

STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES

In the Matter of

Case No. PD-14-0001

ACTION PDL SERVICES, LLC;
dba Action Payday Loans,

FINAL ORDER TO CEASE AND
DESIST AND ORDER ASSESSING
CIVIL PENALTY ENTERED BY
DEFAULT

Respondent.

On January 29, 2014, the Director of the Department of Consumer and Business Services for the State of Oregon (the "Director"), acting under the authority of ORS 725A.010 to 725A.092 and 725A.990, and the Oregon Administrative Rules adopted thereunder, and in compliance with ORS 183.415(3), served by certified mail Administrative Order PD-14-0001, ORDER TO CEASE AND DESIST, PROPOSED ORDER ASSESSING CIVIL PENALTY AND NOTICE OF RIGHT TO AN ADMINISTRATIVE HEARING ("Notice Order"), to Action PDL Services, LLC (hereinafter "Respondent" or "Action").

In accordance with OAR 137-003-0075, the Notice Order designated the file of the Division of Finance and Corporate Securities ("the Division") in this matter, including all materials submitted by the Respondent, as the record for the purpose of making a prima facie case in the event that the Director entered a final order against the Respondent by default.

The time to request an administrative hearing stated in the Notice Order has now expired and Respondent did not timely request a hearing.

After a review of the record, the Director is persuaded that the record contains facts necessary to support the issuance of this Final Order by Default.

Now, therefore, the Director hereby issues the following Findings of Fact,





1 Conclusions of Law and Final Orders.

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I. FINDINGS OF FACT

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The Director FINDS that:

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1. Action PDL Services, LLC (“Action”) is purportedly a limited liability
6 company doing business as Action Payday Loans, with business offices located in Nevis,
7 Costa Rica and Overland Park, Kansas. Action has used the following addresses for its
8 business: Apartado Postal 1508-1200, San Jose Costa Rica; PO Box 7826, Overland
9 Park, Kansas 66207; and PO Box 19504, Lenexa, KS 66285-9504. Action is not
10 registered with the Oregon Secretary of State as a foreign business.

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2. Action is in the business of making loans to individuals primarily for personal,
12 family or household purposes for periods of less than 60 days. The loans are not made as
13 purchase money loans and are usually evidenced by a check or electronic repayment
14 agreement provided by or on behalf of the borrower. These loans are commonly called
15 “payday loans”. Action conducts its payday loan business via the Internet through its
16 website, www.actionpayday.com (“the Action website”).

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3. At all times relevant to this matter, Action was not licensed in Oregon with
18 the Director as a payday lender.

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Oregon Borrower “EH”

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4. At all times relevant to this matter, an individual identified herein as “EH”
21 was a resident of the State of Oregon.

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5. On or about March 22, 2013, EH negotiated and obtained a \$500 short term
23 consumer loan from Action via the Internet through the Action website. The loan
24 between EH and Action was negotiated and obtained while EH was physically present in
25 Oregon.

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6. The loan made to EH by Action was primarily for personal, family or



1 household purposes.

2 7. Action charged EH more than \$30 to originate or obtain the loan.

3 8. The first payment on EH's loan was due two weeks after the loan was
4 obtained. Action debited payments from EH's Oregon bank account in accordance with a
5 repayment agreement negotiated online between Action and EH.

6 9. Action renewed the EH loan 15 times in the period of March 22, 2013 to
7 November 11, 2013. The amounts debited from EH's bank account every two weeks by
8 Action varied between \$110 and \$250.

9 10. Payments continued from April 2013 to November 2013. By November 11,
10 2013, Action had debited \$2,087.50 from EH's bank account, yet the funds did not pay
11 off the principal of the loan.

12 11. The stated APR rate for the loan from Action to EH was 817.54%.

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14 II. CONCLUSIONS OF LAW

15 The Director CONCLUDES that:

16 12. The short term consumer loan made to Oregon resident EH by Action was a
17 payday loan as defined by ORS 725A.010(5)(a) in that the loan was made primarily for
18 personal, family or household purposes; was in an amount less than \$50,000; and was
19 evidenced by a check or electronic repayment agreement provided by or on behalf of the
20 borrower.

