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9

10 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
11 **IN AND FOR THE COUNTY OF MARICOPA**

12 STATE OF ARIZONA, *ex rel.* MARK
13 BRNOVICH, Attorney General,

14 Plaintiff,

15 vs.

16 CASHCALL, INC.; WS FUNDING LLC, a
17 wholly owned subsidiary of CashCall, Inc.;
and J. PAUL REDDAM, an individual;

18 Defendants.
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Case No:

COMPLAINT

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1 **PARTIES**

2 6. CashCall, Inc. is a California corporation, with its principal place of business at
3 One City Blvd. West, Ste. 102, Orange, CA 92868. As a significant part of its business,
4 CashCall marketed, funded, serviced and collected consumer loans.

5 7. CashCall is registered with the Arizona Corporation Commission, file number
6 F10889324.

7 8. WS Funding, LLC (“WS Funding”) is a wholly owned subsidiary of CashCall,
8 through which CashCall purchased consumer loans.

9 9. J. Paul Reddam (“Reddam”) is the president, director and sole owner of CashCall.
10 At all relevant times, he had managerial responsibility for CashCall and Delbert Services
11 Corporation¹ (or “Delbert”), and materially participated in the conduct of their affairs.

12 10. At all relevant times, Defendants acted in concert to establish an unlawful lending
13 scheme, perpetuate the making of loans to Arizona consumers under said scheme, and
14 misrepresent and conceal the collectability of loans in violation of the CFA.

15 **FACTUAL BACKGROUND**

16 ***I. Construction of the Unlawful Lending Scheme***

17 11. Reddam has been the president and sole owner of CashCall and has directed its
18 affairs since its creation.

19 12. Between 2003 and 2006, CashCall made loans to borrowers primarily in
20 California.

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¹ Delbert Services Corporation was a Nevada corporation, with its principal place of business at
7125 Pollock Dr., Las Vegas, NV 89119, and dissolved in 2015. Delbert was a collection
agency, through which CashCall sometimes serviced and collected on consumer loans.

1 13. In 2006, Reddam sought to extend CashCall’s business beyond California into
2 other states, but found that in many states, usury laws would limit the interest rates CashCall
3 could charge.

4 14. In order to make lending in multiple states more profitable, CashCall sought to
5 make consumer loans in a way that would evade state usury laws.

6 15. In 2009, Reddam caused CashCall to associate with Martin Webb a/k/a Butch
7 Webb (“Webb”) to engage in administering an unlawful lending scheme in many states,
8 including Arizona.

9 16. Webb formed Western Sky Financial, LLC (or “Western Sky”) to facilitate
10 CashCall’s unlawful lending scheme.

11 17. Consumers would apply for loans through the website www.westernsky.com, and
12 receive notes that listed Western Sky as the lender, “a lender authorized by the laws of the
13 Cheyenne River Sioux Tribal Nation and the Indian Commerce Clause of the Constitution of the
14 United States of America . . .”²

15 18. Each note also stated “This Agreement is governed by the Indian Commerce
16 Clause of the Constitution of the United States of America and the laws of the Cheyenne River
17 Sioux Tribe. We do not have a presence in South Dakota or any other states of the United
18 States. Neither this Agreement nor Lender is subject to the laws of any state of the United
19 States of America.”

24 ² Although most Western Sky Loan Agreements identified Western Sky Financial, LLC as the
25 lender, there were instances when the agreement identified Western Sky Funding, LLC as the
lender. On information and belief, the lending scheme described herein functioned in the same
manner despite the Western Sky name variation stated on the note.

1 19. Although Webb is a member of the Cheyenne River Sioux Tribe (“CRST”),
2 Western Sky was not owned or operated by the CRST or any of its political subdivisions.
3 Western Sky was a limited liability company organized under the state law of South Dakota.

4 20. Western Sky was merely a tool created and funded by CashCall in an attempt to
5 evade state law, Arizona included, restricting the amount of interest CashCall could charge.

6 21. CashCall effectuated its unlawful lending scheme through several agreements with
7 Western Sky.

