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Superior Court of California
County of Los Angeles

AUG 24 2009

John A. Clarke, Executive Officer/Clerk
By *KJ* Deputy
KAREN TAPPER

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

CASHCALL, INC., A CALIFORNIA
CORPORATION

Defendant

BC420115

~~PROPOSED~~ FINAL JUDGMENT
AND PERMANENT INJUNCTION

Plaintiff, the People of the State of California, appearing through its attorney, Edmund G. Brown Jr., Attorney General of the State of California, by Benjamin G. Diehl, Deputy Attorney General and Defendant CashCall, Inc., a California corporation, appearing through its attorney Dan Baren, Esq., have consented to the entry of this Final Judgment and Permanent Injunction (Judgment).

This Judgment is entered without taking any proof and without trial or adjudication of any issue of law or fact. This Judgment does not constitute evidence of or an admission by the Defendant regarding any issue of law or fact alleged in the Complaint. This Judgment and the Stipulation for Entry of Final Judgment constitute the complete, final, and exclusive agreement

1 between the parties and supersede any prior written or oral agreements between the parties,
2 except as specifically provided below.

3 Therefore, the parties, having waived their rights of appeal and having approved this Final
4 Judgment as to form and content:

5 **IT IS HEREBY ORDERED THAT:**

6 1. This Court has jurisdiction over the parties to and the subject matter of this action,
7 and venue is proper in this Court.

8 2. As used in this Judgment, the term "Consumer Loan" includes any loan made to an
9 individual whether unsecured or secured by personal property. The term "Borrower" refers to a
10 person who is obligated or allegedly obligated to repay a Consumer Loan. The term "Lender"
11 includes CashCall and any other person or entity bound by the injunctive provisions of this
12 Judgment who is engaged in the business of making Consumer Loans.

13 3. The injunctive provisions of this Judgment shall apply to CashCall, as well as its
14 agents, employees, officers, directors, owners, representatives, independent contractors, partners,
15 successors, assigns, and all those acting in concert or in participation with CashCall, who have
16 actual or constructive notice of its terms. The injunctive provisions of this Judgment also shall
17 apply to any officer, director, or owner of CashCall who signs the Stipulation for Entry of Final
18 Judgment and Permanent Injunction, regardless of that person's place of employment.

19 4. Pursuant to California Business and Professions Code sections 17203 and 17535, the
20 entities and individuals described in paragraph 3 of this Judgment are permanently enjoined and
21 restrained from:

22 A. Advertising interest rates or annual percentage rates on Consumer
23 Loans that are not made available to the general public, including, but not limited
24 to, rates on Consumer Loans made only to military personnel, without clearly and
25 conspicuously stating that those rates are available only to some subsection of the
26 general population and without identifying those persons eligible to receive those
27 rates.

1 B. Making any untrue or misleading statement, whether written or oral,
2 about the interest rate or annual percentage rate to be charged on a Consumer
3 Loan.

4 C. Failing to disclose the annual percentage rate and the manner in which
5 interest accrues on a Consumer Loan, in terms that can be readily understood by
6 the Borrower, on any occasion during which a representative of the Lender speaks
7 to a prospective Borrower during the loan application process and during any
8 "Welcome Call," loan verification call or other call during which the terms of the
9 Consumer Loan are reviewed with the Borrower, before or after the Consumer
10 Loan funds.

11 D. Failing to attempt to make a loan verification call to the Borrower
12 within 72 hours after the Consumer Loan funds, during which a representative of
13 the Lender will disclose the annual percentage rate and the manner in which
14 interest accrues on the Consumer Loan .

15 E. Failing to send a Borrower, by U.S. mail, documents about his or her
16 Consumer Loan(s) after the Borrower makes a request to the Lender that those
17 documents be sent by U.S. mail.

18 F. Failing to provide a a Borrower with 48 hours advance written notice
19 before any fee, charge or expense incidental to the principal obligation on the
20 Consumer Loan is withdrawn from the Borrower's bank account,.

21 G. Attempting to collect an ACH (Automated Clearing House) payment
22 on a Consumer Loan from a Borrower's bank account more than twice in any 30-
23 day period after the account has been shown to have insufficient funds to cover the
24 payment.

25 H. Giving a Borrower a payoff quote on a Consumer Loan without
26 informing the Borrower (1) the total amount required to pay off the Consumer
27 Loan as of the date of the request, or as of a date specified by the borrower; (2)
28 whether it is anticipated a portion of that total amount will be paid by a pending

1 ACH payment which will be debited from the Borrower's bank account; and (3)
2 the date and amount of that ACH payment, if one is pending.

