

IN THE CIRCUIT COURT COOK COUNTY
COUNTY DEPARTMENT—CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS and)
THE ILLINOIS DEPARTMENT OF FINANCIAL)
AND PROFESSIONAL REGULATION *ex rel.*,)
LISA MADIGAN, Attorney General of the)
State of Illinois)

Plaintiffs,)

vs.)

MONEYMUTUAL, LLC, a Nevada)
Domestic Limited-Liability Company,)

Defendant.)

2014CH05907
CALENDAR/BOOK 07
TIME 00:00
INJUNCTION

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF

NOW COME the Plaintiffs, THE PEOPLE OF THE STATE OF ILLINOIS and
THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL
REGULATION, *ex rel.* LISA MADIGAN, Attorney General of the State of Illinois, and
bring this action complaining of Defendant MONEYMUTUAL, LLC, and state as
follows:

PUBLIC INTEREST

1. The Illinois Attorney General believes this action to be in the public
interest of the citizens of the State of Illinois and brings this lawsuit pursuant to the
Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/7(a) and
the Payday Loan Reform Act, 815 ILCS 122/1.

2014 APR -7 PM 3:32
CIRCUIT COURT OF COOK
COUNTY ILLINOIS
CHANCERY DIVISION

FILED-1

JURISDICTION AND VENUE

2. This action is brought for and on behalf of THE PEOPLE OF THE STATE OF ILLINOIS and THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, *ex rel.* LISA MADIGAN, ATTORNEY GENERAL OF THE STATE OF ILLINOIS, pursuant to the provisions of the Consumer Fraud and Deceptive Practices Act (“Consumer Fraud Act”), 815 ILCS 505/1 *et seq.*, the Payday Loan Reform Act, 815 ILCS 122/1 *et seq.*, and the common law authority of the Attorney General to represent the People of the State of Illinois.

3. Venue for this action properly lies in Cook County, Illinois, pursuant to Section 2-101 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-101, in that some of the transactions out of which this action arose occurred in Cook County.

PARTIES

4. Plaintiff, THE PEOPLE OF THE STATE OF ILLINOIS, by LISA MADIGAN, Attorney General of the State of Illinois, is charged, *inter alia*, with the enforcement of the Consumer Fraud Act, 815 ILCS 505/7.

5. Plaintiff, THE ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION, is authorized to enforce the Payday Loan Reform Act and to refer matters to other law enforcement agencies for prosecution under the Payday Loan Reform Act, 815 ILCS 122/4-10.

6. Defendant MONEYMUTUAL, LLC is a Nevada Domestic Limited Liability Corporation that was incorporated on September 30, 2011. Defendant MONEYMUTUAL, LLC operates from the business address of 8174 S. Las Vegas Blvd., Suite #109-432, Las Vegas, NV 89123.

7. Defendant MONEYMUTUAL, LLC (“Defendant”) arranges and offers payday loans to Illinois consumers through Defendant’s online website despite not being authorized to conduct business in Illinois.

8. For purposes of this Complaint for Injunctive and Other Relief, any references to the act and practices of Defendant shall mean that such acts and practices are by and through the acts of Defendant’s officers, members, owners, directors, employees, salespersons, representatives and/or other agents.

TRADE & COMMERCE

9. Subsection 1(f) of the Consumer Fraud Act defines "trade" and "commerce" as follows:

The terms 'trade' and 'commerce' mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal, or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this State.

815 ILCS 505/1(f).

10. Defendant was at all times relevant hereto, engaged in trade and commerce in the State of Illinois by advertising, arranging, or offering payday loans over the Internet to Illinois consumers.

DEFENDANT’S COURSE OF CONDUCT

11. Since at least 2011, Defendant markets, offers, and arranges payday loans through Defendant’s website at www.moneymutual.com.

12. Defendant arranges payday loans for Illinois consumers by collecting consumer information, and subsequently referring consumers to third party payday lenders.

13. Defendant advertises its services/products online and on television to Illinois consumers.

14. Defendant's internet and television advertisements featuring celebrity endorser Montel Williams makes false promises and misrepresentations such that Illinois consumers believe that Defendant and its lenders are trustworthy when, in fact, Defendant and its lenders that are unlicensed do not comply with the consumer protections afforded to Illinois borrowers.

15. Defendant's television advertisements typically feature Montel Williams stating that "MoneyMutual was designed with you in mind," along with the following claims and representations:

MoneyMutual is a trusted source to our 60 lenders.

