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." Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey's stores, including Sheridan Fast Cash, advising the employees as follows: "Last week we learned that some of Mr. Bailey's stores are cashing tax refund checks. Please be aware that none of Mr. Bailey's stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law." Thereafter, the Board's Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter,

identified as “Director of Operations” sent a memo to all stores instructing the employees not to “give out our check cashing information over the telephone” and that any customer who called should be asked to come into the store and the employees could “see what you can do” once they saw the check.

On February 10, 2006, Investigator visited Bailey’s Fast Cash in Sheridan and spoke with the employee, Stephanie, who confirmed that she had been instructed by her employer, on or about January 31, 2006, to stop cashing checks. Another check-casher advised Investigator that Stephanie had called about that same date requesting that the unrelated check-casher cash checks for some of her customers since Stephanie was not able to do so. Investigator asked Stephanie if she knew her employer’s intent regarding the check cashing signage on the exterior of the business -- “CASH CHECKS HERE” and “FIRST CHECK FREE” – and she said she did not. Stephanie confirmed that she was still making advances through BMB Finance.

On February 15, 2006, the Board wrote to this location and advised that all loan activities must immediately cease and all that all signage and advertisement for such loans be removed.

On February 27, 2006, Stephanie at Sheridan Fast Cash confirmed to Investigator at a follow-up visit that she was still making loans through BMB Finance.

The evidence establishes that Sheridan Fast Cash, Inc., made at least 251 loans through BMB Finance Company during the period February 1, 2006 to April 27, 2006, totaling approximately \$90,860.00, upon which loan fees were charged to the location’s customers.

The evidence further establishes that during this same period, Sheridan Fast Cash, Inc., cashed 58 checks totaling approximately \$74,081.74, and charged fees to its customers for such service.

## CAMDEN

According to the sworn and verified personal affidavit of Mr. Bailey, as of January 2005, he was the president, owner/individual proprietor, and owned 100% of the stock of Fast Cash Check Cashers, Inc., in Camden.

By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board advised the 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." Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey's stores, including Fast Cash Check Cashers of Camden, advising the employees as follows: "Last week we learned that some of Mr. Bailey's stores are cashing tax refund checks. Please be aware that none of Mr. Bailey's stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law." Thereafter, the Board's Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as "Director of Operations" sent a memo to all stores instructing the employees not to "give out our check cashing information over the telephone" and that any customer who called should be asked to come into the store and the employees could "see what you can do" once they saw the check.

On February 27, 2006, the Board's Investigator visited Fast Cash Check Cashers, Inc., in Camden where the employee denied she was cashing checks for a fee but confirmed she was making "payday loans" through BMB Finance.

The evidence establishes that Fast Cash Check Cashers, Inc, made at least 639 loans through BMB Finance Company during the period January 2, 2006 through May 31, 2006, totaling \$201,055.00, upon which loan fees were charged to the location's customers.

The evidence further establishes that – despite the employees' misrepresentation to the contrary – Fast Cash Check Cashers, Inc., cashed 62 checks totaling approximately \$40,671.00 during this same period and charged its customers \$2,194.71 for this service.

### **CORNING**

According to the sworn and verified personal affidavit of Mr. Bailey, as of January 2005, he was the president, owner/individual proprietor, and owned 100% of the stock of Corning Fast Cash, Inc. When Mr. Bailey submitted his application for a permit for Corning Fast Cash, Inc., the application fee was written on a Fordyce account bearing the name “Dennis Bailey” rather than the Corning store’s bank account.

By letter dated March 10, 2005, to Mr. Bailey’s attorney, the Board advised the 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.” Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey’s stores, including Corning Fast Cash, advising the employees as follows: “Last week we learned that some of Mr. Bailey’s stores are cashing tax refund checks. Please be aware that none of Mr. Bailey’s stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law.” Thereafter, the Board’s Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as “Director of Operations” sent a memo to all stores instructing the employees not to “give out our check cashing information over the telephone” and that any customer who called should be asked to come into the store and the employees could “see what you can do” once they saw the check.

