

UNITED STATES OF AMERICA
BUREAU OF CONSUMER FINANCIAL PROTECTION

ADMINISTRATIVE PROCEEDING

File No. 2019-BCFP- 0004

In the Matter of:

CMM, LLC, CMM of Indiana, LLC,
CMM of Alabama, LLC, Cash Mart
Express of Florida, LLC, CMM of
Kentucky, LLC, CMM of Louisiana,
LLC, CMM of Mississippi, LLC, and
CMM of Tennessee, LLC, each and
collectively d/b/a Cash Tyme

CONSENT ORDER

The Bureau of Consumer Financial Protection (Bureau) has reviewed the marketing, lending, and collection practices of the storefront lender “Cash Tyme,” operated by CMM, LLC and its subsidiaries CMM of Indiana, LLC; CMM of Alabama, LLC; Cash Mart Express of Florida, LLC; CMM of Kentucky, LLC; CMM of Louisiana, LLC; CMM of Mississippi, LLC; and CMM of Tennessee, LLC (collectively, “Respondents,” as defined below), and has identified violations of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531, 5536(a)(1)(B); the Truth in Lending Act (TILA), 15 U.S.C. §§ 1601–1667f;

TILA’s implementing regulation, Regulation Z, 12 C.F.R. pt. 1026; the Gramm-Leach-Bliley Act (GLBA), 15 U.S.C. §§ 6801–6809; and GLBA’s implementing regulation, Regulation P, 12 C.F.R. pt. 1016. Under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, the Bureau issues this Consent Order (Consent Order).

I
Jurisdiction

1. The Bureau has jurisdiction over this matter under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, section 108 of TILA, 15 U.S.C. § 1607, and section 505 of GLBA, 15 U.S.C. § 6805.

II
Stipulation

2. Respondents have executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated January 25, 2019 (Stipulation), which is incorporated by reference and is accepted by the Bureau. By this Stipulation, Respondents have consented to the issuance of this Consent Order by the Bureau under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, without admitting or denying any of the findings of fact or conclusions of law, except that Respondents admit the facts

necessary to establish the Bureau's jurisdiction over Respondents and the subject matter of this action.

III Definitions

3. The following definitions apply to this Consent Order:
 - a. "Unrefunded Consumers" includes any consumer who was overcharged or made an overpayment to Respondents on a consumer loan on or after January 1, 2014, who did not receive from Respondents a refund equal to or greater than the amount of the overcharge or overpayment as of the Effective Date.
 - b. "Effective Date" means the date on which the Consent Order is issued.
 - c. "Regional Director" means the Regional Director for the Midwest Region for the Office of Supervision for the Bureau of Consumer Financial Protection, or his or her delegate.
 - d. "Related Consumer Action" means a private action by or on behalf of one or more consumers or an enforcement action by another governmental agency brought against Respondents based on substantially the same facts as described in Section IV of this Consent Order.

- e. “Relevant Period” includes the period from January 1, 2014 to the Effective Date.
- f. “Respondents” or “Cash Tyme” means CMM, LLC, and its operating subsidiaries, CMM of Indiana, LLC; CMM of Alabama, LLC; Cash Mart Express of Florida, LLC; CMM of Kentucky, LLC; CMM of Louisiana, LLC; CMM of Mississippi, LLC; and CMM of Tennessee, LLC, all of which operate under the name Cash Tyme, and each of their successors and assigns.

IV

Bureau Findings and Conclusions

The Bureau finds the following:

- 4. Cash Tyme is a financial services company headquartered in New Albany, Indiana. As of December 31, 2017 Respondents had \$2.8 million in total assets.
- 5. During the Relevant Period, Respondents owned and operated approximately 45 retail lending outlets that operated under the name Cash Tyme in Alabama, Florida, Indiana, Kentucky, Louisiana, Mississippi, and Tennessee. Currently, Respondents own and operate approximately 37 retail lending outlets.

6. Respondents market, provide, service, and collect on short-term, small-dollar loans offered to consumers primarily for personal, family, or household purposes. These are “consumer financial product[s] or service[s]” under the CFPA. 12 U.S.C. § 5481(5), (15)(A)(i), (15)(A)(x).
7. Respondents are “covered persons” as that term is defined by the CFPA because they make consumer loans and collect debt related to such loans. 12 U.S.C. § 5481(6), (15)(A)(i), (15)(A)(x).
8. Respondents are “creditors” under TILA and Regulation Z because they regularly extend credit for personal, family, or household purposes, which credit is subject to a finance charge and is initially payable to Respondents. 15 U.S.C. § 1602(g); 12 C.F.R. § 1026.2(a)(17).
9. Respondents are “financial institutions” under GLBA and Regulation P because their business is lending money, which is a financial activity. 15 U.S.C. § 6809(3); 12 U.S.C. § 1843(k)(4); 12 C.F.R. § 1016.3(l).