Receive up to \$1,000 in your checking account by tomorrow

These are tough times. Facing an unexpected car repair bill? A medical emergency; or, just need extra cash? Then you need to know about

MoneyMutual.

An easy way to get short term cash fast.

Forget about bounced checks, overdraft charges, and late fees.

Remember me and MoneyMutual.

16. Defendant's website also quotes Montel Williams as saying "MoneyMutual's online lending network is a cash advance source you can trust for finding a payday loan quickly and easily."

17. Defendant's website states that "MoneyMutual has built a large, dedicated network of short-term lenders to match you with instantly in order to provide the relief you need until your next paycheck..."

18. Defendant's website further promises that "[u]sing MoneyMutual is private, fast and easy, so there is no need for you to drive to and stand in line at a payday loan store...."

19. However, Defendant fails to disclose that Defendant is not licensed to offer and arrange payday loans to Illinois consumers.

20. Due to being unlicensed, Defendant does not comply with the consumer protections in the Payday Loan Reform Act, 815 ILCS 122/1

21. Further, Defendant fails to disclose that its "dedicated network of short-term lenders" includes some payday lenders that are also not licensed to offer payday loans in Illinois.

22. Indeed, any unlicensed lenders that Defendant matches consumers with also do not comply with the consumer protections enacted by the Illinois legislature.

Background

23. In 2005, the Illinois legislature passed the Payday Loan Reform Act ("PLRA") to protect consumers against long-term cycles of debt associated with short-term payday loans.

24. Prior to 2005, there were very few consumer protections for borrowers of short-term loans. For instance, there were no limits on finance charges or the number of loans that a consumer could simultaneously borrow.

25. The PLRA defines “lender” as “any person or entity...that offers or makes a payday loan...*arranges a payday loan for a third party, or acts as an agent for a third party in making a payday loan*, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, and includes any other person or entity if the Department determines that the person or entity is engaged in a transaction that is in substance a disguised payday loan or a subterfuge for the purpose of avoiding this Act.” Emphasis Added. 815 ILCS 122/1-10.

26. The PLRA further requires any entity acting as a payday lender in Illinois to be licensed by the Department of Financial and Professional Regulation (“Department”). 815 ILCS 122/3-3.

27. In addition to licensure requirements, the PLRA imposes a number of statutory requirements on entities offering or arranging payday loans to Illinois consumers, including but not limited to the following:

- a. A lender may charge no more than \$15.50 per \$100 loaned on any payday loan over the term of the loan, 815 ILCS 122/2-5(e-5);
- b. A lender cannot make a payday loan to a consumer if the loan would result in the consumer’s being in debt to one or more payday lenders for more than 45 consecutive days, 815 ILCS 122/2-5(b);
- c. After a consumer pays off the balance of all payday loans he or she took out in a 45 consecutive day period, a lender must wait seven calendar days before issuing that consumer a new payday loan, 815 ILCS 122/2-5(b); and
- d. A lender cannot make a payday loan to a consumer who has an outstanding balance on two loans. 815 ILCS 122/2-5(e).

28. Illinois law further requires entities offering or arranging payday loans to Illinois consumers to use a “commercially reasonable method of verification” to verify that each proposed loan agreement is permissible. 815 ILCS 122/2-15(a)

29. A “commercially reasonable method of verification” is defined as a consumer reporting service database certified by the Department and made available to licensees. 815 ILCS 122/1-10

30. The consumer reporting service database is not accessible to unlicensed payday lenders.

MoneyMutual's Payday Loan Products

31. Defendant offers and arranges payday loans to Illinois consumers via its website without obtaining a license from the Department.

32. In the course of offering or arranging loans for consumers, Defendant collects, via its website, personal information of consumers, such as:

- a. Consumer's Name
- b. Bank Name
- c. Bank Account Number and Routing Number
- d. Social Security Number
- e. Date of Birth
- f. Driver's License Number
- g. E-Mail Address
- h. Telephone Number
- i. Address
- j. Residence Status (own or rent)
- k. Main Source of Income

33. Defendant also gathers the name and address of the consumer's employer, the phone number of the employer, monthly income information, and the dates of the consumer applicant's next two upcoming paydays.

34. The personal information that Defendant collects from consumers includes the data that is necessary to process a payday loan application and run an Automated Clearing House (ACH) Transaction.

35. For example, on the website page for “deposit information,” Defendant requires each applicant to enter his or her bank’s routing number and his or her personal bank account number. This information is used by the lender that Defendant arranges the payday loan for to deposit the loan amount and also to withdraw money in order to repay the loan.

