

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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PEOPLE OF THE STATE OF NEW YORK, by	:
ERIC T. SCHNEIDERMAN, Attorney General of the	:
State of New York,	:
	:
Petitioner,	:
	:
-against-	:
	:
WESTERN SKY FINANCIAL, LLC,	:
MARTIN WEBB,	:
CASHCALL, INC.,	:
WS FUNDING LLC, and	:
J. PAUL REDDAM,	:
	:
Respondents.	:
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VERIFIED PETITION

Index No.

IAS Part _____

Assigned to Justice _____

The People of the State of New York, by and through their attorney, Eric T.

Schneiderman, Attorney General of the State of New York, allege, upon information and belief,
as follows:

PRELIMINARY STATEMENT

1. Respondents Western Sky Financial, LLC (“Western Sky”), Martin Webb (“Webb”), CashCall, Inc. (“CashCall”), WS Funding LLC (“WS Funding”), and J. Paul Reddam (“Reddam”) (collectively “Respondents”) have engaged in an illegal and deceptive scheme to originate high-interest, personal loans to consumers in New York. Respondents originate loans over the Internet and by phone that carry annual percentage rates of interest (“APRs”) ranging from 89.26% to more than 355%. These rates far exceed New York’s civil and criminal usury rates of 16% and 25%, respectively. See General Obligations Law § 5-501; Banking Law § 14-a; Penal Law § 190.40.

2. Western Sky, CashCall, and WS Funding, acting in concert, have each engaged in

a different portion of this scheme. Western Sky offers and makes the usurious loans. WS Funding, which is CashCall's subsidiary, buys the loans from Western Sky. And CashCall, acting as the servicer of the loans, collects the usurious interest, fees, and principal from consumers.

3. Despite Respondents' scheme, each company has engaged in conduct that is illegal in New York. New York State's licensed lender law and civil and criminal usury laws prohibit both making and collecting interest on usurious loans in New York. See Banking Law §§ 340-361; General Obligations Law § 5-501; Penal Law § 190.40. By originating and collecting on high-interest loans without a license, Western Sky, CashCall, and WS Funding have each repeatedly and persistently violated the licensed lender law. WS Funding and CashCall have also each repeatedly and persistently engaged in illegal conduct by collecting interest at rates above the civil and criminal usury caps of 16% and 25%.

4. Moreover, the Respondent companies originate loans in the name of Western Sky while concealing that Western Sky is the lender of these loans in name only. CashCall and WS Funding offer and arrange for the loans in Western Sky's name, provide the capital for the loans, and bear all of the risk of lending. As the true parties in interest behind these loans, CashCall and WS Funding are also liable for their origination.

5. Respondents Webb and Reddam, the principals and sole owners of the Respondent companies, orchestrated the companies' scheme to originate and collect on usurious loans, including executing the agreements that established the scheme. Webb and Reddam are therefore individually liable for their companies' illegal conduct.

6. Since early 2010, Respondents have made at least 17,970 high interest loans to New York consumers, lending more than \$38 million in principal. The interest and fees owed on

these loans is nearly \$185 million.

7. Respondents' business preys upon vulnerable New York consumers facing financial hardships with limited options. Substantial origination fees make early repayment of the loans difficult. Consumers end up indebted for between one and seven years, repaying finance charges that are in some cases several times the principal of the loan. Although Respondents recently stopped offering loans to New York consumers, unless enjoined, Respondents will continue to collect on outstanding usurious loans and can resume their illegal lending practice, causing substantial injury to New York consumers.

8. This action is brought pursuant to New York Executive Law ("Exec. Law") § 63(12) and General Business Law ("GBL") § 349 to enjoin Respondents from contracting for, charging, taking, or receiving illegal rates of interest on high-interest consumer loans and related fraudulent and deceptive business practices, to provide restitution to New York consumers victimized by the Respondents' illegal conduct, to void the illegal loan contracts, disgorge profits resulting from these practices, and recover penalties and costs as authorized by statute.