On March 1, 2006, Investigator visited the location of Fast Cash in Corning. Exterior signage includes “CHECKS CASHED!!” The employee, Donna, denied, however, that she was

cashing checks for a fee. She did confirmed that she was still making loans through BMB Finance Company. Donna described the BMB loan process as follows: First, computer entries are made based on information provided by customer and this information is electronically transmitted to Teletrac. Second, Teletrac either denies or okays a loan to the customer. Third, if the loan is approved by Teletrac, the employee prints out a contract which is signed by the customer. The customer provides a personal check for the loan amount plus the fee. The employee prints out a check from BMB to the customer. The customer endorses the BMB check and receives cash. The customer can come in and pay off the loan before the due date and the personal check is returned. If they do not pay off the loan before the due date, the personal check is deposited and the loan is paid.

The evidence establishes that Corning Fast Cash, Inc, made at least 47 loans through BMB Finance Company during March 2006, totaling \$14,925.00, upon which loan fees were charged to the location's customers.

### **WALNUT RIDGE**

According to the sworn and verified personal affidavit of Mr. Bailey, as of January 2005, he was the president, owner/individual proprietor, and owned 100% of the stock of Walnut Ridge Fast Cash, Inc. When Mr. Bailey submitted his application for a permit for Walnut Ridge Fast Cash, Inc., the application fee was written on a Fordyce account bearing the name "Dennis Bailey" rather than the Walnut Ridge store's bank account.

By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board advised the 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." Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey's stores, including Walnut Ridge Fast Cash, advising the employees as follows: "Last week we learned that some of Mr. Bailey's stores are cashing tax refund checks. Please be aware

that none of Mr. Bailey's stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law." Thereafter, the Board's Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as "Director of Operations" sent a memo to all stores instructing the employees not to "give out our check cashing information over the telephone" and that any customer who called should be asked to come into the store and the employees could "see what you can do" once they saw the check

On March 1, 2006, the Board's Investigator visited the Walnut Ridge Fast Cash, Inc. and spoke with employee Beverly Rogers. Despite exterior signage stating "Checks Cashed!!," Beverly stated that she was not cashing checks. Beverly did confirm that she was still making loans through BMB Finance.

The evidence establishes that Walnut Ridge Fast Cash, Inc, made at least 228 loans through BMB Finance Company during March, April, and May, 2006, totaling \$54,920, upon which sum loan fees were charged to the location's customers.

Walnut Ridge Fast Cash, Inc., also occasionally cashed checks for a fee.

### **HARRISON**

According to the sworn and verified personal affidavit of Mr. Bailey, as of January 2005, he was the president, owner/individual proprietor, and owned 100% of the stock of Harrison Fast Cash, Inc. When Mr. Bailey submitted a check to pay the fines against the Pine Bluff Fast Cash, it was written on Harrison Fast Cash, Inc.'s bank account.

By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board advised the 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." Additionally, on March 14, 2005, the Board faxed messages to

Mr. Bailey's stores, including Pine Bluff Fast Cash, advising the employees as follows: "Last week we learned that some of Mr. Bailey's stores are cashing tax refund checks. Please be aware that none of Mr. Bailey's stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law." Thereafter, the Board's Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as "Director of Operations" sent a memo to all stores instructing the employees not to "give out our check cashing information over the telephone" and that any customer who called should be asked to come into the store and the employees could "see what you can do" once they saw the check.

On March 8, 2006, the Board's Investigator visited Harrison Fast Cash, Inc. Although there was window signage reading "Checks Cashed Here!!," the employees denied cashing checks for a fee but confirmed they were making BMB loans.

The evidence establishes that Harrison Fast Cash, Inc., made at least 194 loans through BMB Finance Company during the period January 2, 2006 through April 5, 2006, totaling \$60,675.00, upon which loan fees were charged to the location's customers.

The evidence further establishes that – despite the employee's mis-representation to the contrary – Harrison Fast Cash, Inc., cashed several checks in mid-January, 2006, totaling \$1,253.35 and charged its customers \$38.10 for this service.

### **MOUNTAIN HOME**

According to the sworn and verified personal affidavit of Mr. Bailey, as of January 2005, he was the president, owner/individual proprietor, and owned 100% of the stock of Mountain Home Fast Cash, Inc.

By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board advised the 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." Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey's stores, including Mountain Home Fast Cash, advising the employees as follows: "Last week we learned that some of Mr. Bailey's stores are cashing tax refund checks. Please be aware that none of Mr. Bailey's stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law." Thereafter, the Board's Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as "Director of Operations" sent a memo to all stores instructing the employees not to "give out our check cashing information over the telephone" and that any customer who called should be asked to come into the store and the employees could "see what you can do" once they saw the check.