8 22. CashCall caused its wholly owned subsidiary to enter into a promissory note with
9 Western Sky dated December 28, 2009, which was executed by Reddam and Webb (the
10 “Promissory Note”). Through the Promissory Note, CashCall agreed to provide a \$500,000 line
11 of credit to Western Sky to cover Western Sky’s operating expenses, so that Western Sky would
12 have the money to make loans “which exceed Western Sky’s available capital and resources.”

13 23. CashCall funded loans Western Sky purportedly originated by paying Western
14 Sky the full amount disbursed to a consumer borrower under a loan agreement (the “Loan
15 Agreement”) Western Sky entered into with the consumer.

16 24. Pursuant to a document titled Agreement for the Assignment and Purchase of
17 Promissory Notes (the “Assignment Agreement”) dated February 1, 2010, CashCall, through its
18 wholly owned subsidiary, WS Funding, purchased from Western Sky all loans made through
19 www.westernsky.com, and assumed all economic risks and benefits of the loans immediately
20 upon assignment. The Assignment Agreement was executed by Reddam and Webb.³

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24 ³ The Assignment Agreement replaced an identical assignment agreement that CashCall
25 originally caused a separate wholly owned subsidiary to enter into with Western Sky on
December 28, 2009. On information and belief, the Assignment Agreement entered by WS
Funding ultimately became the operative agreement.

1 25. Further, under the Assignment Agreement, CashCall agreed to “fully indemnify
2 Western Sky for all costs arising or resulting from any and all civil, criminal or administrative
3 claims or actions . . .”

4 26. Under the Assignment Agreement, CashCall also agreed to reimburse Western
5 Sky for “all costs of all maintenance repair and/or update costs associated with Western Sky
6 Financial’s server.”

7 27. Western Sky sold all of its loans to CashCall or its wholly owned subsidiary
8 before any payments were made by borrowers.

9 28. In exchange for Western Sky’s participation in its scheme, CashCall paid Western
10 Sky a premium for loans originated.

11 29. Finally, CashCall and Western Sky entered into an agreement titled Agreement for
12 Service (the “Service Agreement”), dated January 9, 2010, also signed by Reddam and Webb.

13 30. Through the Service Agreement, Western Sky granted CashCall a “non-exclusive
14 license” to reproduce, among other things, Western Sky’s name and trademarks, and CashCall
15 agreed to provide Western Sky with wide-ranging services, including customer service support,
16 assignment of a toll free phone and fax number, electronic communications with borrowers,
17 marketing materials and services, website hosting, underwriting review, security monitoring,
18 and complaint resolution.

19 31. In other words, CashCall gave Western Sky cash up front to make loans, paid for
20 Western Sky’s expenses, and then through the Assignment Agreement, took ownership of the
21 loans, all while neither Western Sky nor CashCall was licensed as a consumer lender in Arizona.

22 32. Despite Defendants’ and Western Sky’s representations to Arizona consumers that
23 CRST law governed the Loan Agreements, any subjection to CRST law was illusory.

1 33. In fact, contrary to the representations made to consumers, CRST law did not
2 authorize the high-interest loans; to the contrary, the loans were criminally usurious under CRST
3 law.

4 34. Furthermore, the CRST had no substantial relationship to the parties or the
5 transactions and there was no other reasonable basis for the parties' choice of CRST law; the
6 legality and validity of the loans could not be resolved by a provision in the Loan Agreements;
7 fundamental public policy disfavored the choice of CRST law; and Arizona had the most
8 significant relationship to the loan transactions made to Arizona consumers.

9 35. On August 31, 2016, a federal court found CashCall and Delbert to be engaged in
10 a deceptive practice prohibited by the Consumer Financial Protection Act of 2010, 12 U.S.C.
11 § 5536(a)(1)(B), and Reddam was held individually liable for his active participation in, and
12 control over, the Western Sky loan program.⁴ Among other things, the Court held that “[b]y
13 servicing and collecting on Western Sky loans, CashCall and Delbert Services created the ‘net
14 impression’ that the loans were enforceable and that the borrowers were obligated to repay the
15 loans in accordance with the terms of their loan agreements. . . . [T]hat impression was patently
16 false – the loan agreements were void and/or the borrowers were not obligated to pay. . . .
17 Indeed, the intentionally complicated and sham structure of the Western Sky Loan program
18 would have made it impossible for reasonable consumers to know that CRST law did not govern
19 the loan agreements, and thus that their loans were void and/or not payable under the laws of
20 their home states.”⁵

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24 ⁴ *Consumer Financial Protection Bureau v. CashCall, Inc., et al.*, No. 2:15-cv-7522, 2016 WL
25 4820635 at *10-12 (C.D. Cal. Aug. 31, 2016), *appeals docketed*, Nos. 18-55407 (9th Cir. Mar.
28, 2018), 18-55479 (9th Cir. Apr. 12, 2018).