PARTIES AND JURISDICTION

9. Petitioner is the People of the State of New York by their attorney, Eric T. Schneiderman, Attorney General of the State of New York. This Court has jurisdiction pursuant to New York Exec. Law § 63(12), under which the Attorney General is empowered to seek injunctive relief, restitution, disgorgement, damages and costs when any person or entity has engaged in repeated fraudulent or illegal acts or has otherwise engaged in persistent fraud or illegality in the conduct of its business. This Court also has jurisdiction pursuant to GBL Article 22-A, § 349, which empowers the Attorney General to seek injunctive relief, restitution, disgorgement, damages, costs and civil penalties when a person or entity has engaged in

misleading and deceptive business practices.

10. Respondent Western Sky is a for-profit South Dakota limited liability corporation with its principal place of business located at 612 E Street, Timber Lake, South Dakota 57656.

11. Respondent CashCall is a for-profit California corporation with its principal place of business located at 1600 S. Douglass Road, Anaheim, California 92806.

12. Respondent WS Funding is a for-profit limited liability corporation incorporated in Delaware. WS Funding is a subsidiary of CashCall.

13. CashCall has contracted with Western Sky to provide loan origination services to consumers in Western Sky's name. WS Funding, CashCall's subsidiary, has contracted with Western Sky to purchase all loans made by Western Sky.

14. Respondents Western Sky, CashCall, and WS Funding have transacted business in the State of New York by soliciting loans in New York and offering, arranging for, and originating loans to New York consumers. In addition, CashCall and WS Funding have transacted business in New York by systematically purchasing the loans of New York consumers days after their issuance, servicing those loans, including debiting the bank accounts of New York consumers within New York and otherwise attempting to collect money from New York consumers, and establishing continuing commercial relationships with New York consumers.

15. Western Sky, CashCall, and WS Funding are not licensed by the New York State Department of Financial Services as licensed lenders.

16. Respondent Webb is, directly or indirectly, the sole officer, director, manager, owner, and principal of Western Sky.

17. Respondent Reddam is the president of CashCall, the sole member of that company's Board of Directors, and that company's only owner. Reddam is also the president of

WS Funding.

18. The Attorney General has provided Respondents with pre-litigation notice pursuant to GBL § 349(c).

FACTUAL ALLEGATIONS

Respondents Have Originated Usurious Loans to New York Consumers

19. Western Sky, CashCall, and WS Funding are in the business of making and collecting on high-interest loans to consumers. Since at least early 2010, the companies have solicited high-interest loans in New York.

20. Respondents, using the “Western Sky” name, have offered several loan products to consumers, with principal amounts ranging from \$400 to \$9,925.

21. The repayment period and interest rates for the Western Sky loan products vary based on the size of the loan, but all of the loans carry exorbitant rates of interest, with APRs of between 89.26% and 355.27%.

22. For example, a loan of \$500 carries an APR of 342.86% and must be repaid within 12 months. A loan of \$9,925 carries an APR of 89.68% and must be repaid within 84 months. The following table from the Western Sky website lists the five loans most recently offered in New York.

Loan Product	Borrower Proceeds	Loan Fee	APR	Number of Payments	Payment Amount
\$10,000	\$9,925	\$75	89.68%	84	\$743.49
\$5,075	\$5,000	\$75	116.73%	84	\$486.58
\$2,600	\$2,525	\$75	139.22%	47	\$294.46
\$1,500	\$1,000	\$500	234.25%	24	\$198.19
\$850	\$500	\$350	342.86%	12	\$150.72

23. Consumers are also assessed a fee, alternately referred to as a “loan fee,” a “prepaid finance charge” and an “origination fee,” which is added on to the principal of the loan. In many cases the fee is significant, adding 70% to the principal of \$500 loans and 50% to the principal of \$1,000 loans.

24. The loans are offered using Western Sky’s name through Western Sky television advertisements and through the Western Sky website, available at <www.westernsky.com>. Consumers apply for the loans by completing an electronic application form on the Western Sky website or by calling a toll free number. Every page of the online application form contains the following misleading message

Western Sky Financial, LLC, is a Native American-owned business operating within the boundaries of the Cheyenne River Sioux Reservation, a sovereign nation located within the United States of America. By using our website, you are conducting business on the Cheyenne River Indian Reservation and are subjecting yourself exclusively to the laws and jurisdiction of the Cheyenne River Sioux Tribe, a Sovereign Native American Nation.

