



STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

3300 W. Sahara, Suite 250
Las Vegas, Nevada 89102
(702) 486-4120

1755 East Plumb Lane, Suite 243
Reno, Nevada 89502
(775) 688-1730

IN THE MATTER OF:

Paycheck Auto, LLC,

Respondent.

ADMINISTRATIVE COMPLAINT FOR
DISCIPLINARY ACTION AND APPEAL
RIGHTS

ADMINISTRATIVE COMPLAINT FOR DISCIPLINARY ACTION

MARY YOUNG, Acting Deputy Commissioner of the NEVADA FINANCIAL INSTITUTIONS DIVISION of the DEPARTMENT OF BUSINESS AND INDUSTRY, STATE OF NEVADA (the "Division"), complains for disciplinary action against Paycheck Auto, LLC ("Respondent"), as follows:

JURISDICTION

1. Pursuant to Nevada Revised Statutes ("NRS") Chapter 604A and Nevada Administrative Code ("NAC") Chapter 604A, the Division is vested with the exclusive and original jurisdiction over the regulation, business practices, licensing, examinations, and disciplinary action related to deferred deposit lending, high-interest lending, title lending, and check cashing services in Nevada. 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. See NRS 675.060. Under NRS 675.060, a person is

1 engaged in the business of lending in this state under NRS Chapters 604A and 675 if he (a)
2 solicits loans in this State or makes loans to persons in this State, unless these are isolated,
3 incidental or occasional transactions; or (b) is located in this State and solicits loans outside of
4 this State or makes loans to persons located outside of this State, unless these are isolated,
5 incidental or occasional transactions.

6 3. Respondent is licensed in Nevada by the Division to provide title lending,
7 deferred deposit loans, high interest loans, and/or check cashing service pursuant to NRS
8 Chapter 604A since June 5, 2015. As a holder of a Chapter 604A license, Respondent is
9 subject to the provisions of NRS Chapter 604A and NAC Chapter 604A.

10 4. The Division files this Complaint pursuant to NRS 604A.820 based upon the
11 matters asserted herein and seeks the relief set forth below.

12 13 FACTUAL ALLEGATIONS

14 **GENERAL FACTS**

15 5. On or about June 5, 2015, Respondent was granted a license pursuant to NRS
16 Chapter 604A authorizing Respondent to provide title loans, deferred deposit loans, high-
17 interest loans, and/or check cashing services (hereinafter, "lending activities") in the State of
18 Nevada.

19 6. Steven W. Klomp and Adam P. Katschke are the owners of the Respondent.

20 7. On or about December 2, 2014, the Division granted Respondent an exemption
21 from NRS 604A.655, which permitted Respondent to operate its lending activities at the same
22 location of Respondent's other businesses provided that Respondent did not commingle its
23 lending activities with its other businesses.

24 8. Respondent is registered under the laws of the State of Nevada, and its resident
25 agent is Steven W. Klomp, DMD, located at 450 E. Main Street, Box 308, Panaca, Nevada
26 89042.

1 9. Respondent is licensed to conduct its lending activity at the following location:
2 820 N. Spring Street, Suite A, Caliente, Nevada 89008.

3 10. Respondent is a Nevada corporation with its address located in the State of
4 Nevada, and is therefore doing business in the State of Nevada. Additionally, at all times
5 relevant herein, Respondent held a license pursuant to NRS Chapter 604A and is therefore
6 subject to the jurisdiction of the Division.

7 11. On or about April 5, 2017, the Division commenced an examination into the
8 business practices of Respondent. Respondent's business location was not opened to the
9 public during normal business hours, and as a result, the Division was not able to conduct an
10 on-site examination. Instead, the Respondent provided the Division with the seven loan files
11 which the Respondent allegedly currently has on file.

12 12. Violations of NRS Chapter 604A and NAC Chapter 604A were discovered
13 during the examination.

14 13. If any finding of fact is more properly characterized as a conclusion of law, it
15 shall be construed as such.

16
17 **DISCIPLINE AUTHORIZED**

18 **CONCLUSIONS OF LAW**

19 14. During the aforementioned examination, Respondent was discovered to have
20 violated the following statutes and regulations:

21 a. NRS 604A.655 for conducting its lending activities in association or conjunction with
22 its two other businesses by failing to maintain separate books and records and commingling
23 funds.