UNFAIR ACTS OR PRACTICES

10. The CFPA prohibits covered persons from engaging in unfair acts or practices. 12 U.S.C. §§ 5531, 5536(a)(1)(B). An act or practice is unfair if it causes or is likely to cause consumers substantial injury that is not reasonably avoidable and if the substantial injury is not outweighed by

countervailing benefits to consumers or to competition. 12 U.S.C. § 5531(c).

Findings and Conclusions as to Respondents' Failure to Implement Adequate Processes to Prevent Unauthorized Charges and to Promptly Monitor, Identify, Correct, and Refund Overpayments by Consumers

11. During the Relevant Period, Respondents had inadequate processes to reasonably prevent unauthorized charges of, debits to, and overpayments by borrowers. When a consumer defaulted on a Cash Tyme loan, but then paid off all or part of his or her loan in a Cash Tyme store, Respondents had no reliable means of preventing a subsequent ACH debit from the consumer's account for the full amount of the loan, even though the full amount was no longer due.
12. As a result of this process failure, Respondents have, on numerous occasions, withdrawn funds or attempted to withdraw funds from consumers' accounts by initiating ACH debits after those consumers had paid off their payday loans in whole or in part.
13. The successful ACH debits resulted in Respondents collecting at least \$21,800 that consumers did not owe and likely resulted in overdraft fees being charged against some consumers' bank accounts. In addition, unsuccessful attempted debits likely resulted in non-sufficient funds fees being charged against some consumers' bank accounts.

14. Respondents also had inadequate processes to accurately and promptly monitor, identify, correct, and refund consumer overpayments after they occurred. Respondents used a manual “reconciliation process” that involved balancing a general ledger on a daily basis, but this manual process repeatedly left errors undetected for months at a time.

Respondents also used a monthly or quarterly reconciliation process that involved checking consumer balances against its general ledger. Even then, they did not always catch unauthorized charges.
15. Respondents’ reconciliation process was only accurate to the extent that individual email and facsimile communications between headquarters and branch offices were timely and correctly sent and received and manual updates by branch employees were timely and accurately made to the database containing consumers’ transaction histories. The reconciliation process, like the underlying payments process, was prone to errors. This led to substantial delays in refunding consumers. Some consumers were not refunded for more than two years.
16. Respondents’ acts or practices caused or were likely to cause consumers substantial injury, including depriving them of their money and causing them to incur overdraft or non-sufficient funds fees.

17. Consumers could not reasonably avoid the harm because they had no control over the ACH debits Respondents deducted, or sought to deduct, from their accounts after they had already made a payment.
18. The substantial injury resulting from Respondents' inadequate processes described in Paragraphs 11–15 outweighs any countervailing benefits to consumers or competition. Respondents' inadequate processes did not result in any improvements in the quality or availability of consumer financial products or services.
19. Respondents' acts and practices set forth in Paragraphs 11–15 thus constitute unfair acts or practices in violation of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1)(B).

**Findings and Conclusions as to Respondents' Unfair Collection
Calls to Third Parties**

20. From at least January 2014 until at least October 2017, as part of Respondents' loan application process, Respondents required consumers to list their home and cellular telephone numbers and telephone numbers for their employer, supervisor, and four other personal references.
21. Consumers often listed parents, other family members, friends, coworkers, and religious leaders as personal references.

22. From at least January 2014 until at least February 2017, when a Cash Tyme customer became delinquent on a loan, Respondents routinely called all of the third party numbers on the consumer's account, including the customer's employer, supervisor, and personal references, in an attempt to collect Cash Tyme customers' debts.
23. These calls frequently resulted in Respondents speaking with or leaving messages with consumers' employers, supervisors, and personal references.
24. These calls were made repeatedly until the customer paid his or her loan, often resulting in Respondents speaking to or leaving messages with the same third party multiple times.
25. These calls were generally not made with the expectation that Respondents would reach the consumer directly at the number called.
26. These calls were not made for the purpose of obtaining information about the consumer's location. At the time Respondents made these calls, Respondents had the means to contact the consumer directly. When speaking to a third party, Respondents did not request that the third party verify the consumer's direct contact information.