25. In many cases, in addition to the information provided in the loan application, consumers must submit documentation to obtain approval for the loan, including bank statements, a pay stub, and picture identification.

26. Following the submission of the loan application and attendant documents, consumers typically receive notice that they have been approved for a loan and are directed to the Western Sky website to “sign the loan document electronically.” On the website, consumers are asked to agree to the loan terms by electronically checking two boxes.

27. The terms of the loan are contained in a standard form loan agreement, captioned “Western Sky Consumer Loan Agreement” (the “Loan Agreement”). The Loan Agreement authorizes the creditor to electronically debit the amount due on the loan, including the monthly

installment and fees and charges accrued, from the borrower's checking account on the monthly payment date.

28. After the loan is executed, the principal of the loan is electronically transferred into the consumer's (now "borrower's") bank account. In connection with loans made to New York consumers, the funds are deposited into bank accounts in the state of New York.

29. Since early 2010, Respondents have made at least 17,970 loans to New York consumers.

Respondents Collect Usurious Rates of Interest

30. All of the loans made by Western Sky are purchased by, and assigned to, CashCall's subsidiary, WS Funding. The assignments are made shortly after the loans are approved, typically within three days.

31. Following the assignment of a loan to WS Funding, CashCall contacts the borrower by e-mail or letter to notify the borrower that the loan has been assigned. Although WS Funding is the assignee of all loans, the mailed notices state that "CashCall recently purchased your loan from Western Sky Financial" or "CashCall was recently assigned your loan for servicing."

32. Pursuant to the borrower's Loan Agreement, beginning on the first payment date, CashCall electronically debits an installment payment from the borrower's bank account each month through an automated clearing house ("ACH") transaction. These debits continue until the loan is repaid in its entirety, up to seven years, or until the borrower successfully forecloses access to the account, for instance by revoking the ACH authorization or by closing the account entirely.

33. Since early 2010, CashCall has serviced at least 17,970 loans of New York consumers. In connection with these loans, CashCall repeatedly debited money as interest from bank accounts in the state of New York.

34. These loans are very burdensome for consumers. For example, a borrower that receives \$1,000 in principal can owe as much as \$4,942 in finance charges, fees, and principal over two years. A borrower that receives \$2,525 can owe as much as \$14,132 over four years.

35. The bulk of the money CashCall collects is treated as interest. Moreover, the borrower's initial payments are applied to interest and fees *only*. For several loan products, particularly those carrying high origination fees, consumers can therefore make payments for months and still owe more on the loan than they received in principal.

36. At some point during the life of their loans, many New York consumers have had difficulty making a payment. Where a consumer misses a monthly payment, CashCall attempts to collect on the debt through a barrage of phone calls, e-mails, and letters.

37. CashCall's collection calls are frequent, often every day. If the consumer does not answer the phone, the consumer may be called several times per day, at home and at work. Consumers have also been told that they would be visited in person and "served" with papers, that their references would be called, and that an arrest warrant would be issued.

38. CashCall also reports delinquent payments to credit bureaus Experian and Equifax. Although WS Funding holds the loans, CashCall represents to the credit bureaus that it is the creditor. The reported information negatively impacts borrowers' credit.

39. Borrowers that have contacted CashCall in an attempt to arrange a payment plan have found CashCall unwilling to offer relief. When a borrower does receive a loan modification agreement, the agreement is offered and entered into by CashCall, not WS Funding.

40. Borrowers that contact CashCall to inquire about the interest rates they have been charged receive a form letter that falsely represents that New York laws do not apply to their loans:

Western Sky is a wholly Cheyenne River Sioux Tribal Member owned business and is located and operates within the exterior boundaries of the Cheyenne River Indian Reservation. Western Sky loans are initiated, approved, issued and disbursed within the confines of the Cheyenne River Indian Reservation. Western Sky is licensed with the Cheyenne River Sioux Tribe. Western Sky does not have any physical presence in your state or any other State of the Union. The laws of the Cheyenne River Sioux Tribe apply exclusively to the terms and conditions of your loan, and you further accepted this choice of law and jurisdiction by executing your loan document.