36. Defendant’s website advertises and offers several different payday loan products.

37. Defendant’s website advertises and offers the following types of payday loans: Military Payday Loans; Online Payday Loans; No Fax Payday Loans; No Credit Check Payday Loans; and “24-Hour Payday Loans”.

38. Defendant’s website states that “[s]hort-term loans can be seen as temporary help for a pressing problem. Terms vary depending on the lender and your situation, but you may be eligible to get a loan of up to \$1000.00. With this type of loan, the lender will expect you to repay it quickly – typically as soon as your next payday. That’s why some short term loans are also known as payday loans.”

39. Defendant’s website explains the application process as follows:

After you accept the loan, the lender will usually deposit the money directly into your checking account, sometimes in as little as 24 hours. Lenders like direct deposit because that means they are able to confirm that you received the funds. In most cases, the lender will also withdraw money from your checking account for repayment on the due date.

40. Defendant further explains that “[t]he lender may require payment of the full amount of the loan on your next payday – hence the name “payday loans”. If you cannot pay the full amount on your next payday, the lender may agree to extend the loan until your next check. However, the lender will probably charge a fee for the extension.”

41. After the consumer submits their application to Defendant, Defendant notifies the consumer, typically via e-mail, that they have been matched with a lender or lenders in Defendant’s network. Defendant provides the consumer with the name, telephone number, and website for the lender.

42. Defendant also tells consumers after they are matched with a lender to “[r]emember, we’re always here 24 hours a day, 7 days a week to help you get matched with a lender. If you should need to be matched for another short-term loan in the future, you can visit us online at the MoneyMutual website or call us at 800-809-2138.”

43. Defendant arranges and offers payday loans to Illinois consumers with finance fees and an Annual Percentage Rate (“APR”) ranging between 200% and 1400% for a 14-day loan.

44. Defendant connects consumers with payday lenders that accept repayment of the loans through automatic bank debits from the borrowers’ bank accounts.

45. In some instances, consumers are unable to pay off the loan balance or keep up with the high fees and repeat bank debits from their bank accounts.

46. After applying for a loan through Defendant’s website, an Illinois consumer received a loan from an unlicensed lender she never agreed to accept.

47. In some instances, Defendant also arranges payday loans for Illinois consumers with unlicensed payday lenders.

48. As an unlicensed entity, Defendant is unable to verify that payday loan agreements with Illinois consumers are permissible by checking the consumer reporting service database certified by the Department.

49. Further, the unlicensed lenders in Defendant's network are also unable to verify that payday loan agreements with Illinois consumers are permissible by checking the consumer reporting service database certified by the Department.

50. Defendant arranges payday loans for Illinois consumers with payday lenders that fail to provide consumers a pamphlet of disclosures prepared by the Secretary of the Department, as required by the PLRA. 815 ILCS 122/2-20(a).

51. Defendant also arranges payday loans for Illinois consumers with payday lenders that fail to provide consumers with a written agreement that details certain disclosures, as required by the PLRA. 815 ILCS 122/2-20(b).

The Department's Cease and Desist Order

52. On August 2, 2011, after conducting an examination of Defendant's activities, the Department issued to Defendant an unlicensed activity letter requesting documents.

53. Defendant failed to respond and produce documents to the Department.

54. On September 21, 2012, the Department issued a Cease and Desist Order ("Order") to Defendant, pursuant to the PLRA, 815 ILCS 122/1 *et. seq.*, (See Order attached as Exhibit 1)

55. The Department's Order stated that Defendant offers and arranges payday loans without a license.

56. The Order directed Defendant to cease and desist offering and arranging payday loans to Illinois consumers.

57. The Department further ordered Defendant to produce certain documents in connection to the accounts with Illinois consumers.

58. To date, Defendant failed to respond to the Department concerning the Order.

APPLICABLE STATUTES

59. Section 2 of the Consumer Fraud Act provides:

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in Section 2 of the "Uniform Deceptive Trade Practices Act," approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. In construing this section consideration shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5(a) of the Federal Trade Commission Act.

815 ILCS 505/2.

60. Section 2Z of the Consumer Fraud Act provides, "Any person who knowingly violates . . . the Payday Loan Reform Act . . . commits an unlawful practice within the meaning of this Act." 815 ILCS 505/2Z.

61. Subsection 1-15(a) of the Payday Loan Reform Act, 815 ILCS 122/1-15(a), provides that the Act "applies to any lender that offers or makes a payday loan to a consumer in Illinois."

