ORDER TO CEASE AND DESIST
UNLICENSED ACTIVITIES; APPEAL
RIGHTS

ORDER TO CEASE AND DESIST
UNLICENSED ACTIVITIES

Nevada, Department of Business and Industry, Financial Institutions Division (hereinafter "Division") hereby orders WESTERN SKY FINANCIAL, (hereafter "Respondent") to cease and desist from any and all activities which are covered under Nevada Revised Statutes (NRS) Chapters 604A and 675.

JURISDICTION

1. Deferred deposit loan services, high interest loan services, title loan services and check cashing services in the State of Nevada are governed by NRS Chapter 604A of the Nevada Revised Statutes (NRS) and Chapter 604A of the Nevada Administrative Code (NAC). The Division has primary jurisdiction for the licensing and regulation of persons operating and/or engaging in deferred deposit loan service, high interest loan service, title loan service and check cashing service activities or persons seeking to evade the application of NRS Chapter 604A. See generally NRS 604A.020-.030, 604A.050-.060, 604A.080, 604A.095-.110, 604A.200, 604A.300, 604A.400, 604A.600 and 604A.710.

2. The Division also has primary jurisdiction for the licensing and regulation of persons engaging in the business of lending in the State of Nevada where such lending is
not governed by NRS Chapter 604A. NRS 675.060. Under NRS 675.060, a person is
engaged in the business of lending in this state under NRS Chapters 604A and NRS 675 if
he (a) Solicits loans in this State or makes loans to persons in this State, unless these are
isolated, incidental or occasional transactions; or (b) Is located in this State and solicits
loans outside of this State or makes loans to persons located outside of this State, unless
these are isolated, incidental or occasional transactions.

3. Pursuant to the authority vested by NRS Chapters 604A and 675, the Division
hereby makes the following Findings of Fact, Conclusions of Law, and Order.

**FINDINGS OF FACT**

4. Respondent WESTERN SKY FINANCIAL is a South Dakota Limited Liability
Company incorporated under the laws of the Cheyenne River Sioux Tribe, located on the
tribal lands of the Cheyenne River Sioux Tribe.

5. Respondent states its physical address as 2285-A Renaissance Drive, Ste. 15,
Las Vegas, Nevada 89119.

6. Respondent Western Sky Financial was previously incorporated under the laws
of the State of Nevada. Respondent’s certification was revoked. Respondent listed a
resident agent as Nevada Corporate Services, Inc., located at 8883 West Flamingo Road,
Ste. 102, Las Vegas, Nevada 89147.

7. Their website address is www.westernsky.com.

8. On its website, Respondent advertises its lending services stating, “We are an
installment lender and our rates are much lower than most payday lenders. You may apply
now online or call 1-888-997-6895 to speak to a loan agent.”

9. Respondent claims to be incorporated under the laws of the Cheyenne River
Sioux Tribe, however, Respondent extends loans and collects money through contracts with
residents of the State of Nevada who are not and have never been members of the
Cheyenne River Sioux Tribe.

10. Despite the fact that Respondent maintains a business address in Las Vegas
Nevada, its website states, “WESTERN SKY FINANCIAL is a Native American business

operating within the exterior boundaries of the Cheyenne River Sioux Reservation, a sovereign nation located within the United States of America."

11. Respondent conducts a payday lending business on its website as follows:

   Western Sky Loans

   Application Time is typically less than 5 minutes Western Sky is NOT a Payday Lender Not a short term lender, our loan periods range from 12 months to 7 years with NO PREPAYMENT PENALTY.

12. Respondent does not possess a license to conduct the business of lending in the State of Nevada pursuant to NRS Chapters 604A or 675.

13. Respondent has engaged in the business of lending in the State of Nevada without obtaining a license under NRS Chapter 675 or Chapter 604A.

14. During an examination of a licensed 675 lender, CashCall, Inc., and licensed collection agency Delbert Services Corporation, it was discovered that Respondent had been extending loans to residents of the State of Nevada.

15. The Division reviewed the CashCall, Inc. accounts which were transferred from Respondent for servicing and subsequently transferred to Delbert Services Corporation.

16. Those contracts demonstrate that a substantial number of loans were extended to Nevada residents.

17. Further, Respondent operated its business from a location in the State of Nevada, from which Respondent made loans and received payments.

18. The interest rate of Respondent's loans to Nevada residents was greater than 41%. Some of the loans reviewed contained an interest rate of 139%.

19. Some of the loan terms were as long as seven (7) years.

20. Respondent extended a loan to a resident of Minden, Nevada (hereafter "Minden Loan").

21. The Minden Loan was for $1,000.00. The Minden Loan was then transferred to CashCall, Inc.
22. Any finding of fact that is more properly characterized as conclusions of law shall be deemed as such.