3 I. Failing to abide by each agreement made with any Borrower concerning
4 the repayment of a Consumer Loan, including, but not limited to, deferments of
5 payment, payment due date changes, and cancellations of ACH payments.

6 J. Offering a Borrower a deferment of payment on a Consumer Loan
7 without giving the Borrower complete and clear instructions about how to accept
8 the deferment and without informing the Borrower about the effect the deferment
9 with have on the Consumer Loan.

10 K. Failing to comply with all provisions of the Rosenthal Fair Debt
11 Collection Practices Act, as currently codified in California Civil Code sections
12 1788 and following.

13 L. Collecting or attempting to collect on a Consumer Loan by engaging in
14 any conduct the natural consequence of which is to harass, oppress, or abuse any
15 person in connection with the collection of a Consumer Loan, including, but not
16 limited to, the conduct specified in paragraphs M through Q below.

17 M. Collecting or attempting to collect on a Consumer Loan by means of
18 the use, or threat of use, of physical force or violence or any criminal means to
19 cause harm to the person, or the reputation, or the property of any person.

20 N. Collecting or attempting to collect on a Consumer Loan by making a
21 threat to any person that:

22 (i) The failure to pay the Consumer Loan will result in an
23 accusation that the Borrower has committed a crime;

24 (ii) The failure to pay the Consumer Loan will result in a
25 referral to a law enforcement agency, including, but not limited to, the
26 police, child protective services, or any immigration agency;

27 (iii) Nonpayment of the Consumer Loan may result in the arrest
28 of the Borrower; or

1 (iv) Nonpayment of the Consumer Loan may result in the
2 seizure, garnishment, attachment or sale of any property or the garnishment
3 or attachment of the wages of the Borrower, unless the Lender has first
4 obtained a judgment against the Borrower and has determined that such
5 action is appropriate and permitted by law.

6 O. Collecting or attempting to collect on a Consumer Loan by using
7 obscene or profane language when communicating with any person.

8 P. Collecting or attempting to collect on a Consumer Loan by making
9 derogatory comments about the Borrower's character based on the Borrower's
10 delinquent account status on the Consumer Loan.

11 Q. Collecting or attempting to collect on a Consumer Loan by means of
12 any of the following practices:

13 (i) Communicating, by telephone, facsimile, or in person, with
14 the Borrower with such frequency as to be unreasonable and to constitute
15 harassment to the Borrower under the circumstances. For purposes of this
16 Judgment, harassment includes, but is not limited to, making more than one
17 contact with a Borrower by telephone per day concerning the Borrower's
18 delinquent account status, and/or making more than one contact with a
19 Borrower by telephone to remind a Borrower about an upcoming payment
20 due date or promise to pay, unless the Borrower has consented to additional
21 contact. A message left for a Borrower on voice mail or on an answering
22 machine constitutes a "contact" for purposes of this provision;

23 (ii) Communicating with a Borrower at any unusual time or
24 place or at a time or place known or which should be known to be
25 inconvenient to the Borrower, including, but not limited to, any time before
26 8:00 a.m. or after 9:00 p.m., local time at the Borrower's location;

27 (iii) Communicating with a Borrower at the Borrower's place of
28 employment if the Lender knows or has reason to know that the

1 Borrower's employer prohibits the Borrower from receiving such
2 communication;

3 (iv) Communicating with a Borrower's employer regarding the
4 Consumer Loan unless the communication is necessary to the collection of
5 the Consumer Loan, or unless the Borrower or his or her attorney has
6 consented in writing to the communication. A communication is necessary
7 to the collection of the Consumer Loan only if it is made for the purposes
8 of verifying the Borrower's employment, locating the Borrower, or
9 effecting post-judgment garnishment of the Borrower's wages. Any such
10 communication shall be in writing unless the written communication
11 receives no response within 15 days and shall be made only as many times
12 as is necessary for the collection of the Consumer Loan, except that one
13 communication solely for purposes of verifying the Borrower's
14 employment may be oral without prior written contact;

15 (v) Communicating with a Borrower's employer, co-worker,
16 family member, friend, acquaintance, neighbor, or reference regarding the
17 Consumer Loan using language or engaging in conduct that would be
18 improper under the terms of this Judgment or any applicable law, if the
19 communication were made to the Borrower;

20 (vi) Communicating information regarding the Consumer Loan
21 to any member of the Borrower's family -- other than the Borrower's
22 spouse, or the parents or guardians of the Borrower who is either a minor
23 or who resides in the same household with the parent or guardian -- or any
24 friend, acquaintance, co-worker, or neighbor of the Borrower, before
25 obtaining a judgment against the Borrower except when the purpose of the
26 communication is to locate the Borrower or when the Borrower or his or
27 her attorney has consented in writing to the communication;
28