24 b. NRS 604A.410(2)(d) for failing to disclose on the loan agreement the right of the
25 customer to rescind the loan;
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1 c. NRS 604A.410(2)(f) for failing to disclose on the loan agreement the opportunity to
2 enter into a repayment plan if the customer defaults on the loan;

3 d. NRS 604A.485 for including a statement in the loan agreement purporting to allow
4 Respondent to collect interest in excess of the amounts allowed under the statute in the event
5 of a default;

6 e. NRS 604A.445 for originating title loans with terms that exceed the allowable
7 statutory terms;

8 f. NRS 604A.450 for issuing title loans that exceed the fair market value, failing to
9 consider a customer's ability to repay, and failing to obtain statutorily required affidavits from
10 consumers regarding the consumer's ability to repay the loan.;

11 g. NRS 604A.405 and NAC 604A.140 for failing to conspicuously post at the licensed
12 location the notice to consumers in compliance with the requirements of said Statute and
13 Regulation; and,

14 h. NRS 604A.710 for failing to provide access to the Division for the purpose of the
15 examination.

16 15. The procedure for discipline of a licensee is established in NRS Chapter 604A.

17 16. Pursuant to NRS 604A.810, the Division has the statutory authority to order that
18 Respondent cease and desist from any and all activity in violation of NRS Chapter 604A and
19 NAC Chapter 604A. The procedures for taking disciplinary action are as follows:

20 NRS 604A.810 Order to desist and refrain; action to enjoin
21 violation; appointment of receiver.

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

28 2. The Attorney General or the Commissioner may bring an
action to enjoin a person from engaging in or continuing a violation

1 or from doing any act or acts in furtherance thereof. In any such
2 action, an order or judgment may be entered awarding a
3 preliminary or final injunction as may be deemed proper.

4 3. In addition to all other means provided by law for the
5 enforcement of a restraining order or injunction, the court in which
6 an action is brought may impound, and appoint a receiver for, the
7 property and business of the defendant, including books, papers,
8 documents and records pertaining thereto, or so much thereof as
9 the court may deem reasonably necessary to prevent violations of
10 this Chapter through or by means of the use of property and
11 business. A receiver, when appointed and qualified, has such
12 powers and duties as to custody, collection, administration,
13 winding up and liquidation of such property and business as may
14 from time to time be conferred upon him by the court.

15 NRS 604A.820 Procedure for taking disciplinary action; authorized
16 disciplinary action; grounds.

17 1. If the Commissioner has reason to believe that grounds for
18 revocation or suspension of a license exist, he shall give 20 days'
19 written notice to the licensee stating the contemplated action and,
20 in general, the grounds therefore and set a date for a hearing.

21 2. At the conclusion of a hearing, the Commissioner shall:

22 (a) Enter a written order dismissing the charges, revoking the
23 license or suspending the license for a period of not more than 60
24 days, which period must include any prior temporary suspension.
25 The Commissioner shall send a copy of the order to the licensee
26 by registered or certified mail.

27 (b) Impose upon the licensee an administrative fine of not more
28 than \$10,000 for each violation by the licensee of any provision of
this chapter or any regulation adopted pursuant thereto.

(c) If a fine is imposed pursuant to this section, enter such order as
is necessary to recover the costs of the proceeding, including his
investigative costs and attorney's fees.

3. The grounds for revocation or suspension of a license are that:

(a) The licensee has failed to pay the annual license fee;

(b) The licensee, either knowingly or without any exercise of due
care to prevent it, has violated any provision of this chapter or any
lawful regulation adopted pursuant thereto;

(c) The licensee has failed to pay a tax as required pursuant to the
provisions of chapter 363A of NRS;

(d) Any fact or condition exists which would have justified the
Commissioner in denying the licensee's original application for a
license pursuant to the provisions of this chapter; or

(e) The licensee:

(1) Failed to open an office for the conduct of the business
authorized by his license within 180 days after the date his license
was issued; or

1 (2) Has failed to remain open for the conduct of the business for a
period of 180 days without good cause therefore.