On March 8, 2006, Investigator visited the location of Mountain Home Fast Cash, Inc. The employee refused to answer questions, stating that she was "not authorized" to do so and had been directed to tell Investigator to contact her "home office" with any questions. This location had exterior signage which included "FA\$T CASH LOANS/CHECKS CASHED" and "CASH CHECKS HERE."

The evidence establishes that Mountain Home Fast Cash, Inc., made at least 275 loans through BMB Finance Company during the period January 2, 2006 through May 3, 2006, totaling \$85,991.00, upon which loan fees were charged to the location's customers.

The evidence further establishes that Mountain Home Fast Cash, Inc., cashed at least three checks, totaling \$3,740.00, during early 2006 and charged its customers \$43.60 for this service. The

evidence also reflects that the location cashed at least four checks totaling \$824.07, during the latter part of 2005, for which service it charged its customers \$43.60.

### **CABOT**

Mr. Bailey purchased the business of Cabot Cash Advance from another check-casher, Michael Stout, at a time currently unknown to the Board's investigators. The capacity in which Mr. Bailey holds this business has not yet been determined by the Board's investigators but no corporate entity associated therewith was readily apparent.

On March 13, 2006, Investigator visited Cash Advance in Cabot, Arkansas, which was determined to be one of Mr. Bailey's stores, although the exact form of ownership has not been determined. The employee confirmed she was making BMB Finance Company loans.

The evidence establishes that Cash Advance made at least 286 loans through BMB Finance Company during the period January 2, 2006 through May 25, 2006, totaling \$91,560.00, upon which sum loan fees were charged to the location's customers.

The evidence further establishes that, during this same time period, Cash Advance cashed 66 checks totaling \$37,720.56 and charged its customers \$1,938.49 for this service.

### **HOT SPRINGS/GARLAND COUNTY**

According to the January 2005 sworn and verified personal affidavit of Mr. Bailey, he was, at that time, the president, owner/individual proprietor, and 100% stockholder of Garland County Cash Advance, Inc. The records of the Arkansas Secretary of State, Corporations Division, reflect that corporate status of that entity was revoked 12/31/04. The current sales and use tax permit posted at the business, located in Hot Springs, identifies Dennis Bailey as the only identified owner.

By letter dated March 10, 2005, to Mr. Bailey's attorney, the Board advised the 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.” Additionally, on March 14, 2005, the Board faxed messages to Mr. Bailey’s stores, including Garland County Cash Advance, advising the employees as follows: “Last week we learned that some of Mr. Bailey’s stores are cashing tax refund checks. Please be aware that none of Mr. Bailey’s stores have check-cashing licenses. If you are cashing checks for a fee you are in violation of the law.” Thereafter, the Board’s Executive Director and investigator began making inquiries to determine if the check cashing was continuing. On January 11, 2006, Rhonda Gunter, identified as “Director of Operations” sent a memo to all stores instructing the employees not to “give out our check cashing information over the telephone” and that any customer who called should be asked to come into the store and the employees could “see what you can do” once they saw the check.

The Board’s Investigator made multiple visits to Mr. Bailey’s Garland County Cash Advance in Hot Springs. On the first visit, the location had been closed and there was construction ongoing in the space. Upon a return visit, the employee advised that another tenant had taken the space in which Fast Cash had been operating requiring Fast Cash to move over a space. The employee advised that the construction had been completed in the new space shortly before Investigator’s visit. The employee denied cashing checks for a fee but confirmed she was making BMB Finance Company loans.

The evidence establishes that this location made at least 116 loans through BMB Finance Company during the one month period beginning January 2, 2006, and ending February 3, 2006, totaling \$37,311.00 and charged its customers fees based thereon.

The evidence further establishes that, during this same time period, the location cashed 10 checks totaling \$2,752.85 and charged its customers \$88.28 for this service.

## **BMB FINANCE COMPANY, LLC**

The loan transactions of the Bailey Check-Cashing Businesses utilizing BMB Finance Company, LLC, 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.

BMB Finance Company, LLC is not authorized to enter into loan transactions in the State of Arkansas or collect the payment of loans in the State of Arkansas and is not authorized to enter into deferred presentment transactions in the State of Arkansas.

