

IN THE MATTER OF:

GREENPOINT CAPITAL;

TOM E. SIMS;

CRIS WALTERS;

PAUL M. CHANDLER;

RODNEY E. BOW; and

ALLAN PRINCE

Respondents.

BEFORE THE MARYLAND

COMMISSIONER OF

FINANCIAL REGULATION

Case No.: CFR-FY2012-174

FINAL ORDER TO CEASE AND DESIST

WHEREAS, the Office of the Commissioner of Financial Regulation, a unit in the Department of Labor, Licensing and Regulation, a principal department of the State of Maryland (the “Commissioner” or “OCFR”) undertook an investigation into the business activities of GreenPoint Capital (“GPC”), Tom E. Sims (“Sims”), Paul M. Chandler (“Chandler”), Cris Walters (“Walters”), Rodney E. Bow (“Bow”) and Allan Prince (“Prince”), (GPC, Sims, Chandler, Walters, Bow and Prince are collectively, the “Respondents”); and

WHEREAS, as a result of that investigation, the Commissioner finds grounds to allege that Respondents violated various provisions of the Annotated Code of Maryland (the “Code”), including Commercial Law Article (“CL”), Title 12, Subtitle 3 and Financial Institutions Article (“FI”), Title 11, Subtitle 2, (collectively the “Maryland Consumer Loan Law” or “MCLL”), and the Commissioner finds that action under FI 2-115 is appropriate; and

WHEREAS, the Deputy Commissioner issued a Summary Order to Cease and Desist (the “Summary Order”) against Respondents on January 9, 2013, after determining that

Respondents were in violation of the aforementioned provisions of Maryland law, and that it was in the public interest that Respondents cease and desist from offering or making any loans to Maryland consumers, or from engaging in any further lending activities in the State of Maryland; and

WHEREAS, the Summary Order notified Respondents of, among other things, the following: that Respondents were entitled to a hearing before the Commissioner to determine whether the Summary Order should be vacated, modified, or entered as a final order of the Commissioner; that the Summary Order would be entered as a final order if Respondents did not request a hearing within 15 days of the receipt of the Summary Order; and that as a result of a hearing, or of Respondents' failure to request a hearing, the Commissioner may, in the Commissioner's discretion and in addition to taking any other action authorized by law, enter an order making the Summary Order final, issue penalty orders against Respondents, issue orders requiring Respondents to pay restitution and other money to consumers, as well as take other actions related to Respondents' business activities; and

WHEREAS, the Summary Order was properly served on Respondents via First Class U.S. Mail and Certified U.S. Mail; and

WHEREAS, Respondents failed to request a hearing on the Summary Order within the fifteen (15) day period set forth in FI §§ 2-115(a) and 11-215(b), and have not filed a request for a hearing as of the date of this Final Order to Cease and Desist (this "Final Order"); and

WHEREAS, the OCFR began an investigation into the Respondents' business activities as a result of a consumer complaint and the Commissioner has based his decision in this Final Order that Respondents engaged in unlicensed and predatory business practices in violation of

various provisions of Maryland law, including but not limited to, violation of the MCLL, on the following determinations:

1. Pursuant to FI §11-204, “[u]nless a person is licensed by the Commissioner, the person may not: (1) [m]ake a loan; or (2) [i]n any way use any advantage provided by the Maryland Consumer Loan Law.”

2. Pursuant to CL §12-302, a “person may not engage in the business of making loans under this subtitle unless the person is licensed under or is exempt from the licensing requirements of Title 11, Subtitle 2 of the Financial Institutions Article, Annotated Code of Maryland, known as the Maryland Consumer Loan Law – Licensing Provisions.”

3. Pursuant to CL §12-301(c), a “lender” means a person who makes a loan under [Title 12, Subtitle 3 of the Commercial Law Article].”

4. Pursuant to CL §12-301(e), a “loan” “means any loan or advance of money or credit made under [Title 12, Subtitle 3 of the Commercial Law Article].”

5. CL §12-304(a) provides that, “[a] lender may not directly or indirectly print, publish, distribute, or broadcast any false, misleading, or deceptive statement regarding rates, terms, or conditions of a loan.”