⁵ *Id.* at *10.

1 ***II. Execution of the Unlawful Lending Scheme***

2 36. Typically, a borrower approved for a Western Sky loan would electronically sign a
3 Loan Agreement using Western Sky’s website.

4 37. Western Sky’s website was hosted by CashCall’s servers in California.

5 38. Loan proceeds provided by CashCall would be transferred from Western Sky’s
6 account to the borrower’s account. The borrower would later receive a notice that the loan had
7 been assigned to WS Funding, and that all payments on the loan should be made to CashCall as
8 servicer.

9 39. Western Sky and CashCall represented to Arizona consumers in advertisements,
10 and later reiterated in the Loan Agreements, that loans made to Arizona consumers originated by
11 Western Sky and serviced by CashCall (“WS Loans”) were not subject to state laws but, instead,
12 were subject only to the laws of the CRST.

13 40. Western Sky and CashCall, as a matter of course, concealed, suppressed, or
14 omitted the material fact that the loans were criminally usurious under CRST law, and Western
15 Sky and CashCall did so with intent that consumers rely on that concealment, suppression, or
16 omission.

17 41. Western Sky and CashCall misrepresented that the loans were only subject to
18 CRST law, when in fact, the loans they made to Arizona consumers were subject to Arizona
19 law.

20 42. A.R.S. § 6-603 requires that a “person, whether located in this state or in another
21 state, shall not engage in the business of a consumer lender without first being licensed.” A
22 “consumer lender” is defined as a “person that advertises to make or procure, solicits or holds
23 itself out to make or procure, or makes or procures consumer lender loans to consumers in this
24 state.” A.R.S. § 6-101(5). Pursuant to A.R.S. § 6-613(B), any consumer lender loan made by
25 an unlicensed person is void.

1 43. Western Sky is not, and has never been, a licensed consumer lender in Arizona.

2 44. CashCall was not a licensed consumer lender in Arizona, until it was issued
3 license number 0924944 in October 2013, after all WS Loans were originated.

4 45. All WS Loans to Arizona consumers, which loans totaled 10,661 in number, were
5 made while neither Western Sky nor CashCall maintained a consumer lender license in Arizona.

6 46. As such, all WS Loans to Arizona consumers were void and uncollectable.

7 47. Western Sky, facilitated by CashCall, originated loans under the unlawful lending
8 scheme to consumers nationwide, including thousands of loans to consumers in Arizona.

9 48. CashCall purchased all loans originated by Western Sky, including but not limited
10 to those made to Arizona consumers.

11 49. Western Sky originated the WS Loans beginning in March 2010 and ending in
12 September 2013, and CashCall serviced those loans, with principal amounts ranging from \$700
13 to \$10,000. The interest rate per annum (the "Annual Rate") on WS Loans ranged from 89% to
14 169%, greatly exceeding the 24% and 36% Annual Rate caps under Arizona law. *See* A.R.S. §
15 6-632. The Annual Rates on WS Loans also greatly exceeded the 18% Annual Rate cap under
16 Section 3-4-52 of the CRST Law and Order Code.

17 50. The mean Annual Rate charged on WS Loans was 135%.

18 51. The mean principal amount of WS Loans was approximately \$2,500.

19 52. Approximately 9,525 WS Loans were executed by Arizona consumers for less
20 than \$5,000 in principal.

21 53. Approximately 1,136 WS Loans were executed by Arizona consumers for \$5,000
22 or more in principal.

23 54. Approximately \$26,389,925 in principal was loaned to Arizona consumers in WS
24 Loans while CashCall and Western Sky were unlicensed in Arizona.

1 55. In advertisements, Loan Agreements, collection correspondence or other
2 communications to consumers, Defendants, Western Sky and Delbert routinely concealed,
3 suppressed, or omitted the material fact that CashCall was not licensed in Arizona to make the
4 WS Loans, and did so with intent that consumers rely on that concealment, suppression, or
5 omission.