CONCLUSIONS OF LAW

23. Applicable legal authority is as follows:

NRS 675.080:

No person may engage in the business of lending in this State without first having obtained a license from the Commissioner pursuant to this Chapter for each office or other place of business at which the person engages in such business, except that if a person intends to engage in the business of lending in this State as a deferred deposit loan service, high interest loan service or title loan service, as those terms are defined in Chapter 604A of NRS, the person must obtain a license from the Commissioner pursuant to Chapter 604A of NRS before the person may engage in any such business.

2. For the purpose of this section, a person engages in the business of lending in this State if he:

(a) Solicits loans in this State or makes loans to persons in this State, unless these are isolated, incidental or occasional transactions; or

(b) Is located in this State and solicits loans outside of this State or makes loans to persons located outside of this State, unless these are isolated, incidental or occasional transactions.

NRS 604A.400 provides:

1. A person, including, without limitation, a person licensed to Chapter 675 of NRS, shall not operate a check-cashing service, deferred deposit loan service, high interest loan service or title loan service unless the person is licensed with the Commissioner pursuant to the provisions of this Chapter.

2. A person must have a license regardless of the location or method that the person uses to operate such a service, including, without limitation, at a kiosk, through the Internet, through any telephone, facsimile machine or other telecommunication device or through any other machine, network, system, device or means, except that the person shall not operate such a service through any automated loan machine in violation of the provisions of subsection 3.

3. A person shall not operate a deferred deposit loan service or high interest loan service through any automated loan machine, and the Commissioner shall not issue a license that authorizes the licensee to conduct business through any automated loan machine.
4. Any person, and any member, officer, director, agent or employee thereof, who violates or participates in the violation of any provision of this section is guilty of a misdemeanor.

NRS 604A.810 provides, in relevant part:

1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this Chapter, he may, in addition to all actions provided for in this Chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.

NRS 675.430 provides, in relevant part:

1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this Chapter, he may, in addition to all actions provided for in this Chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.

NRS 604A.910 provides:

In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $50,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this Chapter.

NRS 675.490 provides:

In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $10,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this Chapter.

NRS 675.470 provides:

Any person and the several members, officers, directors, agents and employees thereof who violate or participate in the violation of any provision of NRS 675.060 are guilty of a misdemeanor.

24. Respondent has engaged in the business of lending in violation of NRS Chapter 675 and has engaged unlicensed lending in violation of NRS Chapter 604A.
25. Respondent violated NRS 604A.440(5) which states that it is a violation of this Chapter to engage in any deceptive trade practice as defined in NRS Chapter 598. Pursuant to NRS 598.0923(1), it is a deceptive trade practice to conduct "the business or occupation without all required state, county or city licenses."

26. Respondent has engaged in unlicensed activity either under NRS Chapter 604A or under NRS Chapter 675.

27. Respondent made loans to residents of the State of Nevada.

28. Respondent has operated its unlicensed lending operation from a location in the State of Nevada.

29. NRS 604A.900 states the following remedies for conducting lending practices without a license.

NRS 604A.900 Remedies for certain willful violations.

1. Except as otherwise provided in this section, if a licensee willfully:
   (a) Enters into a loan agreement for an amount of interest or any other charge or fee that violates the provisions of this Chapter or any regulation adopted pursuant thereto;
   (b) Demands, collects or receives an amount of interest or any other charge or fee that violates the provisions of this Chapter or any regulation adopted pursuant thereto; or
   (c) Commits any other act or omission that violates the provisions of this Chapter or any regulation adopted pursuant thereto,
   (d) the loan is void and the licensee is not entitled to collect, receive or retain any principal, interest or other charges or fees with respect to the loan.

2. The provisions of this section do not apply if:
   (a) A licensee shows by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error of computation, notwithstanding the maintenance of procedures reasonably adapted to avoid that error; and
   (b) Within 60 days after discovering the error, the licensee notifies the customer of the error and makes whatever adjustments in the account are necessary to correct the error.

30. The Division has the authority to impose an administrative fine against any person engaged in 604A activity without a license.
NRS 604A.910 Administrative fines for unlicensed activity. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than $50,000 upon a person who, without a license, conducts any business or activity for which a license is required pursuant to the provisions of this Chapter.

31. Further, the Division has the power to order that Respondent cease and desist from any and all activity in violation of NRS Chapter 604A, pursuant to NRS 604A.810(1).

Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any provision of this Chapter, he may, in addition to all actions provided for in this Chapter and without prejudice thereto, enter an order requiring the person to desist or to refrain from such violation.

32. Cause to believe that Respondent is violating or threatening to or intends to violate provisions of NRS Chapters 604A and 675.

