

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of)
)
) FILE NO. 072 3203
CashPro)
d/b/a MakePaydayToday.com)
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AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission has conducted an investigation of certain acts and practices of CashPro d/b/a MakePaydayToday.com, a sole proprietorship owned by Mark and Roxanne Behrendsen ("proposed respondent"). Proposed respondent is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by and between CashPro d/b/a MakePaydayToday.com and counsel for the Federal Trade Commission that:

1. Proposed respondent CashPro d/b/a MakePaydayToday.com is a sole proprietorship with its principal office or place of business at 4306 S. Carson St., Carson City, NV 89701.
2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint.
3. Proposed respondent waives:
 - a. Any further procedural steps;
 - b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
 - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondent, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.
5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.
6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondent's address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondent waives any right it may have to any other manner of service. The complaint may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.
7. Proposed respondent has read the draft complaint and consent order. It understands that it may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. "Advertisement" shall mean a commercial message in any medium that promotes, directly or indirectly, a credit transaction.
2. "Consumer" means a cardholder or a natural person to whom consumer credit is offered or extended. The term also includes a natural person in whose principal dwelling a security interest is or will be retained or acquired, if that person's ownership interest in the dwelling is or will be subject to a security interest.

3. "Consumer Credit" shall mean credit offered or extended to a consumer primarily for personal, family, or household purposes.
4. "Clearly and conspicuously" shall mean as follows:
 - A. In a print advertisement, the disclosure shall be in a type size, location, and in print that contrasts with the background against which it appears, sufficient for an ordinary consumer to notice, read and comprehend it.
 - B. In an electronic medium, the disclosure shall be:
 - (a) unavoidable;
 - (b) of a size and shade, and appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it;
 - (c) understandable language and syntax; and
 - (d) prior to the consumer incurring any financial obligation.
 - C. In a television or video advertisement, the audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The video disclosure shall be of a size and shade, and appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it, and shall be in understandable language and syntax.
 - D. In a radio advertisement, the disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it.

Nothing contrary to, inconsistent with, or in mitigation of the material terms shall be used in any advertisement or promotion.

5. "Respondent" unless otherwise specified, shall mean CashPro d/b/a/ MakePaydayToday.com, its successors and assigns and its officers, agents, representatives, and employees.

I.

IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, or other device, in connection with any advertisement to promote, directly or indirectly, any extension of consumer credit in or affecting commerce, shall not, in any manner, expressly or by implication:

- A. State the amount or percentage of any downpayment, the number of payments or period of repayment, the amount of any payment, or the amount of any finance charge, without disclosing clearly and conspicuously all of the terms required by Section 144 of the Truth in Lending Act ("TILA"), 15 U.S.C. §1664, as amended, and Section 226.24(c) of Regulation Z, 12 C.F.R. §226.24(c), as amended, as more fully set out in Section 226.24(c) of the Federal Reserve Board's Official Staff Commentary to Regulation Z, 12 C.F.R. §226.24(c), as amended, including,

but not limited to:

1. The amount or percentage of the downpayment;
 2. The terms of repayment;
 3. The annual percentage rate, using that term or the abbreviation “APR.” If the annual percentage rate may be increased after the consummation of the credit transaction, that fact must also be disclosed.
- B. State a rate of finance charge without stating the rate as an “annual percentage rate” or the abbreviation “APR,” using that term, as required by Section 144 of the TILA, 15 U.S.C. §1664, as amended, and Section 226.24(b) of Regulation Z, 12 C.F.R. §226.24(b), as amended, as more fully set out in Section 226.24(b) of the Federal Reserve Board’s Official Staff Commentary to Regulation Z, 12 C.F.R. §226.24(b), as amended.
- C. Fail to comply in any other respect with the TILA, 15 U.S.C. §§1601-1667, as amended, and Regulation Z, 12 C.F.R. §226, as amended.

II.

IT IS FURTHER ORDERED that respondent shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying all records that will demonstrate compliance with the requirements of this order.

III.

IT IS FURTHER ORDERED that respondent, and its successors and assigns, shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that respondent, and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation(s) that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in

the corporation about which respondents learn less than thirty (30) days prior to the date such action is to take place, respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

V.

IT IS FURTHER ORDERED that respondent, and its successors and assigns, shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

VI.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Signed this _____ day of _____, 2008

CASHPRO D/B/A MAKEPAYDAYTODAY.COM

By: _____
MARK BEHRENDSEN
OWNER

FEDERAL TRADE COMMISSION

By: _____
CARA PETERSEN
QUISAIRA WHITNEY
Counsel for the Federal Trade Commission

APPROVED:

PEGGY L. TWOHIG
Associate Director
Division of Financial Practices

LYDIA B. PARNES
Director
Bureau of Consumer Protection