The signage posted at Mr. Bailey's Arkansas operations state that BMB Finance Company, LLC, is duly licensed and in good standing with the Missouri Division of Finance. By posting this information at the Arkansas locations, Mr. Bailey is deceiving the citizens of the State of Arkansas by knowingly making a false representation that BMB Finance Company, LLC, is authorized by the State of Missouri to make loans at said Arkansas locations – which it is not. Further, these businesses are not licensed by the State of Arkansas to cash checks for a fee or to enter into deferred presentment transactions in further deceit of their customers, who are led to believe that they are dealing with duly licensed businesses.

Funds from the deferred presentment transactions are collection and deposited into the Bailey Check-Cashing Business accounts and then transferred to a BMB Finance Company, LLC account.

## **GENERAL FINDINGS**

Mr. Bailey has not properly and fully complied with the Board's subpoenas for the records of his businesses. Subpoenas duces tecum to each of the Bailey operations were served upon their attorney on May 5, 2006. The subpoenas required that the requested documents be produced no later

than May 11, 2006. The documents were not made available by May 11, 2006, as the duly issued subpoenas required. On May 31, 2006, demand was made for the documents. The documents still were not made available and, on June 7, 2006, their production was again demanded. Documents subpoenaed by the Board have still not been produced.

The Bailey Check-Cashing Businesses have continued to cash checks in violation of the Arkansas Check-Casher's Act after they were directed to cease check-cashing operations.

The BMB Finance Company loans have continued to be made by Bailey's Check-Cashing Businesses since he was advised by the State of Missouri that it has not authorized to conduct such transactions at the Arkansas locations and by the State of Arkansas that the businesses are in violation of the Check-cashers Act for doing business without licenses.

From these findings of fact, the Board makes the following conclusions of law and decisions:

1. The Bailey Check-Cashing Businesses identified herein are cashing checks in violation of the Arkansas Check-Cashers Act.
2. The Bailey Check-Cashing Businesses identified herein are entering into deferred presentment transactions in violation of the Arkansas Check-Casher's Act.
3. All transactions entered into by the Bailey Check-Cashing Businesses are null and void.
4. Dennis Bailey and each of the Bailey Check-Cashing Businesses shall be fined \$1,000.00 for each check-cashing transaction in 2006 totaling \$562,000.00.
5. Dennis Bailey and each of the Bailey Check-Cashing Businesses shall be fined \$250.00 for each deferred presentment transaction in 2006 totaling \$725,250.00.

6. Dennis Bailey and each of the Bailey Check-Cashing Businesses shall be fined \$20,200 for the illegal operation of the Pine Bluff store, which fine has been outstanding since 2005 and remains unpaid.
7. The Bailey Check-Cashing Businesses are not licensed by the State of Arkansas to cash checks for a fee or enter into deferred payment transactions.
8. All loans made through the BMB Finance Company, LLC at the Bailey Check-Cashing Businesses are deferred presentment transactions in violation of the Arkansas Check-Cashers Act. These loan transactions are null and void and all obligations for the repayment of these loans are considered cancelled, null and void and the customer shall not be obligated to repay these loans.
9. Dennis Bailey and the Bailey Check-Cashing Businesses identified herein are hereby ordered to cease all operations immediately.
10. Dennis Bailey and the Bailey Check-Cashing Businesses identified herein are hereby required to refund any fees collected from any person for the service of check cashing.
11. Dennis Bailey and the Bailey Check-Cashing Businesses identified herein 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.
12. The Board finds that Dennis Bailey and the Bailey Check-Cashing Businesses have willfully engaged in the check cashing business in violation of the Arkansas Check-Cashers Act.

13. The Board finds that Dennis Bailey and the Bailey Check-Cashing Businesses have willfully engaged in the deferred presentment transaction business in violation of the Arkansas Check-Casher's Act.

14. Dennis Bailey and the Bailey check cashing businesses identified herein shall be required to pay attorney's fees to the State Board of Collection Agencies - Division of Check-Cashing in the amount of \$10,000.00.

IT IS SO ORDERED.

Arkansas State Board of Collection Agencies  
Division of Check-Cashing

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Chairman

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Peggy Matson,  
Executive Director