27. Respondents routinely used the third parties as a means of collection by asking the third parties to relay messages to the borrower to call Cash Tyme, go to a Cash Tyme storefront, or repay their loan.
28. In some instances Respondents asked the third party to make a payment on the loan him or herself or sought to have the third party apply pressure on the borrower to make the payment.
29. Respondents did not maintain an internal do-not-call list. To keep track of do-not-call requests, Respondents' employees were instructed to make a note in the customer's file. This process was prone to errors. In numerous instances Respondents made collection calls to workplaces and personal references after customers or third parties had requested them not to be called.
30. In making the collection calls described above, in numerous instances, Respondents disclosed or risked disclosing the existence of consumers' delinquent debts to employers, supervisors, and coworkers.
31. In making the collection calls described above, in numerous instances, Respondents harassed third parties who had no relationship with Respondents and owed no debts to Respondents, or caused them to incur lost work time or out-of-pocket costs.

32. Respondents' acts or practices caused or were likely to cause substantial injury to consumers who were customers of Cash Tyme and whose delinquent debts were disclosed, or risked being disclosed, to employers, supervisors, and coworkers. Such injuries include reputational damage in the workplace, disciplinary action, lost work time, and other negative employment consequences.
33. Respondents' acts or practices also caused or were likely to cause substantial injury to third-party consumers who had no relationship with Cash Tyme, but who received Cash Tyme's repeated calls. Such injuries included harassment, inconvenience, lost work time, and out-of-pocket costs such as telephone charges.
34. Consumers who were customers of Cash Tyme could not reasonably avoid the harm described in Paragraph 32 because they had no reason to anticipate the impending harm and lacked the means to avoid it. They were not warned that Cash Tyme would use this collection tactic, did not know whether, when, or how these calls might occur, did not know that their delinquent debts might be revealed to third parties, and had no control over Respondents' use of this collection tactic.
35. Consumers who were listed as references could not reasonably avoid the harm described in Paragraph 33 because they had no reason to anticipate

the impending harm and lacked the means to avoid it. They had no knowledge of and/or control over whether a Cash Tyme customer would list them as a reference, were not warned that Cash Tyme would use this collection tactic if they were listed as a reference, did not know whether, when, or how these calls might occur, and had no control over Respondents' use of this collection tactic.

36. The substantial injury resulting from the calls outweighs any countervailing benefits to consumers or competition because Cash Tyme had accurate contact information for its customers and thus had the means to engage in collection efforts without resorting to third-party calls.
37. Respondents' acts and practices set forth in Paragraphs 20–31 thus constitute unfair acts or practices in violation of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1)(B).

DECEPTIVE ACTS OR PRACTICES

38. The CFPA prohibits covered persons from engaging in deceptive acts or practices. 12 U.S.C. §§ 5531, 5536(a)(1)(B).

Findings and Conclusions as to Respondents' Deceptive Acquisition and Use of Reference Information for Marketing Purposes

39. From at least January 2014 until at least October 2017, as part of Respondents' loan application process, Respondents required consumers to

list their home and cellular telephone numbers and telephone numbers for their employer, supervisor, and four other personal references.

40. The loan applications stated:

By applying for a cash advance from Cash Tyme (the “Company”) I authorize the Company, it’s [sic] representatives, agents, and assignees, to verify the information I have provided both now and in the future for any legitimate purpose associated with this application of the cash advance, including but not limited to reviewing, renewing, or collecting on the cash advance.

41. Beginning in March 2015, a revised version of the loan application included the text above and added one line, which stated: “You acknowledge the references you have provided have been made aware that Cash Tyme members may call them for various reasons.”

42. The applications sought five categories of information, all relevant to underwriting the loan: Personal Information, Other Open Cash Advances, Bank Information, Personal References, and Vehicle Information.

43. The applications did not contain any reference to marketing, telemarketing, or advertising.

44. The net impression of the loan applications was that the reference information collected on the applications would be used only for verification purposes in connection with the loan being applied for.

45. In fact, until at least August 28, 2016, Respondents used the reference information as telemarketing leads and made repeated marketing calls to the individuals listed as references on consumers' loan applications.
46. Respondents' representations set forth above are material because they contained information that was likely to be considered important by consumers and likely to affect a consumer's conduct or decision regarding applying for a Cash Tyme loan or listing certain references.
47. Thus, Respondents' representations, as described in Paragraphs 39–44 constitute deceptive acts or practices in violation of sections 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1)(B).

Findings and Conclusions as to Respondents' Deceptive Advertisement of Unavailable Services

48. Between January 2014 and May 2016, at least 20 of Respondents' stores advertised unavailable services, including check cashing, phone reconnections, and home telephone connections, on the storefronts' outdoor signage.
49. In fact, since at least September 2015, the only products Respondents have offered at any of their retail lending outlets are short-term, small-dollar loans.