6. Various sections of the MCLL restrict the type and amounts of fees that lenders are permitted to charge in conjunction with consumer loans, including but not limited to the following: CL §§ 12-307. 12-307.1, and 12, 313(a)(1). Pursuant to CL § 12-307 (“Collection of certain fees”), the fees which are generally authorized include: fees paid to a public official or government agency in connection with the recording of a mortgage or deed of trust, or the evidence of the satisfaction of a mortgage, encumbrance or lien on any property securing the loan; certain insurance premiums under certain circumstances; title insurance premiums,

reasonable attorney's fees in connection with insuring title; and a fee not exceeding \$15.00 for a dishonored check on the second presentment. Pursuant to CL §12-313(a)(1), a lender may not "[d]irectly or indirectly contract for, charge, or receive any interest, discount, fee, fine, commission, charge, brokerage, or other consideration in excess of that permitted by this subtitle."

Additionally, CL § 12-307.1 authorizes attorney's fees and court costs in limited circumstances, and states that a lender may charge and collect (for loans with an original principal balance of more than \$2,000), or recover (for loans with an original principal balance of \$2,000 or less), "court costs and attorney's fees not exceeding 15 percent of the amount due and payable under the terms of the loan," but only if a borrower defaults under the terms of the loan and the lender refers the borrower's account to any attorney, who is not a salaried employee of the lender, and if the note, contract, or other evidence of the loan permits." Further CL § 12-313(b) sets forth the sanctions for lenders for directly or indirectly contracting for, charging, or receiving charges in excess of those permitted under the MCLL.

7. CL §12-308 sets forth various duties that lenders have toward borrowers, including but not limited to, the duty to provide a statement containing specific language and provisions at the time the loan is made (CL §12-308(a)), the duty to provide receipts for payments (CL §12-308(b)), the obligation to permit prepayment of the loan, in full or in part without penalty (CL §12-308(c)), the duty to provide specific documents after full repayment of the loan (CL §12-308(d)), and the duty to provide a written statement of the account upon request from the borrower (CL §12-308(e)).

8. Pursuant to CL § 12-315, the provisions of Title 12, Subtitle 3 "shall be interpreted and construed to effectuate its general remedial purpose."

9. The Commissioner's investigatory powers under the MCLL are found in FI §11-214 which generally identifies persons subject to investigation (§11-214(a), access and examination under oath (§11-214(b)).

10. GPC is a business entity that offered to provide consumer loans via the internet through its web site at www.greenpointcapital.org. Sims, Walters, Chandler, Rodney, Bow and Prince are the owners, directors, members, managers, partners, officers, principals, and/or agents of GPC. The main business address for Respondents is listed on their consumer loan contracts as 535 Chanticleer Trail, Lansing, Michigan 48917.

11. On or about February 13, 2012, the OCFR received a complaint related to a \$5,000.00 consumer loan agreement that Respondents had entered into with a Maryland resident, [REDACTED] ("Consumer A"). Consumer A applied for this loan from the Respondents on or about January 23, 2012 by completing and submitting an on-line loan application. The loan application originated in Maryland as Consumer A was in Maryland and a Maryland resident at the time of application.

12. As part of the application process, Consumer A spoke with Respondents who told her that her credit was "not the best," and that she would have to send them \$800.00 in advance in order to secure her loan (the "security payment"). She was directed to wire \$800.00, plus a \$66.00 transaction fee, via Western Union to Prince in New York, New York. The parties agreed that Consumer A would wire the Respondents her security payment after she received her income tax refund.

13. The written agreement between Respondents and Consumer A, titled "Consumer Loan Agreement" was full executed on January 25, 2012.

14. On February 8, 2012, Consumer A wired \$866.00 to the Respondents via Western Union as directed. Consumer A spoke to Respondents that same day; they stated that they had received her Western Union payment, and that they would electronically deposit \$5,000.00 into her bank account "within 2 hours." The Respondents never deposited any money into Consumer A's bank account. When Consumer A called Respondents back, they told her that the "lender" required she send Respondents another \$800.00 security payment before funding her loan. Consumer A stated that she did not have any more money to send; that she was not required to pay any additional money under her written agreement; and requested a refund of the \$866.00 that she had already sent. Respondents told Consumer A they would issue her a refund after 30 business days. Respondents never sent Consumer A a refund, and her subsequent attempts to contact Respondents were unsuccessful.

15. Respondents' transactions with Consumer A constituted a "loan" under CL § 12-301(e), and thus subject to the MCLL and subject to the Commissioner's investigation and enforcement authority.

16. Respondents' written agreement to make a \$5,000.00 loan in exchange for Consumer A wiring them \$866.00 as security for the loan, and whereby Respondents never provided the \$5,000.00 loan to Consumer A, constitutes willful and knowledgeable violations of the MCLL, as well as fraud, breach of contract and theft.