62. Defendant meets the definition of "lender" set forth in the Payday Loan Reform Act, 815 ILCS 122/1-10.

63. "Lender" is defined forth in the Payday Loan Reform Act, 815 ILCS

122/1-10, as:

any person or entity, including any affiliate or subsidiary of a lender or licensee, that offers or makes a payday loan, buys a whole or partial interest in a payday loan, arranges a payday loan for a third party, or acts as an agent for a third party in making a payday loan, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, and includes any other person or entity if the Department determines that the person or entity is engaged in a transaction that is in substance a disguised payday loan or a subterfuge for the purpose of avoiding this Act.

64. The Payday Loan Reform Act, 815 ILCS 122/1-10 defines "payday loan" as "a loan with a finance charge exceeding an annual percentage rate of 36% and with a term that does not exceed 120 days, including any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone, in which . . . [a] lender accepts one or more authorizations to debit a consumer's bank account."

65. Section 1-10 of the Payday Loan Reform Act provides:

"Commercially reasonable method of verification" or "certified database" means a consumer reporting service database certified by the Department as effective in verifying that a proposed loan agreement is permissible under this Act, or, in the absence of the Department's certification, any reasonably reliable written verification by the consumer concerning (i) whether the consumer has any outstanding payday loans, (ii) the principal amount of those outstanding payday loans, and (iii) whether any payday loans have been paid in full by the consumer in the preceding 7 days.

815 ILCS 122/1-10

66. The Payday Loan Reform Act, 815 ILCS 122/2-5(e-5), provides, in part:

Except as provided in subsection (c)(i), no lender may charge more than \$15.50 per \$100 loaned on any payday loan, or more than \$15.50 per \$100 on the initial principal balance and on the principal balances scheduled to be outstanding during any installment period on any installment payday loan.

67. The Payday Loan Reform Act, 815 ILCS 122/2-15(a), provides,

“Before entering into a loan agreement with a consumer, a lender must use a commercially reasonable method of verification to verify that the proposed loan agreement is permissible under this Act.”

68. Section 2-20 of the Payday Loan Reform Act provides:

(a) Before a payday loan is made, a lender shall deliver to the consumer a pamphlet prepared by the Secretary that:

- (1) explains, in simple English and Spanish, all of the consumer's rights and responsibilities in a payday loan transaction;
- (2) includes a toll-free number to the Secretary's office to handle concerns or provide information about whether a lender is licensed, whether complaints have been filed with the Secretary, and the resolution of those complaints; and
- (3) provides information regarding the availability of debt management services.

(b) Lenders shall provide consumers with a written agreement that may be kept by the consumer. The written agreement must include the following information in English and in the language in which the loan was negotiated:

- (1) the name and address of the lender making the payday loan, and the name and title of the individual employee who signs the agreement on behalf of the lender;
- (2) disclosures required by the federal Truth in Lending Act;
- (3) a clear description of the consumer's payment obligations under the loan;
- (4) the following statement, in at least 14-point bold type face: "You cannot be prosecuted in criminal court to collect this loan." The information required to be disclosed under this subdivision (4) must be conspicuously disclosed in the loan document and shall be located immediately preceding the signature of the consumer; and
- (5) the following statement, in at least 14-point bold type face:
"WARNING: This loan is not intended to meet long-term financial needs. This loan should be used only to meet short-term cash needs. The cost of your loan may be higher than loans offered by other lending institutions. This loan is regulated by the Department of Financial and Professional Regulation."

815 ILCS 122/2-20(a)(b)

69. The Payday Loan Reform Act, 815 ILCS 122/3-3, requires “a person or entity acting as a payday lender” to be licensed by the Department of Financial and Professional Regulation.

70. The Payday Loan Reform Act, 815 ILCS 122/4-10(b), provides, “Any material violation of this Act, including the commission of an act prohibited under Section 4-5, constitutes a violation of the Consumer Fraud and Deceptive Business Practices Act.”

VIOLATIONS

COUNT I:

CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT

71. The People re-allege and incorporate by reference the allegations in Paragraphs 1 to 70.
72. While engaged in trade or commerce, the Defendant has committed unfair and/or deceptive acts or practices declared unlawful under Section 2Z of the Consumer Fraud Act, 815 ILCS 505/2Z, by knowingly violating the Payday Loan Reform Act, 815 ILCS 122/1-1, *et. seq.*, in the following ways:
- a. offering and arranging for third parties online payday loans with Illinois consumers without licensure by the Illinois Department of Financial and Professional Regulation, in violation of 815 ILCS 122/3-3(a);
 - b. offering or arranging for Illinois consumers online payday loans with finance charges exceeding \$15.50 per \$100.00 on the initial principal balance, in violation of 815 ILCS 122/2-5(e-5);
 - c. failing to use a commercially reasonable method of verification to verify that each proposed loan agreement is permissible, in violation of 815 ILCS 122/2-15(a);
 - d. offering or arranging for Illinois consumers online payday loans with lenders that fail to provide Illinois consumers the statutorily required pamphlet of disclosures and information, in violation of 815 ILCS 122/2-20(a); and
 - e. offering or arranging payday loans for Illinois consumers with payday lenders that fail to provide consumers with a written agreement that details certain disclosures, in violation of 815 ILCS 122/2-20(b).
73. While engaged in trade or commerce, the Defendant has committed unfair and/or deceptive acts or practices declared unlawful under Section 2 of the Consumer Fraud Act, 815 ILCS 505/2, by:
- a. matching Illinois consumers with unlicensed lenders without the consumers' consent;

- b. misrepresenting, expressly or by implication, with the intent that consumers rely on such misrepresentation, that Defendant is licensed and authorized to offer or arrange payday loans for Illinois consumers;
- c. misrepresenting, expressly or by implication, with the intent that consumers rely on such misrepresentation, that all of the lenders in Defendant's network are licensed and authorized to offer payday loans to Illinois consumers;
- d. failing to disclose to Illinois consumers that Defendant is not licensed and authorized to offer and arrange payday loans for Illinois consumers, with the intent that consumers rely on such omission; and
- e. failing to disclose to Illinois consumers that Defendant's network of payday lenders includes unlicensed lenders, with the intent that consumers rely on such omission.

STATUTORY REMEDIES

74. Section 7 of the Consumer Fraud Act provides:

Whenever the Attorney General ... has reason to believe that any person is using, has used, or is about to use any method, act or practice declared by this Act to be unlawful, and that proceedings would be in the public interest, he or she may bring an action in the name of the People of the State against such person to restrain by preliminary or permanent injunction the use of such method, act or practice. The Court, in its discretion, may exercise all powers necessary, including but not limited to: injunction; revocation; forfeiture or suspension of any license, charter, franchise, certificate or other evidence of authority of any person to do business in this State; appointment of receiver; dissolution of domestic corporations or association suspension or termination of the right of foreign corporations or associations to do business in this State; and restitution.

In addition to the remedies provided herein, the Attorney General...may request and the Court may impose a civil penalty in a sum not to exceed \$50,000 against any person found by the Court to have engaged in any method, act or practice declared unlawful under this Act. In the event the court finds the method, act or practice to have been entered into with the intent to defraud, the court has the authority to impose a civil penalty in a sum not to exceed \$50,000 per violation.

815 ILCS 505/7.

75. Section 10 of the Consumer Fraud Act, 815 ILCS 505/10, provides, "In any action brought under the provisions of this Act, the Attorney General is entitled to recover costs for the use of this State.

PRAYER FOR RELIEF

WHEREFORE the Plaintiff prays that this honorable court enter an order:

- A. Finding that Defendant is a “lender” as defined by the Payday Loan Reform Act, 815 ILCS 122/3, *et. seq.*;
- B. Finding that Defendant engaged in trade or commerce in Illinois by offering and making online payday loans to Illinois consumers;
- C. Finding that Defendant engaged in unlawful activities in violation of Section 2 of the Consumer Fraud Act, 815 ILCS 505/2, by advertising, arranging, or offering payday loans over the Internet to Illinois consumers;
- D. Finding that Defendant engaged in unlawful activities pursuant to Section 2Z of the Consumer Fraud Act, 815 ILCS 505/2Z, by knowingly violating the Payday Loan Reform Act, 815 ILCS 122/1-1, *et. seq.*;
- E. Permanently enjoining Defendant, acting alone or in concert with others, from arranging or offering online payday loans to Illinois consumers, unless Defendant becomes licensed by the Department;
- F. Assessing a civil penalty in the amount of Fifty Thousand Dollars (\$50,000) per violation of the Consumer Fraud Act found by the Court to have been committed by the Defendant with the intent to defraud; if the Court finds the Defendant has engaged in methods, acts or practices declared unlawful by the Consumer Fraud Act, without the intent to defraud, then assessing a statutory civil penalty of Fifty Thousand Dollars (\$50,000), all as provided in Section 7 of the Consumer Fraud Act 815 ILCS 505/7;

G. Requiring Defendant to pay all costs for the prosecution and investigation of this action, as provided by Section 10 of the Consumer Fraud Act 815 ILCS 505/10; and

H. Providing such other and further equitable relief as justice and equity may require.

COUNT II:

PAYDAY LOAN REFORM ACT

76. Plaintiffs re-allege and incorporate the allegations in Paragraphs 1 to 75.

77. Defendant has materially violated the Payday Loan Reform Act and committed unfair or deceptive acts or practices declared unlawful under Section 3-3, 815 ILCS 122/3-3, by offering and arranging for third parties online payday loans with Illinois consumers without licensure by the Illinois Department of Financial and Professional Regulation.