6 56. In advertisements, Loan Agreements, collection correspondence or other
7 communications to consumers, Defendants, Western Sky and Delbert routinely concealed,
8 suppressed, or omitted the material fact that Western Sky was not licensed in Arizona to make
9 the WS Loans, and did so with intent that consumers rely on that concealment, suppression, or
10 omission.

11 57. In advertisements, Loan Agreements, collection correspondence or other
12 communications to consumers, Defendants, Western Sky and Delbert routinely concealed,
13 suppressed, or omitted the material fact that the WS Loans were uncollectable.

14 58. The total amount of principal, interest and fees that CashCall unlawfully collected
15 on the WS Loans was approximately \$41,580,126.

16 59. In addition to the WS loans being void and uncollectable due to the unlicensed
17 status of CashCall and Western Sky, the interest rates charged and/or received by CashCall and
18 Delbert exceeded the interest rate caps imposed by Arizona law.

19 60. Of the approximately \$41 million that CashCall unlawfully collected on the WS
20 Loans, nearly \$26 million of that amount was interest, thanks to the extraordinarily high interest
21 rates charged on the WS Loans.

22 61. Defendants, Western Sky and Delbert routinely concealed, suppressed, or omitted
23 the material fact that the WS Loans exceeded interest rate caps and violated statutory
24 restrictions, and did so with intent that consumers rely on that concealment, suppression, or
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1 omission, with CashCall continuing to do so even after becoming an Arizona licensed consumer
2 lender in October 2013 up through October 2016, when it ceased collecting on WS Loans.

3 62. If a consumer loan for a principal amount **less** than \$5,000 includes terms and
4 conditions that violate the interest rate caps set forth in A.R.S. § 6-632, a lender has no right to
5 collect or receive any principal, finance charges or other fees in connection with that consumer
6 loan, pursuant to A.R.S. § 6-613(A)(1).

7 63. If a consumer loan for a principal amount **greater** than \$5,000 includes terms and
8 conditions that violate the interest rate caps set forth in A.R.S. § 6-632, a lender has no right to
9 collect or receive any finance charges in connection with that consumer loan, pursuant to A.R.S.
10 § 6-613(A)(2).

11 64. The following chart shows various amounts of principal, interest and fees that
12 CashCall collected on loans that violated the interest rate caps set forth in A.R.S. § 6-632.

Amounts CashCall Collected from Consumers	
Category	Amount
Principal Collected: Loans less than \$5,000	\$10,393,591.37
Interest Collected: Loans less than \$5,000	\$19,997,183.04
Fees Collected: Loans less than \$5,000	\$383,202.48
Interest Collected: Loans more than \$5,000	\$5,999,475.52
Total	\$36,773,452.41

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21 65. The Loan Agreement, that WS Loan consumers typically signed electronically,
22 contained, among other terms, a purported obligation “to pay to the order of Western Sky or any
23 subsequent holder of this Note the sum of [amount of the loan proceeds], together with interest
24 calculated at [interest rate] % per annum and any outstanding charges or late fees, until the full
25 amount of this Note is paid.”

1 66. Defendants, Delbert and Western Sky misrepresented to Arizona consumers that
2 the WS Loans were collectable. Pursuant to A.R.S. § 6-613(B), the WS Loans were made
3 without a license and thus were void *ab initio*.

4 67. In addition and assuming *arguendo* the loans were valid, Defendants, Delbert and
5 Western Sky concealed from Arizona consumers that the interest rates charged, contracted for
6 and/or received on WS Loans exceeded the statutory limits found in A.R.S. § 6-632 and,
7 therefore, some amounts collected on the WS Loans were not valid or lawfully collectable
8 pursuant to A.R.S. § 6-613(A). Defendants, Delbert and Western Sky misled consumers by
9 implying certain loans were enforceable, when in reality, certain charges included in the loans
10 were unenforceable.

11 68. Defendants, Delbert and Western Sky routinely concealed, suppressed or omitted
12 material information about the collectability of the loans from consumers with the intent that
13 consumers would rely on that concealment, suppression or omission.