50. Respondents' stores had ceased offering check cashing, phone reconnections, and home telephone connections one to eight years prior to the removal of the advertisements for those services.
51. Respondents' representations set forth above are material because they contained information that was likely to be considered important by consumers and likely to affect the consumer's conduct or decision regarding visiting a Cash Tyme store.
52. Thus, Respondents' representations, as described in Paragraph 48 constitute deceptive acts or practices in violation of sections 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a)(1)(B).

GLBA VIOLATIONS

Findings and Conclusions as to Respondents' Failure to Provide Certain Consumers with Initial Privacy Notices

53. GLBA and Regulation P require a financial institution to provide to an individual who becomes its customer an initial privacy notice that accurately reflects the institution's privacy policies and practices not later than when the institution establishes a customer relationship with the individual, except as provided in 12 C.F.R. § 1016.4(e). 15 U.S.C. § 6803(a); 12 C.F.R. § 1016.4(a)(1).

54. Each time a consumer pays off a Cash Tyme loan in full, he or she becomes a former customer under Regulation P. 12 C.F.R. § 1016.5(b)(3)(i).
55. Because consumers who paid off a loan with Cash Tyme did not have any other ongoing customer relationship with Cash Tyme, the exception in Regulation P for “existing customers,” 12 C.F.R. § 1016.4(d), did not apply to these former customers.
56. When a consumer who has paid off a prior loan takes out a new loan, he or she is establishing a new customer relationship with the lender and therefore requires a new initial privacy notice. 12 C.F.R. § 1016.4(a)(1).
57. None of the exceptions in 12 C.F.R. § 1016.4(e) applied.
58. From at least January 2014 until August 2016, Respondents’ policy was to provide privacy notices only when the consumer took out his or her first loan from Respondents. If the consumer paid that loan in full and subsequently took out a new loan, Respondents did not provide a new initial privacy notice.
59. Because Respondents failed to provide individuals who became its customers with initial privacy notices as GLBA and Regulation P require, Respondents violated GLBA, 15 U.S.C. § 6803(a), and Regulation P, 12 C.F.R. § 1016.4(a)(1).

TILA VIOLATIONS

60. Regulation Z implements TILA, 15 U.S.C. §§ 1601–1667f, and is intended, among other things, “to promote the informed use of consumer credit by requiring disclosures about its terms and cost.” 12 C.F.R. § 1026.1(b).
61. Respondents offered short-term loans that constitute “closed-end credit” under Regulation Z. 12 C.F.R. § 1026.2(a)(10).
62. As relevant here, an Annual Percentage Rate (APR) disclosed by a creditor is considered accurate if it is not more than 1/8 of one percentage point above or below the APR determined in accordance with Regulation Z. 12 C.F.R. § 1026.22(a)(2).

Findings and Conclusions as to Respondents’ Failure to Accurately Disclose the Annual Percentage Rate of Cash Tyme Loan Products Before Consummation

63. Disclosures required by Regulation Z must be made “clearly and conspicuously in writing, in a form that the consumer may keep,” and must reflect “the terms of the legal obligation between the parties.” 12 C.F.R. § 1026.17(a)(1), (c)(1).
64. With limited exceptions not applicable here, a creditor offering closed-end credit must disclose the APR of the loan before consummation of the transaction. 12 C.F.R. §§ 1026.17(b), 1026.18(e).

65. From at least January 2014 until September 2016, Respondents systematically excluded a \$1.00 payday loan database fee from their APR calculation for Kentucky loans. The payday loan database fee is a finance charge under Regulation Z, 12 C.F.R. § 1026.4, but the fee was not included in Respondents' calculations of the APR. As a result of not including the database fee in their APR calculations, Respondents typically under-disclosed the applicable APR for payday loan contracts in Kentucky by approximately 5.21% to 26.23%.
66. By understating the APR on required disclosures for their payday loan contracts in Kentucky, Respondents failed to disclose, before consummation of the transaction, an APR that reflected the terms of the legal obligation between the parties to a credit transaction in violation of TILA and Regulation Z. 15 U.S.C. § 1638(a)(4); 12 C.F.R. §§ 1026.17(c)(1), 1026.18(e).

Findings and Conclusions as to Respondents' Failure to Accurately Disclose the Annual Percentage Rate of Cash Tyme Loan Products in Advertisements

67. Advertising disclosures required by Regulation Z must be made "clearly and conspicuously" and, if an advertisement for credit states specific terms, must state "only those terms that actually are or will be arranged or offered by the creditor." 12 C.F.R. § 1026.24(a)-(b).