78. Defendant has materially violated the Payday Loan Reform Act and committed unfair or deceptive acts or practices declared unlawful under Section 2-5(e-5), 815 ILCS 122/2-5(e-5), by offering or arranging for third parties online payday loans with Illinois consumers with a finance fee of more than \$15.50 per \$100 on the initial principal balance.

79. Defendant has materially violated the Payday Loan Reform Act and committed unfair or deceptive acts or practices declared unlawful under Section 2-15(a), 815 ILCS 122/2-15(a), by offering or arranging for third parties online payday loans while failing to use a commercially reasonable method of verification to verify that each proposed loan agreement is permissible under the Act.

80. Defendant has materially violated the Payday Loan Reform Act and committed unfair or deceptive acts or practices declared unlawful under Section 2-20(a), 815 ILCS 122/2-20(a), by offering and arranging for third parties online payday loans with lenders that fail to provide Illinois consumers the statutorily required pamphlet of disclosures and information.

81. Defendant has materially violated the Payday Loan Reform Act and committed unfair or deceptive acts or practices declared unlawful under Section 2-20(b), 815 ILCS 122/2-20(b), by offering or arranging for third parties online payday loans with lenders that fail to provide consumers with a written agreement that details certain disclosures.

REMEDIES

82. Sec. 4-10 of the Payday Loan Reform Act, 815 ILCS 122/4-10, provides: (a) The remedies provided in this Act are cumulative and apply to persons or entities subject to this Act.

(b) Any material violation of this Act, including the commission of an act prohibited under Section 4-5, constitutes a violation of the Consumer Fraud and Deceptive Business Practices Act.

(c) If any provision of the written agreement described in subsection (b) of Section 2-20 violates this Act, then that provision is unenforceable against the consumer.

(d) Subject to the Illinois Administrative Procedure Act, the Secretary may hold hearings, make findings of fact, conclusions of law, issue cease and desist orders, have the power to issue fines of up to \$10,000 per violation, refer the matter to the appropriate law enforcement agency for prosecution under this Act, and suspend or revoke a license granted under this Act. All proceedings shall be open to the public.

(e) The Secretary may issue a cease and desist order to any licensee or other person doing business without the required license, when in the opinion of the Secretary the licensee or other person is violating or is

about to violate any provision of this Act or any rule or requirement imposed in writing by the Department as a condition of granting any authorization permitted by this Act. The cease and desist order permitted by this subsection (e) may be issued prior to a hearing.

The Secretary shall serve notice of his or her action, including, but not limited to, a statement of the reasons for the action, either personally or by certified mail, return receipt requested. Service by certified mail shall be deemed completed when the notice is deposited in the U.S. Mail.

Within 10 days of service of the cease and desist order, the licensee or other person may request a hearing in writing. The Secretary shall schedule a hearing within 30 days after the request for a hearing unless otherwise agreed to by the parties.

If it is determined that the Secretary had the authority to issue the cease and desist order, he or she may issue such orders as may be reasonably necessary to correct, eliminate, or remedy the conduct.

The powers vested in the Secretary by this subsection (e) are additional to any and all other powers and remedies vested in the Secretary by law, and nothing in this subsection (e) shall be construed as requiring that the Secretary shall employ the power conferred in this subsection instead of or as a condition precedent to the exercise of any other power or remedy vested in the Secretary.

...