1 (vii) Communicating more than once with any person, other than
2 the Borrower, for the purpose of acquiring location information about the
3 Borrower, unless requested to do so by that person or unless the Lender
4 reasonably believes that the earlier response of that person is erroneous or
5 incomplete and that that person now has correct or complete location
6 information;

7 (viii) Communicating with a person who is not known to have a
8 personal relationship with the Borrower, including, but not limited to, a
9 neighbor who is not listed as a reference on the loan application, to ask that
10 person to contact the Borrower and request that the Borrower either contact
11 the Lender or make a payment on the Consumer Loan; or

12 (ix) Communicating with the Borrower by means of a written
13 communication that displays or conveys any information about the
14 Consumer Loan or the Borrower other than the name, address and
15 telephone number of the Borrower and/or the Lender and which is intended
16 both to be seen by any other person and also to embarrass the Borrower.

17 R. Collecting or attempting to collect on a Consumer Loan or trying to
18 obtain information concerning a Borrower by using any untrue or misleading
19 statement or means, including, but not limited to, the types of statements and
20 means specified in paragraphs S through T below.

21 S. Collecting or attempting to collect on a Consumer Loan by using any
22 untrue or misleading statement that:

23 (i) Information concerning a Borrower's failure to pay a
24 Consumer Loan has been or is about to be referred to a consumer reporting
25 agency;

26 (ii) A legal proceeding has been, is about to be, or will be
27 instituted unless payment of the Consumer Loan is made;

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(iii) A Consumer Loan has been, is about to be, or will be sold, assigned, or referred to an outside debt collector for collection;

(iv) The Borrower's account has been, is about to be, or will be referred to outside legal counsel; or

(v) The failure to pay the Consumer Loan has resulted or will result in a referral to a law enforcement agency, including, but not limited to, the police, child protective services, or any immigration agency.

T. Collecting or attempting to collect on a Consumer Loan by using a threat to take any action that cannot legally be taken or that is not intended to be taken.

U. Collecting or attempting to collect on a Consumer Loan by initiating communications regarding the Consumer Loan, other than written statements of account, with the Borrower, when the Lender has been previously notified in writing by the Borrower's attorney that the Borrower is represented by an attorney with respect to the Consumer Loan and the notice includes the attorney's name and address and a request by the attorney that all communications regarding the Consumer Loan be addressed to the attorney, unless the attorney fails to answer correspondence, return telephone calls, or discuss the obligation in question within 10 days of any communication to the attorney by the Lender.

V. Failing to document a Borrower's request that the Lender cease or limit telephone contact with the Borrower regarding a Consumer Loan.

W. Failing to notify a Borrower who makes an oral request that the Lender cease or limit telephone contact with the Borrower regarding a Consumer Loan that the Borrower must put the request in writing and send the written request to the Lender within five business days of the oral request or the Lender may resume telephone contact with the Borrower.

1 X. Collecting or attempting to collect on a Consumer Loan by continuing
2 to contact a Borrower by telephone after the Borrower has made a written request
3 that all contact by telephone cease.

4 Y. Collecting or attempting to collect on a Consumer Loan by contacting
5 a Borrower by telephone at a particular time or place after the Borrower has made
6 a written request that all telephone contact at that particular time or place cease.

7 Z. Failing to document in a Borrower's account history the date, time,
8 telephone number, and name (to the extent the name is disclosed or otherwise
9 known by the Lender) of each person contacted or attempted to be contacted in an
10 effort to collect on a Consumer Loan.

11 AA. Failing to prohibit the Lender's employees from using any telephones
12 that are not monitored by the Lender to make any call to a prospective or current
13 Borrower regarding a Consumer Loan.

14 BB. Failing to refrain from using field chasers to do anything other than to
15 attempt to locate a Borrower or to provide the Borrower with correspondence from
16 the Lender regarding a Consumer Loan. The term "field chasers, as used in this
17 provision and in paragraph CC below, means any and all persons hired by the
18 Lender to go out into the field to locate and to make in-person contact with
19 Borrowers.

20 CC. Failing to instruct field chasers that they may not question Borrowers
21 about their delinquent payment status or attempt to collect money from Borrowers
22 on a Consumer Loan.

23 5. For purposes of ensuring compliance with the injunctive provisions of this Judgment,
24 CashCall shall do the following while engaging in the business of making Consumer Loans:

25 A. Within 10 business days after entry of this Judgment, CashCall shall
26 provide a copy of this Judgment to each of its current officers and directors, and
27 each of its current employees who have any responsibility related to CashCall's
28 debt collection or lending practices. CashCall shall provide a copy of this

1 Judgment to any new officers and directors, and employees who have any
2 responsibility related to CashCall's debt collection or lending practices prior to
3 their commencement of such duties.