14 69. In certain cases, after consumers challenged the validity of certain loans, CashCall
15 sent dunning letters and other communications to consumers containing representations that
16 loans were enforceable in spite of state law, and that the loan terms applied the laws of the
17 CRST to the loan. A sample excerpt of one such communication appears below:

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Date: Tue, 2 Oct 2012 13:30:45 -0700
From: Do.Not.Reply@cashcall.com
To: [REDACTED]@hotmail.com
Subject: Per Your Request

Dear [REDACTED] ,

This letter is being sent in response to your inquiry of October 02, 2012 in regards to the interest rate charged in conjunction with your loan.

Your loan was funded by Western Sky Financial ("Western Sky") on May 07, 2012, in the amount of \$2,525.00, which is the loan amount of \$2,600.00 minus the \$75.00 Prepaid Finance Charge/Origination Fee. 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. These facts were explained to you when you applied and again when you signed your Promissory

70. Neither Western Sky nor CashCall is owned or operated by a tribe or tribal entity, nor is either organized under tribal law, and the representation that the laws of the CRST applied exclusively to the WS Loans was a sham.

71. Consumers did not enter tribal lands in being offered, applying for, receiving, or paying WS Loans. Rather, Arizona consumers applied for their WS Loans on a website that was hosted by CashCall's servers in California, and consumers received their WS Loans in Arizona, with funds provided by CashCall in California. Arizona consumers' payments on WS Loans were typically taken from Arizona bank accounts.

72. CashCall engaged in the full array of collection activity on WS Loans, including those made to consumers in Arizona, as follows:

- a. CashCall sent consumers billing statements that identified the amounts and dates of debits that CashCall would be extracting from the consumers' bank accounts through Automated Clearing House ("ACH") transactions;

1 b. CashCall extracted payments from consumers' bank accounts via
2 ACH transactions; and

3 c. When consumers became delinquent or refused to pay further on the
4 loans, CashCall demanded loan payments through repeated calls,
5 letters, and other communications, despite the unenforceability or
6 limited collectability of certain loans.

7 73. In cases where loans were not lawfully collectable under Arizona consumer
8 lending statutes, such as A.R.S. § 6-613(A), CashCall misrepresented to Arizona consumers that
9 certain amounts were due and lawfully collectable.

10 74. In calls and written correspondence to Arizona consumers, CashCall referred
11 consumers back to their Loan Agreements with Western Sky. Those agreements expressly or
12 impliedly misrepresented that the loans were not subject to any state's law, that the loans were
13 governed by CRST law, that CRST law allowed for the high-interest loans, and that the loans
14 were valid.

15 75. With its billing statements, ACH debits from consumer bank accounts, dunning
16 letters, and other communications, CashCall expressly and impliedly misrepresented that it was
17 legally entitled to demand and receive all principal, interest, fees, and other charges associated
18 with WS Loans.

19 76. At least until October 2016, approximately three years after becoming licensed as
20 a consumer lender in Arizona, CashCall continued to extract, or at least attempted to extract, by
21 ACH debit monthly installment payments from Arizona consumers' bank accounts, which were
22 typically held in Arizona banks, for repayment of the WS Loans.

23 77. Delbert, which was owned and controlled by Reddam, primarily serviced and
24 collected on WS Loans that were delinquent.

1 78. Delbert, like CashCall, engaged in the full array of collection activity on certain
2 WS Loans, including those made to consumers in Arizona as follows:

- 3 a. Delbert sent billing notices demanding full repayment of the loans;
- 4 b. Delbert extracted monthly installment payments from bank
5 accounts of Arizona consumers; and
- 6 c. Delbert demanded full payment through repeated letters and other
7 communications.

8 79. Delbert, like CashCall, misrepresented to consumers in Arizona that WS Loans
9 were collectable and that consumers were obligated to make repayment purportedly due under
10 the Loan Agreements.

11 80. In calls, letters, and other communications, Delbert, like CashCall, referred many
12 consumers back to their Loan Agreements with Western Sky. Those agreements expressly or
13 impliedly misrepresented that the loans were not subject to any state's law, that the loans were
14 governed by CRST law, that CRST law allowed for the high-interest loans, and that the loans
15 were valid.