68. An advertisement for closed-end credit must state the APR if it states a rate of finance charge or contains any of the triggering terms listed in 12 C.F.R. § 1026.24(d)(1), such as the amount of any payment or finance charge. 12 C.F.R. § 1026.24(c), (d)(1)–(2).
69. In each of the advertisements at issue here, Respondents stated a rate of finance charge or one or more triggering terms under 12 C.F.R. § 1026.24(d)(1), such as the amount of any payment or finance charge. 12 C.F.R. § 1026.24(c), (d)(1)–(2).
70. If an advertisement for closed-end credit contains any of the triggering terms listed in 12 C.F.R. § 1026.24(d)(1), it must state all of the terms listed in 12 C.F.R. § 1026.24(d)(2) as applicable, including the terms of repayment. In advertisements that do not contemplate a single specific transaction (such as where the repayment period might vary from 14 to 30 days), the creditor may satisfy the disclosure requirement by disclosing “an example of one or more typical extensions of credit with a statement of all the terms applicable to each.” 12 C.F.R. § 1026.24(d)(2). Each example must contain all of the applicable terms required by 12 C.F.R. § 1026.24(d), be labeled as examples, and reflect representative credit terms made available by the creditor to present and prospective customers. 12 C.F.R. pt. 1026, comment 24(d)(2)-5.

71. From at least January 2014 until September 2016, Respondents systematically excluded a \$1.00 payday loan database fee from their APR calculation for Kentucky loans. As a result of not including the payday loan database fee in their APR calculations, Respondents' in-store advertisements in Kentucky and online advertisements for Kentucky loans typically included a rate of finance charge described as an APR that underdisclosed the applicable APR by approximately 5.21% to 26.23%.
72. From at least January 2014 until May 2016, for loans with a range of possible repayment terms, Respondents had a general practice, in advertisements on their website, of disclosing an example APR and payment amount, based on an example term of repayment, without disclosing the corresponding term of repayment used to calculate the disclosed APR.
73. From at least January 2014 until May 2016, Respondents had a general practice of rounding APRs to whole number values on advertisements displayed on their website. As a result of this rounding, the majority of Respondents' online price displays disclosed one or more rates of finance charge described as APRs that was not within the tolerance for the APR determined in accordance with Regulation Z.

74. From at least January 2014 until August 2016, Respondents had a general practice of rounding APRs to whole number values on in-store price displays. As a result of this rounding, the majority of Respondents' in-store price displays disclosed one or more rates of finance charge described as APRs that was not within the tolerance for the APR determined in accordance with Regulation Z.
75. By providing rates of finance charge in advertisements that were not accurate APRs for the advertised loans and by failing to specify the term of repayment used in advertisements that included a triggering term, Respondents violated TILA and Regulation Z. 15 U.S.C. § 1664(c)–(d); 12 C.F.R. §§ 1026.22(a)(2); 1026.24(a), (c), (d).

ORDER

V

Conduct Provisions

IT IS ORDERED, under sections 1053 and 1055 of the CFPA, that:

76. Respondents and their officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, in connection with the advertising, marketing, promotion, offering for sale, sale, or performance of any consumer financial product or service, are prohibited from:

- a. Misrepresenting, or assisting others in misrepresenting, expressly or impliedly, the products or services Respondents offer or provide, or the availability of products or services from Respondents, on storefront signage or other advertisements;
- b. Misrepresenting, or assisting others in misrepresenting, expressly or impliedly, how or for what purposes Respondents will use employer, supervisor, and personal reference information collected from consumers in connection with credit applications;
- c. Using employer, supervisor, or personal reference information collected on consumer loan applications for any reason other than to underwrite the consumer's loan;
- d. Making collection-related calls to third parties that (a) disclose or risk disclosing consumers' delinquent debts to their employers, supervisors, or co-workers; or (b) are likely to harass or inconvenience consumers who have no relationship with Cash Tyme, or cause them to incur lost work time or out-of-pocket costs; and
- e. Transferring or selling any supervisor or personal reference information, including names and contact information, to any third party.

Nothing in this Consent Order shall be read as an exception to this Paragraph.