41. In fact, Western Sky is a limited liability company organized and registered under South Dakota law. It is not owned or operated by the Cheyenne River Sioux Tribe, and several courts have already rejected claims of tribal immunity made by Western Sky and its owner, Martin Webb.

42. CashCall concludes these letters with the following advice: “If you are unhappy with Western Sky, WS Funding, or your loan in any respect, we would advise you to pay it off now without penalty.”

Respondents Have Engaged in a Deceptive Scheme in an Attempt to Circumvent Usury and Licensing Laws

43. Respondents’ lending arrangement described above – including the origination of loans by Western Sky and assignment to WS Funding – is designed to disguise Respondents’ true interests in the loans.

44. In fact, Western Sky is the lender of these loans in name only. WS Funding, which is CashCall’s subsidiary, funds the Western Sky loans and bears the risk of Western Sky’s

lending. CashCall provides loan origination services in Western Sky's name, enabling CashCall to offer Western Sky loans and handle Western Sky loan applications.

45. This arrangement is captured in contracts between Western Sky, CashCall, and WS Funding. Among the relevant provisions:

- a. WS Funding is obligated to purchase all loans made through the Western Sky website;
- b. WS Funding agreed to open a "Reserve Account" in Western Sky's name and to maintain a balance in the account "to fund any unpurchased or unfunded" loans and "for payment of purchased notes";
- c. WS Funding agreed to fully indemnify Western Sky;
- d. CashCall agreed to host and support the Western Sky website;
- e. CashCall agreed to provide a toll free phone and fax number in Western Sky's name; and
- f. CashCall agreed to provide customer service support to handle incoming applications through both the Western Sky website and phone line.

46. Respondents CashCall and WS Funding have engaged Western Sky in this elaborate scheme in an attempt to evade state usury and licensing laws.

47. Respondent Reddam mistakenly believes that his companies, CashCall and WS Funding, can escape liability by outsourcing the origination of usurious loans to Western Sky. Bloomberg News, describing an interview of Reddam, reported that Reddam believes that "[t]here's nothing wrong with CashCall's business because it doesn't arrange or fund the Western Sky loans but merely buys them after the fact."

48. In response to consumer complaints received by the New York State Attorney General's Office, the Attorney General's Office has repeatedly contacted Western Sky and CashCall. The Attorney General's Office notified the companies that "lenders that are not

licensed by the State of New York cannot charge interest greater than 16% per annum” and that “[l]enders that are licensed by New York cannot charge more than 25% interest per annum.” The Office of the Attorney General also sought the cancellation of any consumer obligations exceeding the legal rate of interest.

49. Despite the Attorney General’s requests, Western Sky and CashCall have repeatedly refused to cancel usurious loan obligations. The companies mistakenly assert that the loans are “valid and enforceable” and that “the loan documents clearly indicate that the laws of the Cheyenne River Sioux Tribe apply exclusively to the terms and conditions of” the loans. The companies continue to collect on usurious loans to New York consumers.

***Respondents Webb and Reddam Have Knowledge Of and Have Participated In
Respondents’ Illegal and Fraudulent Activities***

50. Respondent Webb, as the sole officer, director, manager, owner, and principal of Western Sky, has had knowledge of the activities of Western Sky and has exercised control over the company.

51. Respondent Reddam, as president of CashCall and WS Funding, and the sole member of CashCall’s Board of Directors, has had knowledge of the activities of CashCall and WS Funding and exercised control over both companies.

52. Webb and Reddam have played a central role in Respondents’ lending scheme, having executed agreements on behalf of their respective companies establishing the relationship between Western Sky, CashCall and WS Funding that is described above.

53. In an interview with Bloomberg News, Reddam reportedly acknowledged his companies’ arrangement with Western Sky, as well as having become “friendly” with Western Sky’s owner, Respondent Webb.

54. Respondent Western Sky has acted for the benefit of Webb, the sole owner of the company. Respondents CashCall and WS Funding have acted for the benefit of Reddam, the sole owner of CashCall.

CashCall's Prior Rent-A-Bank Scheme

55. Respondents' scheme is similar to another arrangement that was the basis of an action brought by the Attorney General of West Virginia against CashCall and Reddam in 2008.

