ORDER TO CEASE AND DESIST VIOLATIONS OF NRS 604A AND NAC 604A; APPEAL RIGHTS

ORDER TO CEASE AND DESIST VIOLATIONS OF NRS 604A AND NAC 604A ACTIVITIES

The State of Nevada, Department of Business and Industry, Financial Institutions Division (hereinafter, "Division") hereby orders Paycheck Auto (hereinafter, "Respondent") to cease and desist from any and all activities that are in violation of Chapter 604A of the Nevada Revised Statutes ("NRS") and the Nevada Administrative Code ("NAC").

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 and NAC Chapter 604A. 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. See NRS 675.060. Under NRS 675.060, a person is
engaged in the business of lending in this state under NRS Chapters 604A and 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. On or about June 5, 2015, Respondent was granted a license pursuant to NRS Chapter 604A authorizing Respondent to provide title loans, deferred deposit loans, high-interest loans, and/or check cashing services (hereinafter, "lending activities") in the State of Nevada.

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

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

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

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

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

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

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

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

CONCLUSIONS OF LAW

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

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

   b. NRS 604A.410(2)(d) for failing to disclose on the loan agreement the right of the customer to rescind the loan;

   c. NRS 604A.410(2)(f) for failing to disclose on the loan agreement the opportunity to enter into a repayment plan if the customer defaults on the loan;

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

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

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

   g. NRS 604A.405 and NAC 604A.140 for failing to conspicuously post at the licensed location the notice to consumers in compliance with the requirements of said Statute and Regulation; and,
h. NRS 604A.710 for failing to provide access to the Division for the purpose of the examination.

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

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

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

2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final injunction as may be deemed proper.

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

NRS 604A.820 Procedure for taking disciplinary action; authorized disciplinary action; grounds.
1. If the Commissioner has reason to believe that grounds for revocation or suspension of a license exist, he shall give 20 days' written notice to the licensee stating the contemplated action and, in general, the grounds therefore and set a date for a hearing.

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

(b) Impose upon the licensee an administrative fine of not more 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

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

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

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

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

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;

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

(c) Reasonable attorney’s fees and costs; and

(d) Any other legal or equitable relief that the court deems appropriate.
2. Subject to the affirmative defense set forth in subsection 3, in addition to any other remedy or penalty, the customer may bring a civil action against a person pursuant to subsection 1 to recover an additional amount, as statutory damages, which is equal to $1,000 for each violation if the person knowingly:
   (a) Operates a check-cashing service, deferred deposit loan service, high-interest loan service or title loan service without a license, in violation of NRS 604A.400;
   (b) Fails to include in a loan agreement a disclosure of the right of the customer to rescind the loan, in violation of NRS 604A.410;
   (c) Violates any provision of NRS 604A.420;
   (d) Accepts collateral or security for a deferred deposit loan, in violation of NRS 604A.435, except that a check or written authorization for an electronic transfer of money shall not be deemed to be collateral or security for a deferred deposit loan;
   (e) Uses or threatens to use the criminal process in this State or any other state to collect on a loan made to the customer, in violation of NRS 604A.440;
   (f) Includes in any written agreement a promise by the customer to hold the person harmless, a confession of judgment by the customer or an assignment or order for the payment of wages or other compensation due the customer, in violation of NRS 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.

16. As stated above, Respondent has engaged in at least eight (8) violations of NRS Chapter 604A and NAC Chapter 604A.
17. Accordingly, the Commissioner has reasonable cause to believe that Respondent is or was violating, or is or was threatening to, or intends or intended to violate provisions of NRS Chapter 604A and NAC Chapter 604A.
ORDER

IT IS HEREBY ORDERED that Respondent shall immediately CEASE AND DESIST from operating and/or engaging in deferred deposit loan service, high interest loan service, title loans or other lending activity in violation of NRS Chapters 604A and NAC Chapter 604A. Respondent shall immediately rectify any and all violations of NRS Chapter 604A and NAC 604A, specifically stated herein.

DATED this 6th day of March 2018

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

By: [Signature]
MARY YOUNG
Acting Deputy 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 thirty (30) calendar days after this Order to Cease and Desist was received by the Respondent.

Your request for a hearing must be delivered to:

FINANCIAL INSTITUTIONS DIVISION
DEPARTMENT OF BUSINESS AND INDUSTRY
3300 W. Sahara Avenue, Suite 250
Las Vegas, Nevada 89102

Other important rights you have are listed in Nevada Revised Statutes Chapters 675 and 604A and 233B and the Nevada Administrative Code Chapter 604A.

DATED this day of March 2018.

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY
FINANCIAL INSTITUTIONS DIVISION

By: MARY YOUNG
Acting Deputy 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 _____ day of March 2018, 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 VIOLATIONS OF NRS CHAPTER 604A and NAC 604A; APPEAL RIGHTS, addressed as follows:

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

Certified Mail: 7014 2870 0001 8494 7747

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

Certified Mail: 7014 2870 0001 8494 7778

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

Certified Mail: 7014 2870 0001 8494 7754

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

Certified Mail: 7014 2870 0001 8494 7761

DATED this _____ day of March 2018

By: [Signature]