16 81. Despite the fact that the Loan Agreements related to WS Loans are subject to
17 Arizona law, Defendants and Delbert expressly and impliedly misrepresented that only the law
18 of the CRST applied to WS Loans.

19 82. This contention was based on CashCall's propping up Western Sky as the facade
20 of its loan program in an attempt to evade state usury laws.

21 83. Western Sky's involvement with the WS Loans was *de minimis* and the
22 application of CRST law was illusory.

23 84. Western Sky had no existence or ability to make substantial consumer loans
24 without CashCall's involvement. Indeed, Defendants created and used Western Sky for the sole
25 and specific purpose of evading Arizona's licensing requirements and interest rate limitations.

1 85. CashCall performed marketing, loan origination and underwriting functions for the
2 WS Loans.

3 86. CashCall or its wholly owned subsidiary placed its money at risk and bore all risk
4 of non-payment from WS Loans.

5 87. CashCall or its wholly owned subsidiary funded all WS Loans and obtained an
6 assignment of all WS Loans.

7 88. CashCall or Delbert serviced all WS Loans.

8 89. Western Sky had no meaningful role in the actual economics of the WS Loans or
9 in their servicing.

10 90. Most importantly, even if Western Sky had served more than a *de minimis*
11 function, the CRST had no meaningful connection to Western Sky or any the companies at
12 issue, or to the WS Loans. Indeed, under CRST's laws, the interest rates charged on the WS
13 Loans were criminally usurious.

14 91. CashCall and Delbert made false statements to deceive consumers about the
15 collectability of WS Loans.

16 92. CashCall and Delbert routinely concealed, suppressed, or omitted material
17 information from consumers about the collectability of WS Loans, with the intent that
18 consumers rely on that concealment, suppression, or omission.

19 93. In all cases, CashCall and Delbert acted at Reddam's direction to make material
20 misrepresentations and concealments, suppressions, and omissions to consumers concerning the
21 collectability of the WS Loans.

22 94. Defendants' misrepresentations, concealments, suppressions, and omissions were
23 made in connection with the sale or advertisement of loans and loan servicing.
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1 ***III. J. Paul Reddam's Active Participation in the Unlawful Lending Scheme***

2 95. Reddam is the president, sole director, and sole owner of CashCall. At all relevant
3 times, he actively managed the activities of CashCall and devised and implemented all major
4 company policies.

5 96. Reddam ran the day-to-day operations of CashCall and all of the company's
6 department heads reported directly to him. He was responsible for devising and implementing
7 all major company policies. He also coordinated all marketing and advertising, and determined
8 where advertising should be directed.

9 97. Reddam was the director and sole owner of Delbert and, at all relevant times,
10 controlled its business and operations.

11 98. Reddam played a central role in developing and setting into motion the nationwide
12 scheme under which loans that his companies marketed, financed, purchased, serviced, and
13 collected purportedly did not have to comply with state licensing and usury laws because they
14 were made in the name of Western Sky.

15 99. Reddam negotiated, and signed, the agreements between his companies and
16 Western Sky that structured and governed the scheme.

17 100. Reddam participated in, or had the authority to control and knew or should have
18 known about, the actions of CashCall, WS Funding, and Delbert described above, including
19 their acts in Arizona.

1 payments from consumers in dunning notices and other communications, CashCall falsely
2 represented, expressly and impliedly, that the entire loan balance was owed to it, that it was
3 legally authorized to collect the associated payments, and that consumers were legally obligated
4 to pay the full amount or the amount demanded. To the contrary, the WS Loans were
5 uncollectable and CashCall had no right to receive any principal, finance charges or fees on the
6 WS Loans.

7 108. Defendants had practices of concealing, suppressing, or omitting the facts from
8 consumers that (i) neither CashCall nor Western Sky was licensed to offer or make consumer
9 loans in Arizona; (ii) the loans were void and uncollectable under Arizona law; and (iii) CRST
10 law prohibited the loans as usurious.

11 a. These facts were material to consumers in Arizona in deciding whether to
12 enter into a loan transaction with Western Sky or CashCall and/or make
13 payments on the WS Loans.

14 b. Defendants concealed, suppressed, or omitted these facts with intent that
15 consumers rely on such concealment, suppression or omission by executing
16 WS Loans and/or making payments on the WS Loans.