56. In the 2008 action, the Attorney General of West Virginia alleged that CashCall had partnered with a state-chartered bank, First Bank & Trust, Milbank, South Dakota, to make high-interest loans with interest rates between 59% and 96%. West Virginia v. CashCall, Inc., No. 08-C-1964, at 3, 6 (Cir. Ct. Kanawha Co., W. Va. Sept. 10, 2012) (Final Order on Phase II of Trial: The State's Usury and Lending Claims). The state further alleged that the partnership had been formed in an attempt to evade the state's lender licensing and usury laws through the improper use of federal preemption. Id. at 2. CashCall claimed in response that it was merely a "marketing agent" for the state chartered bank. Id.

57. In its September 10, 2012 decision regarding the state's usury and lending claims, the West Virginia court held that CashCall was the de facto lender and therefore subject to the state's consumer protection laws. Id. at 17, 25.

58. The court found that agreements between CashCall and the bank confirmed that the financial burden and risk from the loans fell on CashCall. The agreements between CashCall and the bank included provisions similar to those at issue here. Id. at 17-19.

59. The West Virginia court also held that "the arrangement between CashCall and the Bank was designed to enable a non-bank entity, CashCall to make improper use of the Bank's federal preemption status to evade states' usury laws." Id. at 24.

Numerous Other States Have Taken Action Against Respondents Over The Internet Lending Scheme At Issue Here

60. Attorneys General and regulatory agencies from at least twelve states have taken action against one or more of the Respondents over the usurious loans at issue here.

61. For example, in January 2011 the Colorado Attorney General sued Western Sky and Webb, alleging that Western Sky had violated the state's lending and consumer protection laws by making usurious and unlicensed loans over the Internet to Colorado consumers. In April 2013, the Colorado court granted the state's motion for partial summary judgment, holding that Western Sky had made supervised loans to Colorado citizens without a license in violation of Colorado law, and that the defendants were therefore liable to Colorado consumers for restitution of all finance charges that had been collected. Colorado v. Western Sky Fin., LLC, No. 11-cv-638 (Dist. Ct. Denver Co., Colo. April 15, 2013).

62. The Attorneys General of Missouri, Minnesota, and Georgia have also initiated enforcement actions against the Respondents. In April 2011, the Missouri Attorney General sued Western Sky and Webb, alleging that the defendants had engaged in unlawful lending over the Internet. Missouri v. Martin A. Webb, No. 11SL-CC01680-1 (Cir. Ct. St. Louis Co., Mo.). On July 11, 2013, the Minnesota Attorney General initiated an enforcement action against CashCall and WS Funding, alleging that the companies had "used Western Sky as a front" to mislead borrowers and regulators about Western Sky loans in "an illegitimate attempt to circumvent state law." And on July 26, 2013, the Georgia Attorney General sued Western Sky, CashCall, and Webb, alleging that the defendants had "collaborated in a common enterprise to make high-interest payday loans to Georgia consumers over the Internet." These litigations are pending.

63. In August 2010, the West Virginia Attorney General filed a petition against Webb and a lending company owned by Webb, Payday Financial, to enforce an investigative subpoena issued by the state. The state's petition was granted as to Payday Financial in 2011. West Virginia v. Payday Loan Resource Center, LLC, No. 10-MISC-372 (Cir. Ct. Kanawha Co., W.Va. Oct. 24, 2011). In 2012, facing a hearing for contempt for failing to comply with the order, Webb agreed to cease all lending in the state and to make full refunds of excess interest.

64. In addition, regulators in Maryland, New Hampshire, Oregon, Massachusetts, Illinois, Washington and Kansas have moved to prohibit Western Sky or CashCall from engaging in unlawful lending activities in their respective states.

65. For example, the Maryland Commissioner of Financial Regulation issued an Opinion and Final Order on May 22, 2013 to Western Sky and Webb following a lengthy proceeding and separate hearings before an administrative law judge and the Commissioner. The Commissioner found that Western Sky and Webb had violated Maryland licensing, usury, and consumer protection laws and directed the respondents to cease unlicensed lending activities, refund all amounts collected from Maryland consumers, and pay civil penalties. Western Sky Fin., LLC, No. CFR-FY2011-182 (Md. Comm'r of Fin. Reg. May 22, 2013) (Opinion and Final Order).