17. Respondents are not licensed in the State of Maryland to make consumer loans, nor are they exempt from licensing under the MCLL. As such, Respondents' unlicensed consumer lending activities in Maryland violate the licensing provisions of the MCLL cited above, including FI § 11-204 and CL § 12-302.

18. Respondents' internet advertising promised loans to consumers with rates, terms, or conditions that were intentionally false and misleading. The terms and conditions upon which Respondents contracted to make the \$5,000.00 loan to Consumer A were not honored when they demanded the additional \$800.00 security payment, and did not provide the promised loan. Their advertising was false and as such, a violation of CL § 12-304(a).

19. The \$866.00 security payment that Respondents collected from Consumer A as a condition of funding her loan was a fee not permitted under the MCLL, and thus, Respondents violated CL § 12-307 and CL § 12-313(a).

20. Respondent's written agreements with Consumer A violate various other provisions of the MCLL, including, but not necessarily limited to: omission of the statements and disclosures required under CL §12-308(a); Respondents' failure to provide Consumer A with receipts for payments as required under CL §12-308(b).

NOW THEREFORE, having determined that Respondent waived its right to a hearing in this matter by failing to request a hearing within the time period specified in the Summary Order, and pursuant to FI §2-115 it is by the Commissioner hereby:

ORDERED that the Summary Order to Cease and Desist issued by the Deputy Commissioner on January 9, 2013, is entered as a Final Order of the Commissioner, and Respondent shall permanently **CEASE** and **DESIST** from making unlicensed consumer, installment, or any other loans to Maryland consumers; and

ORDERED that, pursuant to FI §2-115 upon careful consideration of: 1) the seriousness of the Respondents' violations; 2) the lack of good faith of Respondents, 3) the nature of Respondents' violations; and (iv) the deleterious effect of Respondents' violations on the public

and on the consumer lending businesses, Respondents shall pay to the Commissioner a total civil money penalty in the amount of **\$4,000.00**, which consists of the following:

<i>Prohibited Activity and Violation</i>	Penalty per Violation	x Number of Violations	= Penalty
<i>Unlicensed Lending in Violation of MCLL</i>	\$1,000	1 Loan with 1 Md. Consumer	\$1,000
<i>False or Deceptive Advertising (CL §12-304)</i>	\$1,000	1 Loan with 1 Md. Consumer	\$1,000
<i>Charging Prohibited Fees (CL §12-313)</i>	\$1,000	1 Loan with 1 Md. Consumer	\$1,000
<i>Failure to Comply with Duty of Lender (CL §12-308)</i>	\$1,000	1 Loan with 1 Md. Consumer	\$1,000
		Total	\$4,000

And it is further,

ORDERED that Respondents shall pay to the Commissioner, by cashier's or certified check made payable to the "Commissioner of Financial Regulation," the amount of **\$4,000.00** within fifteen (15) days from the date of this Final Order; and it is further

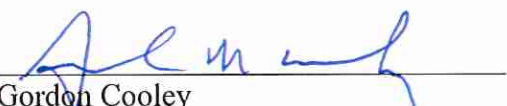
ORDERED that the consumer loan agreement entered into by the Respondents with Consumer A is illegal and unenforceable; and

ORDERED that, as Respondents' activities constituted willful noncompliance with the MCSBA, pursuant to CL § 14-1912(a) Respondents shall pay a monetary award in an amount equal to three times the amount collected from the consumer; and thus Respondents shall pay monetary award to Consumer A in the amount of \$2,598.00;

ORDERED that Respondents shall pay the required monetary award to Consumer A within 30 days of the date of the Final Order. Respondents shall make payment by mailing to each consumer a check in the amount specified above via U.S. First Class Mail at the most recent address of that consumer known to the Respondents. If the mailing of a payment is returned as undeliverable by the U.S. Postal Service, Respondents shall promptly notify the Commissioner in writing for further instruction as to the means of the making of said payment. Upon the making of the required payments, the Respondents shall furnish evidence of having made the payments to the Commissioner within sixty (60) days of this Final Order being signed, which evidence shall consist of a copy of the front and back of the cancelled check for each payment; and it is further

ORDERED that Respondents shall send all correspondence, notices, civil penalties and other required submissions to the Commissioner at the following address: Commissioner of Financial Regulation, 500 North Calvert Street, Suite 402, Baltimore, Maryland 21202, Attn: Proceedings Administrator.

1/7/2015
Date


Gordon Cooley
Acting Commissioner of Financial Regulation