2 4. Any revocation or suspension applies only to the license
3 granted to a person for the particular office for which grounds for
4 revocation or suspension exist.

5 5. An order suspending or revoking a license becomes effective 5
6 days after being entered unless the order specifies otherwise or a
7 stay is granted.

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9 NRS 604A.830 Additional grounds for disciplinary action. In
10 addition to any other lawful reasons, the Commissioner may
11 suspend or revoke a license if the licensee has engaged in any act
12 that would be grounds for denying a license pursuant to this
13 chapter.

14 NRS 604A.900 Remedies for certain willful violations.

15 1. Except as otherwise provided in this section, if a licensee
16 willfully:

17 (a) Enters into a loan agreement for an amount of interest or any
18 other charge or fee that violates the provisions of this chapter or
19 any regulation adopted pursuant thereto;

20 (b) Demands, collects or receives an amount of interest or any
21 other charge or fee that violates the provisions of this chapter or
22 any regulation adopted pursuant thereto; or

23 (c) Commits any other act or omission that violates the provisions
24 of this chapter or any regulation adopted pursuant thereto,

25 È the loan is void and the licensee is not entitled to collect, receive
26 or retain any principal, interest or other charges or fees with
27 respect to the loan.

28 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.

NRS 604A.930 Civil action.

1. Subject to the affirmative defense set forth in subsection 3, in
addition to any other remedy or penalty, if a person violates any
provision of NRS 604A.400, 604A.410 to 604A.500, inclusive,
604A.610, 604A.615, 604A.650 or 604A.655 or any regulation
adopted pursuant thereto, the customer may bring a civil action
against the person for:

(a) Actual and consequential damages;

1 (b) Punitive damages, which are subject to the provisions of NRS
2 42.005;

3 (c) Reasonable attorney's fees and costs; and

4 (d) Any other legal or equitable relief that the court deems
5 appropriate.

6 2. Subject to the affirmative defense set forth in subsection 3, in
7 addition to any other remedy or penalty, the customer may bring a
8 civil action against a person pursuant to subsection 1 to recover an
9 additional amount, as statutory damages, which is equal to \$1,000
10 for each violation if the person knowingly:

11 (a) Operates a check-cashing service, deferred deposit loan
12 service, high-interest loan service or title loan service without a
13 license, in violation of NRS 604A.400;

14 (b) Fails to include in a loan agreement a disclosure of the right of
15 the customer to rescind the loan, in violation of NRS 604A.410;

16 (c) Violates any provision of NRS 604A.420;

17 (d) Accepts collateral or security for a deferred deposit loan, in
18 violation of NRS 604A.435, except that a check or written
19 authorization for an electronic transfer of money shall not be
20 deemed to be collateral or security for a deferred deposit loan;

21 (e) Uses or threatens to use the criminal process in this State or
22 any other state to collect on a loan made to the customer, in
23 violation of NRS 604A.440;

24 (f) Includes in any written agreement a promise by the customer
25 to hold the person harmless, a confession of judgment by the
26 customer or an assignment or order for the payment of wages or
27 other compensation due the customer, in violation of NRS
28 604A.440;

(g) Violates any provision of NRS 604A.485;

(h) Violates any provision of NRS 604A.490; or

(i) Violates any provision of NRS 604A.442.

3. A person may not be held liable in any civil action brought
pursuant to this section if the person proves, by a preponderance
of evidence, that the violation:

(a) Was not intentional;

(b) Was technical in nature; and

(c) Resulted from a bona fide error, notwithstanding the
maintenance of procedures reasonably adapted to avoid any such
error.

4. For the purposes of subsection 3, a bona fide error includes,
without limitation, clerical errors, calculation errors, computer
malfunction and programming errors and printing errors, except
that an error of legal judgment with respect to the person's
obligations under this chapter is not a bona fide error.

1 17. As stated above, Respondent has engaged in at least eight (8) violations of
2 NRS Chapter 604A and NAC Chapter 604A.

3 18. Accordingly, the Commissioner has reasonable cause to believe that Respondent
4 is or was violating, or is or was threatening to, or intends or intended to violate provisions of
5 NRS Chapter 604A and NAC Chapter 604A.

