

SCDCA v. Cash Central of South Carolina, LLC

(Case No. 2016-CP-40-02859)

Cash Central of South Carolina, LLC (“Cash Central”) is a limited liability company organized under the laws of Delaware and conducts business in the State of South Carolina. Cash Central acts as a supervised lender in this state through its website, www.cashcentral.com. Cash Central has no physical loan offices in South Carolina and operates entirely online.

On October 2, 2013, the South Carolina State Board of Financial Institutions (“the Board”) issued two licenses to Cash Central to operate as a supervised lender in South Carolina. The Board later conducted an audit of Cash Central’s operations and on or about April 3, 2015, issued findings and proposed corrective actions to Cash Central. The South Carolina Department of Consumer Affairs (“the Department”) obtained the information from the Board’s audit and initiated an inquiry into Cash Central’s operations regarding, among others, Sections 37-3-201 and 37-3-305. The Department thereby determined Cash Central failed to file and post a maximum rate schedule for three consecutive filing periods from 2013 through 2015, during which time it entered into approximately 15,116 loans exceeding six hundred dollars (\$600.00) with loan finance charges in excess of eighteen percent (18%) with South Carolina consumers.

The Department filed suit on May 6, 2016, seeking, among other things, to recast the finance charges of the contracts entered into by Cash Central with South Carolina consumers to no more than eighteen percent (18%) and also refund any excess charges paid by South Carolina consumers. Cash Central argued that any failure to file and post a maximum rate schedule was not intentional and the result of bona fide error and that it substantially complied with the statutory requirements for posting a maximum rate schedule by including some information concerning the cost of credit on its website.

On September 28, 2017, the Court ruled in favor of Cash Central, stating that the evidence showed Cash Central’s failure to file was the result of bona fide error or excusable neglect. The Court further ruled that Cash Central’s posting on its website was equivalent to the maximum rate schedule issued by the Department for the purpose of promoting consumers’ informed use of credit. On October 12, 2017, the Department filed its Motion to Alter or Amend. On November 28, 2017, the Court issued its Order Denying Plaintiff’s Motion to Alter or Amend.

On December 29, 2017, the Department filed its Notice of Appeal with the South Carolina Court of Appeals. On October 14, 2020, the parties engaged in an oral argument before the Court of Appeals. The Department is currently awaiting the Court of Appeal’s decision in this matter.