4 B. Within 30 days after entry of this Judgment (or within 30 days after a
5 new employee is hired), and not fewer than four times per year thereafter,
6 CashCall shall provide training regarding the applicable injunctive provisions of
7 this Judgment to each of its employees who have any responsibility related to its
8 debt collection or lending practices.

9 C. CashCall shall obtain from each person described in paragraph 5.A
10 above, a signed and notarized Acknowledgment that states that the person has
11 received and read a copy of this Judgment, and that CashCall has explained to this
12 person the meaning of each injunctive provision that is relevant to this person's
13 duties. The Acknowledgment shall legibly state the name, position or job title,
14 address and telephone number of the officer, director or employee signing the
15 Acknowledgment. The signed and notarized Acknowledgment shall be returned to
16 CashCall within three days of receipt by the officer, director or employee.

17 D. CashCall shall maintain the original Acknowledgments and, upon 48
18 hours written notice, shall make the Acknowledgments available for inspection
19 and copying by any duly authorized representative of the California Attorney
20 General.

21 E. CashCall shall terminate the employment of any officer, director or
22 employee who violates any of the injunctive provisions of this Judgment or who
23 fails to return the signed and notarized Acknowledgment to CashCall within three
24 days of receipt of the Acknowledgment.

25 F. CashCall shall maintain a log of consumer complaints it receives by
26 telephone that includes the date and time of the call, the name, address and
27 telephone number of the complainant and a description of the complaint, and all
28

1 written or electronically transmitted consumer complaints, that shall be made
2 available to the California Attorney General pursuant to paragraph 10 below.

3 G. CashCall shall record all telephone calls made to or received from all
4 prospective and current Borrowers in a manner that complies with all applicable
5 state and federal laws concerning such recordings.

6 6. CashCall shall pay to Plaintiff, upon entry of this Judgment, \$500,000 as civil
7 penalties as authorized by Business and Professions Code sections 17206 and 17536.

8 7. CashCall also shall pay to Plaintiff the sum of \$500,000 as costs of the investigation,
9 attorney fees, and other expenses related to the investigation and resolution of this case. These
10 payments shall be made in two equal payments of \$250,000, with the first payment due no later
11 than 60 days after entry of this Judgment and the second payment due no later than 120 days after
12 entry of this Judgment. These payments shall be designated for the exclusive use of the Office of
13 the Attorney General for the investigation and prosecution of consumer protection matters, and
14 for consumer education and outreach.

15 8. The sums described in paragraphs 6 and 7 shall be paid by certified checks made
16 payable to the California Attorney General's Office and delivered to Plaintiff at the following
17 address: Department of Justice, Office of the Attorney General, 300 South Spring Street, Suite
18 1702, Los Angeles, CA 90013, Attn: Deputy Attorney General Benjamin Diehl.

19 9. The payments required by this Judgment are not dischargeable in bankruptcy.

20 10. Any duly authorized representative of the California Attorney General shall, upon
21 reasonable notice to CashCall, be permitted to inspect and copy all books, ledgers, accounts,
22 correspondence, memoranda, recordings, contracts, banking records or other records or
23 documents in the possession or under the control of CashCall, which relate to any of the matters
24 contained in this Judgment.

25 11. This Judgment fully and finally resolves only those matters specifically set forth in
26 the allegations of the Complaint filed in this action, for conduct which occurred before entry of
27 this Judgment.

28

1 12. Nothing in this Judgment shall be construed as relieving CashCall of its obligations to
2 comply, or as prohibiting CashCall from complying, with all applicable local, state and federal
3 laws, regulations, or rules. Nor shall any of the provisions of this Judgment be deemed to be
4 permission to engage in any acts or practices prohibited by any applicable law, regulation, or rule.

5 13. This Court shall retain jurisdiction over this matter for purposes of enabling any party
6 to this Judgment to apply to the Court at any time for further orders or directions as may be
7 necessary or appropriate for the construction or carrying out of this Judgment, for modification of
8 any of the injunctive provisions of this Judgment, for enforcement or compliance with this
9 Judgment, and/or for the punishment of any violation of this Judgment.

10 14. This Judgment shall be binding and effective immediately upon entry by the clerk of
11 this Court, and the clerk is ordered to enter this Judgment forthwith.

12 Date:

13
14 **AUG 24 2009**



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16 ~~AMY D. HAGAN~~
17 Judge of the Superior Court

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