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RELIEF SOUGHT

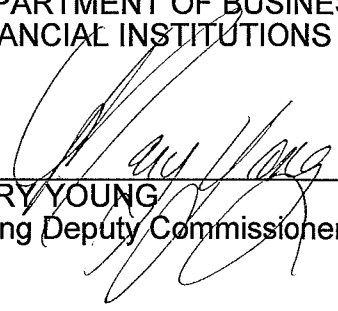
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2 Based upon the allegations contained herein which constitute sufficient cause for disciplinary
3 action against the licensee pursuant to the provisions of NRS Chapter 604A and NAC
4 Chapter 604A, the Commissioner prays for relief as follows:

- 5 A. Respondent be fined a monetary sum pursuant to the
6 parameters defined at NRS 604A.820(2) and NRS 604A.910
7 for the violations stated herein. Total fine amount of \$80,000
8 (\$10,000 for each of the eight (8) violations cited in the
9 examination);
- 10 B. That action be taken against Respondent's license pursuant to
11 the parameters defined at NRS604A.820(2) for the violations
12 stated herein;
- 13 C. That Respondent pays the costs of the proceeding, including
14 investigative costs, attorney's fees pursuant to the parameters
15 defined at NRS 604A.820(2);
- 16 D. That Respondent be ordered to immediately desist and refrain
17 from any and all violations of NRS Chapter 604A and NAC
18 Chapter 604A;
- 19 E. That Respondent's willful violations result in a finding that the
20 loans made in violation of NRS Chapter 604A or NAC Chapter
21 604A are **void** pursuant to NRS 604A.900, and further, that
22 Respondent immediately remit to each and every customer all
23 principal, interest charges, and fees received from such
24 contracts, immediately remove liens and return vehicle titles
25 received as collateral for title loans issued, and cease and
26 desist from any and all collection efforts based upon those
27 contracts; and
- 28 F. For such other and further relief as the Administrative Law
Judge may deem just and proper.

DATED this 6th day of March 2018.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

By:



MARY YOUNG
Acting Deputy Commissioner

RESPONSE

THEREFORE, Respondent is directed to answer, in writing, to the Administrative Complaint for Disciplinary Action **within thirty (30) calendar days** from date of receipt.

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 thirty (30) calendar days** after this Administrative Complaint was received by the Respondent.

Your request for a hearing must be delivered to:

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION
3300 W. Sahara, Suite 250
LAS VEGAS, NEVADA 89102

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

DATED this 14 day of March 2018

STATE OF NEVADA
DEPARTMENT OF BUSINESS
AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

By:



MARY YOUNG
Acting Deputy Commissioner

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2 CERTIFICATE OF SERVICE

3 I certify that I am an employee of the State of Nevada, Office of the Attorney General,
4 and that on 6th day of March 2018, I deposited in the U.S. mail, postage prepaid, via
5 First Class Mail and Certified Return Receipt Requested, a true and correct copy of the
6 foregoing **ADMINISTRATIVE COMPLAINT FOR DISCIPLINARY ACTION AND APPEAL**
7 **RIGHTS**, addressed as follows:
8

9 Paycheck Auto, LLC
10 Attention: Steven W. Klomp and/or Adam P. Katschke
11 820 N. Spring Street, Suite A
12 Caliente, Nevada 89008

13 Certified Mail: 7014 2870 0001 8494 7747

14 Paycheck Auto, LLC
15 Attention Steven W. Klomp and/or Adam P. Katschke
16 P.O. Box 308
17 Panaca, Nevada 89042

18 Certified Mail: 7014 2870 0001 8494 7778

19 Paycheck Auto, LLC
20 Attention: Steven W. Klomp
21 450 E. Main, Box 308
22 Panaca, Nevada 89042

23 Paycheck Auto, LLC
24 Attention: Adam P. Katschke
25 P.O. Box 253
26 Caliente, Nevada 89008

27 Certified Mail: 7014 2870 0001 8494 7754

28 Certified Mail: 7014 2870 0001 8494 7761

29 DATED this 6th day of March 2018.

30 By: AE