33. The Division believes that the actions by Respondent are willful and intentional.

34. As all contracts were done in intentional violation of the law, all contracts entered into by Respondent after the date the Order was received are void and Respondent “is not entitled to collect, receive or retain any principal, interest or other charges or fees” from those contracts.

ORDER

IT IS HEREBY ORDERED that Respondent WESTERN SKY FINANCIAL, LLC, shall CEASE AND DESIST from operating and/or engaging in deferred deposit loan service and high interest loan service or other lending activity defined in NRS Chapters 604A and 675 within the State of Nevada unless and until such time as Respondent has become licensed by the Division pursuant to NRS Chapter 604A, or, if applicable, NRS Chapter 675, to operate and/or engage in such activity.

IT IS FURTHER ORDERED that all loan contracts made after receipt of this Order by Respondent are void and Respondent shall immediately remit to each and every customer all principal, interest and charges received from such contracts and cease and desist from any and all collection efforts based upon those contracts.
DATED this 28th day of June, 2013.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

By:

GEORGE E. BURNS,
Commissioner
APPEAL RIGHTS

RESPONDENT HAS THE RIGHT TO REQUEST A HEARING IN THIS MATTER. If you wish to request a hearing you must file a request within fifteen (15) days after this Order to Cease and Desist was served on the Respondent. A copy of the Order is attached hereto.

Your request for a hearing must be delivered to:

FINANCIAL INSTITUTIONS DIVISION
STATE OF NEVADA, DEPARTMENT OF BUSINESS
AND INDUSTRY
2785 E. Desert Inn Road, Suite 180
Las Vegas, Nevada 89121

Other important rights you have are listed in Nevada Revised Statutes Chapters 604A and 233B and the Nevada Administrative Code Chapter 604A.

DATED this 28th day of June, 2013.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

By: GEORGE E. BURNS,
Commissioner
CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Financial Institutions Division, and that on July 1, 2013, I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing ORDER TO CEASE AND DESIST UNLICENSED ACTIVITIES; APPEAL RIGHTS, addressed as follows:

Western Sky Financial
2285-A Renaissance Dr., Ste. 15
Las Vegas, NV 89119

Western Sky Financial
c/o Nevada Corporate Services, Inc.
Resident Agent
8883 West Flamingo Rd., Ste. 102
Las Vegas, NV 89147

DATED this 1 day of July, 2013

By:
CHANTANEER CHANEY

Certified Mail: 7012 1640 0000 6162 6402

1. Article Addressed to:
Western Sky Financial
2285-A Renaissance Dr., Ste 15
Las Vegas, NV 89119

2. Article Number
(Transfer from service label)
CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Financial Institutions Division, and that on July ___ , 2013, I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing ORDER TO CEASE AND DESIST UNLICENSED ACTIVITIES; APPEAL RIGHTS, addressed as follows:

Western Sky Financial
2285-A Renaissance Dr., Ste. 15
Las Vegas, NV 89119

Western Sky Financial
c/o Nevada Corporate Services, Inc. (z)
Resident Agent
8883 West Flamingo Rd., Ste. 102
Las Vegas, NV 89147

DATED this ___ day of July, 2013

By: Chantanee Chaney

Certified Mail: 7012 1640 0000 6162 6419 (z)
CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Financial Institutions Division, and that on July 5, 2013, I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing ORDER TO CEASE AND DESIST UNLICENSED ACTIVITIES; APPEAL RIGHTS, addressed as follows:

Western Sky Financial
P.O. Box 370
Timber Lake, SD 57656

Western Sky Financial
C/O Martin A. Webb
Resident Agent
612 E. St.
Timber Lake, SD 57656

DATED this 5 day of July, 2013

By: 

CHANTANEE CHANEY

Certified Mail: 7012 1640 0000 6162 6426 (3)

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SENDER: COMPLETE THIS SECTION

1. Article Addressed to:
Western Sky Financial
C/O Martin A. Webb
612 E. St.
Timber Lake, SD 57656

2. Article Number
(Transfer from service label)
7012 1640 0000 6162 6426
CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Department of Business and Industry, Financial Institutions Division, and that on July 5, 2013, I deposited in the U.S. mail, postage prepaid, via First Class Mail and Certified Return Receipt Requested, a true and correct copy of the foregoing ORDER TO CEASE AND DESIST UNLICENSED ACTIVITIES; APPEAL RIGHTS, addressed as follows:

Western Sky Financial
P.O. Box 370
Timber Lake, SD 57656

Western Sky Financial
c/o Martin A. Webb
Resident Agent
612 E. St.
Timber Lake, SD 57656

DATED this 5 day of July, 2013

By: CHANTANEE CHANEY