77. Respondents and their officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, must take the following affirmative actions:
- a. Implement adequate processes to prevent unauthorized charges and the imposition of fees to consumers in connection with processing Automated Clearing House (ACH) payments from consumer accounts;
 - b. Implement adequate processes to promptly monitor, identify, correct, and refund overcharges to or overpayments by consumers within a reasonable time to be specified in the Compliance Plan;
 - c. Provide to an individual who becomes a customer a clear and conspicuous initial privacy notice that accurately reflects Respondents' privacy policies and practices not later than when Respondents establish a customer relationship with the individual, including when Respondents originate a new loan to a former customer who has paid all prior loans in full;
 - d. Disclose annual percentage rates, when required by law, that are not more than 1/8th of one percentage point above or below the annual percentage rate determined in accordance with 12 C.F.R. § 1026.22;
 - e. Disclose the terms of repayment when required under 12 C.F.R. § 1026.24(d);

- f. Conduct a comprehensive audit to search for and identify Unrefunded Consumers who were overcharged or made overpayments who have not already been identified and refunded by Respondents as of the Effective Date; and
- g. Refund all Unrefunded Consumers the amount of their overcharges or overpayments identified by the comprehensive audit described in Paragraph 77(f).

VI

Compliance Plan

IT IS FURTHER ORDERED that:

- 78. Within 30 days of the Effective Date, Respondents must submit to the Regional Director for review and determination of non-objection a comprehensive compliance plan designed to ensure that Respondents' marketing, sale, servicing, and collection of short-term, small-dollar loans complies with all applicable Federal consumer financial laws and the terms of this Consent Order (Compliance Plan). The Compliance Plan will, at a minimum:
 - a. Include detailed steps for addressing each action required by this Consent Order;

- b. Require Respondents to regularly monitor their marketing and collection calls with consumers to ensure compliance with applicable Federal consumer financial laws and this Consent Order;
 - c. Require Respondents to implement an effective method of logging requests by customers and third-parties not to be contacted about a particular customer's account and ensuring that those requests are honored;
 - d. Require Respondents to periodically audit their processes to prevent unauthorized charges to consumers and to promptly monitor, identify, correct, and refund overcharges to or overpayments by consumers, to ensure compliance with applicable Federal consumer financial laws and this Consent Order;
 - e. Include details regarding how Respondents will conduct the comprehensive audit required under Paragraph 77(f), how they will identify Unrefunded Consumers, and how they will refund them any amounts due under Paragraph 77(g); and
 - f. Include specific timeframes and deadlines for implementation of the steps described above.
79. The Regional Director will have the discretion to make a determination of non-objection to the Compliance Plan or direct Respondents to revise it. If

the Regional Director directs Respondents to revise the Compliance Plan, Respondents must make the revisions and resubmit the Compliance Plan to the Regional Director within 15 days.

80. After receiving notification that the Regional Director has made a determination of non-objection to the Compliance Plan, Respondents must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Compliance Plan.

VII

Order to Pay Civil Money Penalties

IT IS FURTHER ORDERED that:

81. Under section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law described in Section IV of this Consent Order, and taking into account the factors in 12 U.S.C. § 5565(c)(3), Respondents must pay a civil money penalty of \$100,000 to the Bureau.
82. Within 10 days of the Effective Date, Respondents must pay \$50,000 of the civil money penalty by wire transfer to the Bureau or to the Bureau's agent in compliance with the Bureau's wiring instructions. Within 90 days of the Effective Date, Respondents must pay the remaining \$50,000 of the civil money penalty by wire transfer to the Bureau or to the Bureau's agent in compliance with the Bureau's wiring instructions.

83. The civil money penalty paid under this Consent Order will be deposited in the Civil Penalty Fund of the Bureau as required by section 1017(d) of the CFPB, 12 U.S.C. § 5497(d).
84. Respondents must treat the civil money penalty paid under this Consent Order as a penalty paid to the government for all purposes. Regardless of how the Bureau ultimately uses those funds, Respondents may not:
 - a. Claim, assert, or apply for a tax deduction, tax credit, or any other tax benefit for any civil money penalty paid under this Consent Order; or
 - b. Seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made under any insurance policy, with regard to any civil money penalty paid under this Consent Order.
85. To preserve the deterrent effect of the civil money penalty in any Related Consumer Action, Respondents may not argue that Respondents are entitled to, nor may Respondents benefit by, any offset or reduction of any compensatory monetary remedies imposed in the Related Consumer Action because of the civil money penalty paid in this action. If the court in any Related Consumer Action offsets or otherwise reduces the amount of compensatory monetary remedies imposed against Respondents based on the civil money penalty paid in this action or based on any payment that

the Bureau makes from the Civil Penalty Fund, Respondents must, within 30 days after entry of a final order granting such offset or reduction, notify the Bureau, and pay the amount of the offset or reduction to the U.S. Treasury. Such a payment will not be considered an additional civil money penalty and will not change the amount of the civil money penalty imposed in this action.

