



FTC Charges That Payday Lender Illegally Sued Debt-Burdened Consumers in South Dakota Tribal Court Without Jurisdiction

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Agency Expands Its Case Against Payday Financial, LLC

FOR RELEASE

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The Federal Trade Commission expanded its case against an allegedly deceptive payday lender, charging that it sought to unfairly and deceptively manipulate the legal system and force debt-burdened consumers throughout the country to travel to South Dakota and appear before a tribal court that did not have jurisdiction over their cases.

In an amended complaint, the FTC charged that South Dakota-based payday lender [Payday Financial, LLC's suits against customers are unfair](#), and that its contract language about the court where such suits would be brought is deceptive. The amended complaint also seeks civil penalties for alleged violations of the Commission's Credit Practices Rule. The company, its owner, Martin A. Webb, and several others named as defendants pitch short-term, high-fee, unsecured payday loans to consumers on television and the Internet.

When customers fall behind in their payments, Payday Financial, LLC improperly files suits against them in the Cheyenne River Sioux Tribal Court, attempting to obtain a tribal court order to garnish their wages, the amended complaint alleges. The tribal court does not have jurisdiction over claims against people who do not belong to the Cheyenne River Sioux Tribe and who do not reside on the reservation or elsewhere in South Dakota.

In its [original complaint filed in September 2011](#), the agency alleged that [the defendants illegally tried to garnish employees' wages without court orders](#). Under federal law, the government can directly require employers to garnish wages for debts it is owed without a court order, but private creditors must obtain a court order before garnishing a debtor's wages. The FTC also alleged that the defendants violated the FTC Act by:

Falsely telling employers that they had the legal authority to garnish an employee's wages without first obtaining a court order.

Falsely telling employers that they had given employees an opportunity to dispute a debt.

Unfairly disclosing the existence and the amounts of consumers' supposed debts to their employers and co-workers, without the consumers' knowledge or consent.

The defendants also allegedly violated the FTC's Credit Practices Rule by requiring consumers taking out payday loans to consent to have wages taken directly out of their paychecks in the event of a default, and the Electronic Funds Transfer Act and Regulation E by requiring authorization for recurring electronic payments from their bank account as a condition of obtaining payday loans.

The amended complaint adds a civil penalties demand for the alleged Credit Practices Rule violation. Before filing the amended complaint to seek civil penalties, the FTC notified the Department of Justice, as required by statute, giving the department the opportunity to litigate the case. The Department of Justice stated that it would not initiate the proceeding, allowing the FTC to continue the litigation on its own behalf.

For more information regarding payday loans see: [Payday Loans Equal Very Costly Cash: Consumers Urged to Consider the Alternatives](#).

The Commission votes approving the amendments to the complaint to seek civil damages and to add two new counts related to the improper suits in tribal court were 4-0, with Commissioner Edith Ramirez voting to approve the amendments to add civil penalties and an unfairness count, but dissenting on the addition of a deception count regarding contract language about the court where consumers could be sued. The amended complaint was filed in the U.S. District Court for the District of South Dakota Central Division on March 1, 2012. The amended complaint names as defendants Payday Financial, LLC, Great Sky Finance, LLC, Western Sky Financial, LLC, Red Stone Financial, LLC, Financial Solutions, LLC, Management Systems, LLC, 24-7 Cash Direct, LLC, Red River Ventures, LLC, High Country Ventures, LLC, and Martin A. Webb.

NOTE: The Commission files an amended complaint when it has “reason to believe” that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. The complaint is not a finding or ruling that the defendant has actually violated the law.

The Federal Trade Commission works for consumers to prevent fraudulent, deceptive, and unfair business practices and to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC's online [Complaint Assistant](#) or call 1-877-FTC-HELP (1-877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 2,000 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's website provides free information on a variety of [consumer topics](#). Like the FTC on [Facebook](#) and follow us on [Twitter](#).

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