(h) Notwithstanding any other provision of this Section, if a lender who does not have a license issued under this Act makes a loan pursuant to this Act to an Illinois consumer, then the loan shall be null and void and the lender who made the loan shall have no right to collect, receive, or retain any principal, interest, or charges related to the loan.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that this Honorable Court enter an Order:

- A. Finding that Defendant is a "lender" as defined by the Payday Loan Reform Act, 815 ILCS 122/1-10, without first having obtained a license under the Payday Loan Reform Act.
- B. Permanently enjoining Defendant, acting alone or in concert with others, from making, offering, or arranging online payday loans to Illinois consumers, unless Defendant becomes licensed by the Department;
- C. Finding that the Defendant has materially violated Sections 2-5(e-5), 2

15(a), 2-20(a), 2-20(b), and 3-3 of the Payday Loan Reform Act, 815 ILCS 122/2, *et. seq.*, and thereby violated the Consumer Fraud Act, by engaging in but not limited to, the unlawful acts and practices alleged herein;

D. Declaring that all payday loan contracts entered into between Defendant and Illinois consumers are null and void pursuant to §4-10(h) of the Payday Loan Reform Act, 815 ILCS 122/4-10(h); and requiring that full restitution be made to said consumers;

E. Requiring Defendant to pay all costs for the prosecution and investigation of this action; and

F. Providing such other and further equitable relief as justice and equity may require.

PEOPLE OF THE STATE OF ILLINOIS
BY LISA MADIGAN,
ATTORNEY GENERAL OF ILLINOIS

BY:



SUSAN ELLIS
Bureau Chief
Consumer Fraud Bureau



SARAH ALIPOURIAN POULIMAS
Assistant Attorney General
Consumer Fraud Bureau



KHARA COLEMAN WASHINGTON
Assistant Attorney General
Consumer Fraud Bureau

LISA MADIGAN
Illinois Attorney General

SUSAN ELLIS, Bureau Chief
Consumer Fraud Bureau

SARAH ALIPOURIAN POULIMAS
Senior Supervising Attorney, Assistant Attorney General
Consumer Fraud Bureau

KHARA COLEMAN WASHINGTON
Assistant Attorney General
Consumer Fraud Bureau
100 W. Randolph St., 12th floor
Chicago, IL 60601
(312) 814-3000

Before entering into a loan agreement with a consumer, a lender must use a commercially reasonable method of verification to verify that the proposed loan agreement is permissible under this Act. 815 ILCS 122/§2-15.

5. Section 4-10(e) of PLRA states, in pertinent part:

The Secretary may issue a cease and desist order to any licensee or other person doing business without the required license, when in the opinion of the Secretary the licensee or other person is violating or is about to violate any provision of this Act or any rule or requirement imposed in writing by the Department as a condition of granting any authorization permitted by this Act.

...

If it is determined that the Secretary had the authority to issue the cease and desist order, he or she may issue such orders as may be reasonably necessary to correct, eliminate, or remedy the conduct. 815 ILCS 122/§4-10(e).

6. Section 4-10(d) of PLRA states:

Subject to the Illinois Administrative Procedure Act, the Secretary may hold hearings, make findings of fact, conclusions of law, issue cease and desist orders, have the power to issue fines of up to \$10,000 per violation, refer the matter to the appropriate law enforcement agency for prosecution under this Act, and suspend or revoke a license granted under this Act. All proceedings shall be open to the public. 815 ILCS 122/§4-10(d).

CILA - Advertising

7. Section 1 of CILA states, in pertinent part:

No person, partnership, association, limited liability company, or corporation shall engage in the business of making loans of money in a principal amount not exceeding \$40,000, and charge, contract for, or receive on any such loan a greater rate of interest, discount, or consideration therefor than the lender would be permitted by law to charge if he were not a licensee hereunder, except as authorized by this Act after first obtaining a license from the Director of Financial Institutions. 205 ILCS 670/§1.

8. Section 10 of CILA states, in pertinent part:

For the purpose of discovering violations of this Act or securing information lawfully required by it, the Director may at any time investigate the loans and business and examine the books, accounts, records, and files used therein, of every licensee and of every person, partnership, association, limited liability company, and corporation engaged in the business described in Section 1 of this Act, whether such person, partnership, association, limited liability company, or corporation shall act or claim to act as principal or agent or within or without the authority of this Act. 205 ILCS 670/§10.

9. Section 20.5 of CILA states, in pertinent part:

(a) The Director may issue a cease and desist order to any licensee, or other person doing business without the required license, when in the opinion of the Director, the licensee, or other person, is violating or is about to violate any provision of this Act or any rule or requirement imposed in writing by the Department as a condition of granting any authorization permitted by this Act.

...

(g) If it is determined that the Director had the authority to issue the cease and desist order, he or she may issue such orders as may be reasonably necessary to correct, eliminate, or remedy such conduct. 205 ILCS 670/§20.5.

10. Section 9 of CILA states, in pertinent part:

(a) The Director may... stating the contemplated action and in general the grounds therefor, fine such licensee an amount not exceeding \$10,000 per violation ... if he or she finds that:

(1) The licensee has failed to comply with any provision of this Act or any order, decision, finding, rule, regulation or direction of the Director lawfully made pursuant to the authority of this Act; 205 ILCS 670/§9.

