



Healthy Living, Seniors and Consumer Affairs
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June 13, 2013

Jennifer Dubois, CMA
Assistant Associate Secretary
The Public Utilities Board
400-330 Portage Avenue
Winnipeg, Manitoba
R3C 0C4

Dear Ms. Dubois,

Please find below responses to your email of June 6, 2013.

Q1.

It is the Board's understanding that the Consumer Protection Office has established a Financial Literacy Fund that is funded by a levy of \$500 per year imposed on each of the licensed Payday Lenders in Manitoba.

- a. Can you provide the Board with any information about the Financial Literacy Fund, ie any projects that have been undertaken or are in the planning stages? What is the mandate of the Fund?

In addition to introducing new rules for payday lending in October 2010, the Province of Manitoba committed to establishing a fund to improve the financial literacy of borrowers.

The Manitoba Payday Borrowers' Financial Literacy Fund was established on February 18th, 2011. Please reference the following sections of *The Consumer Protection Act* outline the mandate and requirements of the fund.

Fund established

161.6(1) The Manitoba Payday Borrowers' Financial Literacy Fund is hereby established for the purpose of funding, or supplementing the funding of, programs designed to improve the financial literacy of borrowers and potential borrowers of money under payday loans.

Deposit in Consolidated Fund

161.6(2) Money in the fund is to be deposited in a separate, interest-bearing account in the Consolidated Fund in trust for the fund.

Payments into the fund

161.6(3) Despite *The Financial Administration Act*, the following are to be paid or credited to the fund:

- (a) the levies paid under section 161.7 (financial literacy support levy);
- (b) amounts authorized to be so paid and applied by an Act of the Legislature;
- (c) interest and other income earned on the amounts paid or credited to the fund.

Management of fund

161.6(4) The minister is responsible for managing the fund, and may make or authorize payments from the fund

- (a) for the purpose of the fund; and
- (b) to pay administrative expenses of operating the fund.

Annual report

161.6(5) For each fiscal year, the annual report of the department over which the minister presides must include a report of the accounts and transactions of the fund.

Financial literacy support levy

161.7 Subject to the regulations, a licensed payday lender must pay to the government each year, at the time or times prescribed by regulation, a financial literacy support levy. The amount of the levy is to be determined in accordance with the regulations.

The annual levy a licensed payday lender must pay to the government each year is found in the *Manitoba Payday Borrowers' Financial Literacy Fund Regulation*:

Financial literacy support levy

2 For the purpose of section 161.7 of the Act, a licensed payday lender must pay, at the time or times specified in this regulation, a financial literacy support levy in the amount of \$500 for each of its licensed locations

In Fiscal 2011-2012:

- The Province of Manitoba paid \$10,000 from the Payday Borrowers' Financial Literacy Fund to help with the expenses of Creating Community Options for Financial Services. The two-day conference was held on June 13 and 14, 2012, on affordable and appropriate community-based lending alternatives.
- The Province paid \$1,500 from the fund to SustainAbility Support Services for an environmental scan on financial literacy programming and curriculum available to Manitobans.

In Fiscal 2012-2013:

- The Consumer Protection Office paid \$4,452 from the Fund to sponsor a page on Manitoba's payday lending rules in the 2013 Money Matters calendar that was produced by a provincial financial literacy program. The forum was created to help implement the recommendations of the National Task Force on Financial Literacy.

In Fiscal 2013-2014:

- The Province of Manitoba paid \$10,000 from the Fund to The Legal Help Centre, a registered charity that offers legal information and social services guidance to low-income Manitobans. The funding will assist The Legal Help Centre to deliver consumer protection focused information sessions on signing contracts and financial management.

Q2.

Can you confirm that the licensing fee in Manitoba is \$5,500 per year for each location operated by a Payday Lender? Based on the submission for the Payday Loan hearing, this seems to be exceptionally high, could you provide the rationale for establishing this fee?

As set out in section 7 of the *Payday Loans Regulation*, the licensing fee in Manitoba is \$5,500 per year.

Fee for payday lender licence

7 The fee payable for a payday lender licence or a renewal of a licence for one year or part of a year is \$5,500.

The licensing fee was set in order to cover the cost of administering the payday lending program. It includes the cost of two Consumer Services Officers whose mandate it is to conduct inspections as part of their role in enforcing and administering the payday loan legislation. Also, the Consumer Protection Office paid the costs of the first Public Utilities Board hearings held on payday loans.

Q3.

Can you provide any information regarding the monitoring and enforcement practices of the Consumer Protection Office with regards to Payday Lenders, ie "mystery shoppers", inspections of stores, etc.

Under Part XVIII of The Consumer Protection Act, the Consumer Protection Office may carry out any inspection, examination, audit or test reasonably required to

- (a) determine compliance with this Part, the regulations made under it or the terms and conditions of a licence;
- (b) verify the accuracy or completeness of a record, or of other information provided to the director or inspector; or
- (c) perform any other duty or function that the director or inspector considers necessary or advisable in the administration or enforcement of this Part.

The Consumer Protection Office conducts on-site and off-site inspections and audits of licensed payday lenders. The Consumer Protection Office, under its right to inspect any other premises or place where an inspector has reasonable grounds to believe that records or property relevant to the administration or enforcement of this Part are kept, has also inspected businesses which are not licensed payday lenders.

Q4.

Can you provide the Board with any detailed information with regards to complaints, compliance orders or licensing issues, if publicly available?

The Consumer Protection Office has issued three compliance orders since the payday lending legislation came into force on October 18, 2010. The Compliance Orders were issued to Cash Store Inc., Instaloes Inc., and Loansalberta Inc. The Orders issued to Cash Store Inc. and Instaloes Inc. ordered the companies to immediately refrain from assisting Loansalberta Inc. to offer, arrange or provide payday loans in Manitoba, in any manner.

Loansalberta was ordered to immediately reimburse each borrower to which it provided or arranged a payday loan in Manitoba during the period October 18, 2010 to September 14, 2011 for the total of all amounts paid, and the value of any other consideration given, in respect of each borrower's "cost of credit" for the payday loan, including any amount paid or consideration given to a person other than Loansalberta Inc. They also were ordered to provide written evidence to the Director as to the amount reimbursed and to whom the refund was provided. Loansalberta was also ordered to provide evidence demonstrating it had complied with the Order.

On May 18th, 2012, the Consumer Protection also placed terms and conditions on the licences of Cash Store Inc. and Instaloes Inc. (there are pages of conditions, so I chose to leave it like this).


Q5.

It is the Board's understanding that The Cash Store/Instaloes met with the Consumer Protection Office prior to changing their business model from a Payday Lender to providing a line of credit product.

Interveners in the hearing have argued that this is in fact identical to a Payday Loan product and should fall under the regulations for Payday Loans. The Board has been unable to get specific information regarding the line of credit product from The Cash Store, would you have any information on record from them that would reassure the Board that this product is in fact outside of their jurisdiction?

The Consumer Protection Office has met with Cash Store Financial Inc. regarding their line of credit products. Some information was received through these discussions, to go along with details about the products gathered through the investigation of complaints files. However, the Consumer Protection Office cannot share this information with the Public Utilities Board.

Sincerely,



Gail Anderson
Director