66. Similarly, the New Hampshire Banking Department issued an Order to Cease and Desist to CashCall and WS Funding on June 4, 2013. The Department stated that "[a]fter detailed review of the respondents' business scheme, it appears that Western Sky is nothing more than a front to enable CashCall to evade licensure by state agencies." On this basis, the Department found that there was reasonable cause to believe that the respondents were the de facto lenders of the Western Sky loans, and that they had therefore violated the state's licensing

statute. The Banking Department directed the respondents to disgorge all finance charges and pay restitution to New Hampshire consumers, and assessed respondents a fine of more than \$1.9 million for the 787 loans issued in the state. In re CashCall, Inc., Case No. 12-308 (N.H. Banking Dep't June 4, 2013) (Order to Cease and Desist).

67. Since mid-2012, the Kansas Office of the State Bank Commissioner, Massachusetts Commissioner of Banks, Illinois Department of Financial & Professional Regulation, and Oregon Director of the Department of Consumer and Business Services have all also issued orders directing Western Sky, CashCall, or both to cease and desist from engaging in unlawful lending activities. Western Sky Fin., LLC, No. 2011-312 (Kan. Office of State Bank Comm'r May 22, 2012) (Summary Order to Cease and Desist); CashCall, Inc., No. 2013-10 (Mass. Comm'r of Banks Apr. 4, 2013) (Cease Order); Western Sky Fin., LLC, No. 2013-11 (Mass. Comm'r of Banks Apr 4, 2013) (Cease Order); Western Sky Fin., LLC, No. 13 CC 265 (Ill. Dep't of Fin. & Prof'l Regulation Mar. 8, 2013) (Cease and Desist Order); Western Sky Fin., LLC, No. I-12-0039 (Or. Dep't of Consumer and Bus. Servs. Dec. 13, 2012) (Final Order to Cease and Desist).

68. The Washington Department of Financial Institutions also is or has been engaged in enforcement proceedings against both Western Sky and CashCall. In January 2013, an administrative law judge granted the Department's motion for partial summary judgment against CashCall, holding that the company had collected interest at rates exceeding those permitted by Washington law. The judge revoked CashCall's license and directed that CashCall cease and desist from collecting interest above the usury rate cap of 12%. CashCall, Inc., No. C-11-0701-12-SC03 (Wash. Dep't of Fin. Insts. Jan. 30, 2013) (Order Granting Department's Motion for Summary Judgment).

**FIRST CAUSE OF ACTION
PURSUANT TO EXEC. LAW § 63(12)
VIOLATION OF BANKING LAW § 340 - DOING BUSINESS WITHOUT LICENSE**

69. New York Banking Law § 340 makes it unlawful for a person or entity to “engage in the business of making loans in the principal amount of twenty-five thousand dollars or less for any loan to an individual for personal, family, household, or investment purposes and in a principal amount of fifty thousand dollars or less for business and commercial loans, and charge, contract for, or receive a greater rate of interest than the lender would be permitted by law to charge if he were not a licensee hereunder except as authorized by this article and without first obtaining a license from the superintendent.” Pursuant to General Obligations Law § 5-501 and Banking Law § 14-a, the maximum interest rate a lender is permitted by law to charge without a license is sixteen percent per annum (16%).

70. At all times relevant to this Petition, Respondents Western Sky, CashCall, and WS Funding were not licensed by the New York State Department of Financial Services or the New York State Superintendent of Banking as licensed lenders.

71. In the course of making and collecting on high-interest loans to consumers in New York, Respondents repeatedly or persistently engaged in the business of making loans in amounts less than twenty-five thousand dollars at interest rates that exceeded the rate of interest they would be permitted by law to charge if they were licensed by New York State. Further, Respondents solicited loans within New York State in the principal amount of twenty-five thousand dollars or less and in connection with these solicitations made loans to individuals resident in New York State.

72. By engaging in repeated or persistent illegal conduct in the carrying on, conducting, or transaction of business in violation of Banking Law § 340, each of the

Respondents has violated Exec. Law § 63(12).