11. Section 18 of CILA states, in pertinent part:

Advertising for loans transacted under this Act may not be false, misleading or deceptive. That advertising, if it states a rate or amount of charge for a loan, must state the rate as an annual percentage rate. 205 ILCS 670/§18.

12. Section 24.5 of CILA states:

If it appears to the Director that a person or any entity has committed or is about to commit a violation of this Act, a rule promulgated under this Act, or an order of the Director, the Director may apply to the circuit court for an order enjoining the person or entity from violating or continuing to violate this Act, the rule, or order and for injunctive or other relief that the nature of the case may require and may, in addition, request the court to assess a civil penalty up to \$1,000 along with costs and attorney's fees. 205 ILCS 670/§24.5.

FACTUAL FINDINGS

13. On August 2, 2011, the Department sent to Money Mutual, via certified mail and email, an unlicensed activity letter requesting documents by September 1, 2011.

14. Money Mutual failed to respond or produce the requested records.

15. On August 1, 2012, the Department sent to Money Mutual, via certified mail, a subpoena with a return date of August 30, 2012.

16. Money Mutual failed to respond and produce any documents.
17. Since calendar year 2011 and on, Money Mutual has advertised on MoneyMutual.com and on television that it arranges or “matches” Illinois consumers with lenders.
18. As of the date of this order, Money Mutual has never been licensed by the Department to arrange, offer, or make payday loans or consumer installment loans to consumers in Illinois.

LEGAL FINDINGS

19. Money Mutual violated Section 3.3 of the PLRA by offering or arranging payday loans to consumers with third parties without obtaining the required state license.
20. Money Mutual violated Section 2-15 of PLRA by not verifying that the arranged loan agreement was permissible under the Act.
21. Money Mutual violated Section 4-10 of PLRA by failing to comply with a lawful subpoena issued by the Department.
22. Money Mutual violated Section 10 of CILA by failing to comply with a lawful subpoena issued by the Department.
23. Money Mutual violated Section 18 of CILA by advertising loans to Illinois consumer without obtaining the required state license.

NOW IT IS HEREBY ORDERED:

- I. Pursuant to Section 4-10(e) of PLRA Money Mutual shall immediately **CEASE AND DESIST** offering, making, or arranging payday loans to Illinois consumers with third parties.
- II. Pursuant to Section 20.5 of CILA Money Mutual shall immediately **CEASE AND DESIST** advertising consumer installment loans to Illinois consumers.
- III. Money Mutual is ordered to **PRODUCE DOCUMENTS** to the Department consisting of any and all records, files, correspondence, statements, and documents containing any and all information relevant to any business conducted, facilitated, originated, or arranged by Money Mutual which involved any Illinois consumer(s) since January 1, 2011. Money Mutual shall provide copies of all advertising, mailings, fliers, and any other type of solicitation or advertisement Money Mutual is using or has used to solicit Illinois consumers. All documents requested pursuant to this paragraph shall be produced by **October 15, 2012** and delivered to the Consumer Credit Supervisor at the Illinois Department of Financial and Professional Regulation, Division of Financial Institutions, 100 W. Randolph Street, 9th Floor, Chicago, IL 60601.

IV. Pursuant to Section 4-10(d) of PLRA and Section 9 of CILA, Money Mutual shall pay an **ADMINISTRATIVE PENALTY** to the Department in the amount of \$10,000 per violation of PLRA and CILA.

Pursuant to Section 4-10(e) of PLRA and 20.5 of CILA, notice shall be made by certified mail and by sending a copy of the notice by electronic mail. Service by certified mail shall be deemed completed when the notice is deposited in the U.S. mail. Money Mutual may request, in writing, a hearing on the Order within 15 days after the date of service.

Dated this 21st day of September 2012

Roxanne Nava, Director
Division of Financial Institutions

CERTIFICATE OF SERVICE

UNDER PENALTY OF PERJURY, as provided by law, Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that on September ____, 2012, I caused copies of the foregoing Cease and Desist Order to be served on the parties named below, by causing the same to be sent via certified mail to the following:

To: John D. Hancock Law Group, PLLC
Registered Agent
MoneyMutual, LLC
871 Coronado Center Dr., Suite 200
Henderson, NV 89052

Selling Source, LLC
Manager
MoneyMutual, LLC
325 E Warm Springs Rd., Suite 200
Las Vegas, NV 89119

Vince Deligio
Affiant