21 13. In accordance with ORS 725A.012(3)(a), Action is subject to ORS 725A.010
22 to 725A.092 and 725A.990 because Action, in its capacity as a lender, made a payday
23 loan to the individual identified herein as EH, who resided in or maintained a domicile in
24 Oregon.

25 14. The loan obtained by EH was subject to ORS 725A.010 to 725A.092 and
26 725A.990 because the consumer, EH:



1 a. Negotiated or agreed to the terms of the payday loan in person, by mail, by
2 telephone, or via the Internet while physically present in Oregon;

3 b. Entered into or executed a contract with Action for a payday loan in person,
4 by mail, by telephone, or via the Internet while physically present in Oregon; or

5 c. Made payment on the payday loan while in Oregon.

6 15. The consumer, EH, made payments on the loan in this state as that term is
7 defined in ORS 725A.012(3)(b) when Action debited EH's Oregon bank account, which
8 was held in a branch of a financial institution located in Oregon.

9 16. Action violated ORS 725A.020(1)(a) by conducting a business in which it
10 made payday loans as defined by ORS 725A.010(5)(a) to an Oregon resident without first
11 obtaining a license under ORS 725A.024.

12 17. Action violated ORS 725A.064(1) by making and renewing a payday loan at a
13 rate of interest exceeding 36 percent per annum, excluding a one-time origination fee of
14 \$30 for a new loan. Each instance Action made or renewed the payday loan with EH at a
15 rate of interest exceeding 36 percent per annum is a separate and distinct violation of
16 ORS 725A.064(1).

17 18. Action violated ORS 725A.064(3) by making and renewing a payday loan for
18 a term of less than 31 days. Each instance Action made or renewed a payday loan with an
19 Oregon resident for a term of less than 31 days is a separate and distinct violation of ORS
20 725A.064(3).

21 III. ORDERS

22 Now, therefore, the Director proposes to issue the following ORDERS:

23 Order to Cease and Desist

24 19. As authorized by ORS 725A.082(1), the Director ORDERS Action, and all
25 entities owned or controlled by Action, their successors and assignees, to CEASE AND
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1 DESIST from violating any provision of ORS 725A.010 to 725A.092 and 725A.990, or
2 any administrative rule adopted by the Director under those statutes.

3 Order Assessing Civil Penalty

4 20. As authorized by ORS 725A.990(1), the Director may assess a CIVIL
5 PENALTY in an amount determined by the Director of not more than \$2,500 per
6 violation against any person who violates any provision of ORS 725A.010 to 725A.092
7 and 725A.990. In accordance with this provision, the Director assesses Action a CIVIL
8 PENALTY in the amount of \$82,500 (eighty-two thousand five hundred dollars) as
9 follows:

10 a. A CIVIL PENALTY of \$2,500 (two thousand five hundred dollars) for
11 violation of ORS 725A.020(1)(a) by conducting a business in which it made a payday
12 loan as defined by ORS 725A.010(5)(a) to one Oregon resident without first obtaining a
13 license under ORS 725A.024;

14 b. A CIVIL PENALTY of \$40,000 (forty thousand dollars) for 16 violations of
15 ORS 725A.064(1) by making or renewing a payday loan to an Oregon consumer at a
16 rate of interest exceeding 36 percent per annum, excluding a one-time origination fee of
17 no more than \$30; and

18 c. A CIVIL PENALTY of \$40,000 (forty thousand dollars) for 16 violations of
19 ORS 725A.064(3) by making or renewing a payday loan to an Oregon consumer for a
20 term of less than 31 days.

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22 **IV. AUTHORITY OF THE DIRECTOR TO SEEK
OTHER REMEDIES UNDER OREGON LAW**

23 21. This Order is a “Final Order” under ORS 183.310(6)(b). Subject to that
24 provision, the entry of this Order does not limit other remedies that are available to the
25 Director under Oregon law.

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IT IS SO ORDERED.

Dated this 3rd day of March, 2014.

PATRICK M. ALLEN, Director
Department of Consumer and Business Services

/s/ David Tatman
David C. Tatman, Administrator
Division of Finance and Corporate Securities

NOTICE OF RIGHT TO JUDICIAL REVIEW

You are entitled to judicial review of this order. Judicial review may be obtained by filing a petition for review within 60 days from the service of this order. Judicial review is in accordance with ORS 183.482(1) to the Oregon Court of Appeals.

[The rest of this section intentionally left blank.]

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