**SECOND CAUSE OF ACTION
PURSUANT TO EXEC. LAW § 63(12)
VIOLATION OF BANKING LAW § 356 - LOANS BY NON-LICENSEES**

73. New York Banking Law § 356 makes it unlawful for a person or entity that is not licensed by the State of New York “to charge, contract for, or receive any interest, discount, or consideration greater than the person or entity would be permitted by law to charge if it were not a licensee hereunder upon a loan not exceeding the maximum amounts prescribed in section three hundred forty of [the Banking Law].” New York Banking Law § 340 makes it unlawful for a person or entity not licensed by the State of New York to “engage in the business of making loans in the principal amount of twenty-five thousand dollars or less for any loan to an individual for personal, family, household, or investment purposes.” Pursuant to General Obligations Law § 5-501 and Banking Law § 14-a, the maximum interest rate a lender is permitted by law to charge without a license is sixteen percent per annum (16%).

74. At all times relevant to this Petition, Respondents Western Sky, CashCall, and WS Funding were not licensed by the New York State Department of Financial Services or the New York State Superintendent of Banking as licensed lenders.

75. In the course of making and collecting on loans made to consumers in New York, Respondents repeatedly or persistently charged, contracted for, or received interest at rates that exceeded the rate of interest they would be permitted by law to charge if they were licensed by New York State.

76. By engaging in repeated or persistent illegal conduct in the carrying on, conducting, or transaction of business in violation of Banking Law § 356, each of the Respondents has violated Exec. Law § 63(12).

**THIRD CAUSE OF ACTION
PURSUANT TO EXEC. LAW § 63(12)
VIOLATION OF GENERAL OBLIGATIONS LAW § 5-501 - CIVIL USURY**

77. New York General Obligations Law (“GOL”) § 5-501 makes it unlawful for a person or corporation not licensed by the State of New York to charge, take, or receive interest upon the loan or forbearance of any money, goods, or things in action, except as otherwise provided by law, at a rate exceeding that prescribed in section fourteen-a of the New York Banking Law. New York Banking Law § 14-a states that the maximum rate of interest is sixteen percent per annum (16%).

78. In the course of enforcing loans made to consumers in New York, Respondents WS Funding, CashCall, and Reddam repeatedly or persistently charged, took, and received interest in excess of 16%, in violation of GOL § 5-501 and New York Banking Law § 14-a.

79. By engaging in repeated or persistent illegal conduct in the carrying on, conducting, or transaction of business in violation of GOL § 5-501, Respondents WS Funding, CashCall, and Reddam have violated Exec. Law § 63(12).

**FOURTH CAUSE OF ACTION
PURSUANT TO EXEC. LAW § 63(12)
VIOLATION OF PENAL LAW § 190.40 - SECOND DEGREE CRIMINAL USURY**

80. New York Penal Law § 190.40 makes it unlawful to charge, take, or receive any money or other property as interest on the loan or forbearance of any money or other property at a rate exceeding twenty-five per cent per annum (25%) or the equivalent rate for a longer or shorter period.

81. In the course of enforcing loans made to consumers in New York, Respondents WS Funding, CashCall, and Reddam repeatedly or persistently charged, took, and received

interest in excess of 25% in violation of § 190.40 of the Penal Law.

82. By engaging in repeated or persistent illegal conduct in the carrying on, conducting, or transaction of business in violation of Penal Law § 190.40, Respondents WS Funding, CashCall, and Reddam have violated Exec. Law § 63(12).

**FIFTH CAUSE OF ACTION
PURSUANT TO EXEC. LAW § 63(12)
VIOLATION OF GBL § 349 - DECEPTIVE BUSINESS PRACTICES**

83. GBL § 349 makes it unlawful to engage in any deceptive acts or practices in the conduct of any business, trade, or commerce or in the furnishing of any service in this state.

84. In the course of making and collecting on loans made to consumers in New York, Respondents engaged in deceptive business practices in violation of GBL § 349.