86. In the event of any default on Respondents' obligations to make payment under this Consent Order, interest, computed under 28 U.S.C. § 1961, as amended, will accrue on any outstanding amounts not paid from the date of default to the date of payment, and will immediately become due and payable.
87. Respondents must relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law, and no part of the funds may be returned to Respondents.
88. Under 31 U.S.C. § 7701, Respondents, unless they already have done so, must furnish to the Bureau their taxpayer identifying numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of this Consent Order.
89. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action, Respondents must notify the

Regional Director of the final judgment, consent order, or settlement in writing. That notification must indicate the amount of redress, if any, that Respondents paid or are required to pay to consumers and describe the consumers or classes of consumers to whom that redress has been or will be paid.

VIII

Reporting Requirements

IT IS FURTHER ORDERED that:

90. Respondents must notify the Bureau of any development that may affect compliance obligations arising under this Consent Order, including but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Consent Order; the filing of any bankruptcy or insolvency proceeding by or against Respondents; or a change in Respondents' name or address. Respondents must provide this notice, if practicable, at least 30 days before the development, but in any case no later than 14 days after the development.
91. Within 7 days of the Effective Date, Respondents must:

- a. Designate at least one telephone number and email, physical, and postal address as points of contact, which the Bureau may use to communicate with Respondents;
 - b. Identify all businesses for which any Respondent is the majority owner, or that any Respondent directly or indirectly controls, by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
 - c. Describe the activities of each such business, including the products and services offered, and the means of advertising, marketing, and sales.
92. Respondents must report any change in the information required to be submitted under Paragraph 91 at least 30 days before the change or as soon as practicable after the learning about the change, whichever is sooner.
93. Within 90 days of the Effective Date, and again one year after receiving notice of non-objection to the Compliance Plan, Respondents must submit to the Regional Director an accurate written compliance progress report (Compliance Report), which, at a minimum:
- a. Lists each applicable paragraph and subparagraph of the Order and describes in detail the manner and form in which Respondents have complied with each such paragraph and subparagraph of the Consent Order;

- b. Describes in detail the manner and form in which Respondents have complied with the Compliance Plan; and
- c. Attaches a copy of each Order Acknowledgment obtained under Section IX, unless previously submitted to the Bureau.

IX

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that,

- 94. Within 7 days of the Effective Date, Respondents must submit to the Regional Director an acknowledgment of receipt of this Consent Order, sworn under penalty of perjury.
- 95. Within 30 days of the Effective Date, Respondents must deliver a copy of this Consent Order to each of their executive officers, as well as to any managers, employees, Service Providers, or other agents and representatives who have responsibilities related to the subject matter of the Consent Order.
- 96. For five years from the Effective Date, Respondents must deliver a copy of this Consent Order to any business entity resulting from any change in structure referred to in Section VIII, any future board members and executive officers, and any managers, employees, Service Providers, or other agents and representatives who will have responsibilities related to

the subject matter of the Consent Order before they assume their responsibilities.

97. Respondents must secure a signed and dated statement acknowledging receipt of a copy of this Consent Order, ensuring that any electronic signatures comply with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.*, within 30 days of delivery, from all persons receiving a copy of this Consent Order under this Section.

X

Recordkeeping

IT IS FURTHER ORDERED that

98. Respondents must create, or if already created, must retain for the duration of the Consent Order, the following business records:
- a. All documents and records necessary to demonstrate full compliance with each provision of this Consent Order, including all submissions to the Bureau;
 - b. Copies of all sales scripts; training materials; advertisements; websites; indoor and outdoor signage regarding products or pricing; and other marketing materials relating to the subjects of this Consent Order, including any such materials used by a third party on behalf of Respondents;

- c. Copies of all privacy policies and procedures and privacy notices used by Respondents, including internal policies and procedures and privacy notices displayed or distributed to consumers;
 - d. All consumer complaints and refund requests (whether received directly or indirectly, such as through a third party), and any responses to those complaints or requests; and
 - e. All logs, trackers, or notes concerning calls to consumers, including customers and non-customers, for collection or marketing purposes.
99. Respondents must retain the documents identified in Paragraph 98 for the duration of the Consent Order.
100. Respondents must make the documents identified in Paragraph 98 available to the Bureau upon the Bureau's request.