17 109. Even assuming *arguendo* the WS Loans were valid upon origination, Defendants
18 had practices of concealing, suppressing, or omitting the facts from consumers that the interest
19 rates charged, contracted for and/or received under the Loan Agreements exceeded the statutory
20 limits under Arizona law. As a result, the WS Loans, or some parts thereof, were not subject to
21 a repayment obligation pursuant to A.R.S. § 6-613(A).

22 a. These facts were material to consumers in Arizona in deciding whether to
23 pay those portions of the WS Loans that Defendants had no legal right to
24 collect or that the consumers had no obligation to pay.

1 b. Defendants concealed, suppressed, or omitted these facts with intent that
2 consumers rely on such concealment, suppression or omission by making
3 certain payments that, in actuality, consumers had no obligation to pay.

4 110. Arizona consumers were deceived into entering loan transactions with a lending
5 counterparty not authorized under Arizona law and making payments on invalid loans, which
6 included interest that exceeded Arizona statutory limits.

7 111. Defendants' conduct occurring after September 13, 2013 also constitutes "unfair
8 act[s] or practice[s]" under the CFA⁶ insofar as Defendants attempted to collect loan amounts
9 purported to be due under loans that were not collectable, whether in whole or in part, under
10 Arizona law.

11 112. The unfair acts and practices alleged in the preceding paragraphs caused or were
12 likely to cause substantial injury to consumers that was not reasonably avoidable by consumers
13 and was not outweighed by countervailing benefits to consumers or to competition.

14 113. While engaging in the acts and practices alleged in this Complaint, Defendants
15 were at all times acting willfully as defined by A.R.S. § 44-1531(A), because they knew or
16 should have known that their misrepresentations and omissions in connection with their
17 unlawful lending scheme were of the nature prohibited by A.R.S. § 44-1522.

18 114. The State is lawfully entitled to recover, among other damages, restitution,
19 disgorgement, civil penalties, attorney's fees and costs and injunctive relief, pursuant to A.R.S.
20 § 44-1521, *et seq.*

21 115. For the purpose of this Complaint, the State's restitution claim does not include
22 principal amounts Defendants disbursed to consumers in loans, since, notwithstanding
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25 ⁶ The addition of "unfair" to A.R.S. § 44-1522(A) became effective on September 13, 2013, and
was not retroactive.

1 CashCall's misrepresentations, consumers received those principal amounts. The State still
2 seeks all other appropriate remedies with respect to the principal amounts.

3 **RELIEF REQUESTED**

4 Wherefore, the State prays for relief and requests that the Court enter judgment in favor
5 of the State and against Defendants as follows:

- 6 116. Pursuant to A.R.S. § 44-1528(A)(2), order that Defendants restore to
7 all persons in interest any monies or property, real or personal, which
8 may have been acquired by means of any practice in that article
9 declared to be unlawful;
- 10 117. Pursuant to A.R.S. § 44-1528(A)(3), order that that any profits, gain,
11 gross receipts or other benefit obtained by means of any practice in
12 that article declared to be unlawful be disgorged;
- 13 118. Pursuant to A.R.S. § 44-1531, order Defendants to pay to the State of
14 Arizona a civil penalty of up to ten thousand dollars (\$10,000.00) for
15 each willful violation of the CFA;
- 16 119. Pursuant to A.R.S. § 44-1534, order Defendants to pay the State's
17 attorneys' fees and costs incurred in the investigation and prosecution
18 of the Defendants' activities alleged in this Complaint;
- 19 120. Pursuant to A.R.S. § 44-1528(A)(1) and (4), issue injunctive relief
20 sufficient to prevent additional violations of the CFA and to provide
21 any other appropriate remedy set forth in section 44-1528;
- 22 121. Designate as a Tier 3 case under Rule 26.2 of the Arizona Rules of
23 Civil Procedure, subject to the State seeking discovery beyond those
24 limits, as contemplated by Rule 26.2(g); and
- 25 122. For such further relief as the Court may deem just and proper.

1 DATED this 4th day of March, 2019.

2 Mark Brnovich
3 Attorney General

4 /s/ Shane Foster
5 Shane Foster
6 Assistant Attorney General
7 Attorneys for Plaintiff
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