85. Respondents' deceptive acts and practices include, but are not limited to, the following:

- (a) repeatedly or persistently making and collecting on loans without a license;
- (b) repeatedly or persistently charging and receiving illegal, usurious, and unconscionable fees;
- (c) repeatedly misrepresenting to consumers, expressly and by implication, that the rates of interest consumers were charged on their loans were legal;
- (d) repeatedly misrepresenting to consumers that New York law does not apply to their loans; and
- (e) threatening to take action to enforce the loan contracts that Respondents do not take or intend to take.

86. By engaging in repeated or persistent deceptive practices in violation of GBL §

349, each of the Respondents has violated Exec. Law § 63(12).

**SIXTH CAUSE OF ACTION
PURSUANT TO EXEC. LAW § 63(12)
FRAUDULENT BUSINESS CONDUCT**

87. Exec. Law § 63(12) makes it illegal for a business to engage in repeated fraudulent business conduct.

88. In the course of making and collecting on loans made to consumers in New York, Respondents engaged in repeated or persistent fraudulent conduct in violation of Exec. Law § 63(12).

89. Respondents' repeated or persistent fraudulent business conduct includes, but is not limited to, the following:

- (a) repeatedly or persistently contracting for and enforcing unconscionable contractual provisions, including usurious rates of interest;
- (b) repeatedly or persistently charging and receiving illegal, usurious, and unconscionable fees;
- (c) repeatedly misrepresenting to consumers, expressly and by implication, that the rates of interest consumers were charged on their loans were legal;
- (d) repeatedly misrepresenting to consumers that New York law does not apply to their loans; and
- (e) threatening to take action to enforce the loan contracts that Respondents do not take or intend to take.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that the Court grant relief pursuant to Exec. Law §

63(12), GBL §§ 349(b) and 350-d by issuing an order and judgment as follows:

A. permanently enjoining Respondents from conducting business within the State of New York, unless the businesses and/or individuals involved are properly licensed;

B. permanently enjoining Respondents from enforcing loans with New York consumers that violate the lending and consumer protection laws in this State;

C. declaring null and void any loan or forbearance offered, arranged, made, or enforced by Respondents that charged an interest rate exceeding the maximum rate permitted under New York State law;

D. directing Respondents to provide an accounting to the Attorney General identifying Respondents' New York consumers and the amounts paid by each, and directing Respondents to make restitution to each New York consumer of all fees charged and all monies paid in excess of the interest rate permitted under New York State law;

E. directing Respondents to disgorge all profits derived from any loan with a New York consumer bearing a rate of interest in excess of the amount permitted under New York State law;

F. directing Respondents to pay damages to consumers injured as a result of Respondents' unlawful and fraudulent business practices;

G. directing each Respondent to pay a civil penalty in the sum of \$5,000.00 to the State of New York for each violation of GBL § 349, pursuant to GBL § 350-d;

H. directing Respondents to notify all credit agencies to which they have reported that all loans made to New York consumers are invalid, and that all reports or scores that reflect these loans should be corrected;

I. awarding Petitioner the costs and disbursements of this action, including additional costs in the amount of \$2,000.00 against each Respondent pursuant to CPLR § 8303(a)(6); and

J. granting Petitioner such other and further relief as this Court deems just and proper.

Dated: August 12, 2013
New York, NY

ERIC T. SCHNEIDERMAN
Attorney General of the
State of New York

By: 

JORDAN S. ADLER
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Internet Bureau

STATE OF NEW YORK)
) ss.:
COUNTY OF NEW YORK)

JORDAN S. ADLER, being duly sworn, deposes and says:

I am an Assistant Attorney General in the office of Eric T. Schneiderman, Attorney General of the State of New York, and am duly authorized to make this verification.

I have read the foregoing petition and know the contents thereof, which is to my knowledge true, except as to matters stated to be alleged on information and belief, and as to those matters, I believe them to be true. The grounds for my beliefs as to all matters stated upon information and belief are investigatory materials contained in the files of the New York State Office of the Attorney General.

The reason this verification is not made by petitioners is that petitioners are a body politic and the Attorney General is their duly authorized representative.


JORDAN S. ADLER

Sworn to before me this
12th day of August, 2013.


NOTARY PUBLIC

JOAN TAYLOR
Notary Public, State of New York
No. 4999162
Qualified in Bronx County
Commission Expires July 20, 2014