XI

Notices

IT IS FURTHER ORDERED that:

101. Unless otherwise directed in writing by the Bureau, Respondents must provide all submissions, requests, communications, or other documents relating to this Consent Order in writing, with the subject line, "*In re* Cash Tyme, File No. 2019-BCFP-0004 ," and send them by overnight courier or

first-class mail to the below address and contemporaneously by email to

Enforcement_Compliance@cfpb.gov:

Regional Director, Bureau Midwest Region
Bureau of Consumer Financial Protection
230 South Dearborn Street
Suite 1590
Chicago, IL 60604

XII

Cooperation with the Bureau

IT IS FURTHER ORDERED that:

102. Respondents must cooperate fully with the Bureau in this matter and in any investigation related to or associated with the conduct described in Section IV. Respondents must provide truthful and complete information, evidence, and testimony. Respondents must cause Respondents' officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that the Bureau may reasonably request upon 10 days written notice, or other reasonable notice, at such places and times as the Bureau may designate, without the service of compulsory process.

XIII

Compliance Monitoring

IT IS FURTHER ORDERED that, to monitor Respondents' compliance with this Consent Order:

103. Within 14 days of receipt of a written request from the Bureau, Respondents must submit additional Compliance Reports or other requested non-privileged information, related to requirements of this Consent Order, which must be made under penalty of perjury; provide sworn testimony related to requirements of this Consent Order and Respondents' compliance with those requirements; or produce non-privileged documents related to requirements of this Consent Order and Respondents' compliance with those requirements.
104. For purposes of this Section, the Bureau may communicate directly with Respondents, unless Respondents retain counsel related to these communications.
105. Respondents must permit Bureau representatives to interview about the requirements of this Consent Order and Respondents' compliance with those requirements any employee or other person affiliated with Respondents who has agreed to such an interview. The person interviewed may have counsel present.

106. Nothing in this Consent Order will limit the Bureau's lawful use of civil investigative demands under 12 C.F.R. § 1080.6 or other compulsory process.

XIV

Modifications to Non-Material Requirements

IT IS FURTHER ORDERED that:

107. Respondents may seek a modification to non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) by submitting a written request to the Regional Director.
108. The Regional Director may, in his or her discretion, modify any non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) if he or she determines good cause justifies the modification. Any such modification by the Regional Director must be in writing.

XV

Administrative Provisions

109. The provisions of this Consent Order do not bar, estop, or otherwise prevent the Bureau, or any other governmental agency, from taking any other action against Respondents, except as described in Paragraph 110.

110. The Bureau releases and discharges Respondents from all potential liability for law violations that the Bureau has or might have asserted based on the practices described in Section IV of this Consent Order, to the extent such practices occurred before the Effective Date and the Bureau knows about them as of the Effective Date. The Bureau may use the practices described in this Consent Order in future enforcement actions against Respondents and their affiliates, including, without limitation, to establish a pattern or practice of violations or the continuation of a pattern or practice of violations or to calculate the amount of any penalty. This release does not preclude or affect any right of the Bureau to determine and ensure compliance with the Consent Order, or to seek penalties for any violations of the Consent Order.
111. This Consent Order is intended to be, and will be construed as, a final Consent Order issued under section 1053 of the CFPA, 12 U.S.C. § 5563, and expressly does not form, and may not be construed to form, a contract binding the Bureau or the United States.
112. This Consent Order will terminate five years from the Effective Date. The Consent Order will remain effective and enforceable until such time, except to the extent that any provisions of this Consent Order have been

amended, suspended, waived, or terminated in writing by the Bureau or its designated agent.

113. Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted.
114. Should Respondents seek to transfer or assign all or part of their operations that are subject to this Consent Order, Respondents must, as a condition of sale, obtain the written agreement of the transferee or assignee to comply with all applicable provisions of this Consent Order.
115. The provisions of this Consent Order will be enforceable by the Bureau. For any violation of this Consent Order, the Bureau may impose the maximum amount of civil money penalties allowed under section 1055(c) of the CFPA, 12 U.S.C. § 5565(c). In connection with any attempt by the Bureau to enforce this Consent Order in federal district court, the Bureau may serve Respondents wherever Respondents may be found and Respondents may not contest that court's personal jurisdiction over Respondents.
116. This Consent Order and the accompanying Stipulation contain the complete agreement between the parties. The parties have made no promises, representations, or warranties other than what is contained in this Consent Order and the accompanying Stipulation. This Consent Order

and the accompanying Stipulation supersede any prior oral or written communications, discussions, or understandings.

117. Nothing in this Consent Order or the accompanying Stipulation may be construed as allowing the Respondents, their officers, or their employees to violate any law, rule, or regulation.

IT IS SO ORDERED, this 1 th day of February, 2019.



Kathleen L. Kraninger

Director

Bureau of Consumer Financial Protection