

**Office of the Ethics and Integrity
Commissioner**

**Canadian Payday Loan
Association**

**Annual Report
2006-2007**

Commissioner's Message

It is my pleasure to present this first Annual Report of the Office of the Ethics and Integrity Commissioner of the Canadian Payday Loan Association (CPLA).

When this Office was established in 2006, the CPLA took a major step in its evolution from being a national voice from merely having a Code of Best Business Practices to ensuring independent oversight and enforcement of the Code.

My office has a comprehensive mandate to enforce the Code in more than 500 retail outlets of CPLA member companies. Adhering to the Code – and being responsive to my office – is a basic condition of membership in the CPLA.

The results of the first year of activity for this Office have been quite encouraging in that they demonstrate a very high level of compliance by our member companies with the Code of Best Business Practices. This is important for a number of reasons.

My office also receives calls from consumers that have been forwarded to us from various credit counsellors and the consumer complaints and comments divisions of various provincial governments. While my office has no authority to effect change vis-à-vis complaints regarding non-member companies, my staff have attempted on many occasions to act as a mediator between a customer and non-member company to resolve concerns.

I am heartened to see many provincial governments moving to implement new laws and regulations that will compel all payday loan companies to adhere to a common "Code" – or common set of business practices.

It has been my pleasure to serve as the Commissioner over the past year and I look forward to continuing to serve this Office and deliver on our mandate in the months and years ahead.

(signed)

Sid Peckford
Commissioner

Canadian Payday Loan Association

The Canadian Payday Loan Association (CPLA) was established in 2004. Today it represents 23 companies with 500 retail financial services outlets across Canada out of roughly 1,350 retail outlets in total.

The CPLA has a clear mandate: with new changes to the Criminal Code, the CPLA is working closely with provincial governments to achieve a harmonized regulatory framework that protects consumers and allows for a responsible industry players to operate viably and continue to provide a needed service to upwards of 2 million Canadians a year.

CPLA member companies provide a service to many of the nearly two million Canadians a year seeking short term loans, often referred to as “payday” loans, in small amounts to help cover unanticipated expenses.

Payday loans are unsecured small-sum short-term loans typically for a few hundred dollars. The average payday loan is around \$280 for a period of 10 days. Payday loans are typically sought out by customers who face unanticipated expenses.

The CPLA is not your typical industry association. Rather than fighting efforts to regulate the industry, the CPLA has been leading efforts to ensure the establishment of clear regulations and best practices in the industry.

As part of this effort to ensure good industry practices, the CPLA developed a Code of Best Business Practices which sets a high ethical standard, ensures consumer protection, and assures all consumers they will be treated fairly and with respect.

To foster and ensure compliance with this Code, the CPLA has established the Office of the Ethics and Integrity Commissioner. The Commissioner’s primary mandate is to monitor compliance with the Code of Best Business Practices.

Enforcing the Code of Best Business Practices and Investigating Complaints

Ensuring that members of the Canadian Payday Loan Association are in compliance with the CPLA's Code of Best Business Practices is at the heart of the investigative mandate of the Ethics and Integrity Commissioner.

The Code is not just an ethical guideline or a suggested set of policies as is common practice with a number of associations and self-regulating bodies. It represents mandatory standards of practice required for an operator to be entitled to join and maintain membership in the CPLA. The Ethics and Integrity Commissioner is tasked with its strict enforcement.

The Office of the Ethics and Integrity Commissioner was designed by Phillip Murray, former Commissioner of the RCMP, with this in mind. Mr. Murray also recommended a system of sanctions for violations of the code which are reflected in the mandate of current Commissioner Sydney Peckford.

Specifically, Commissioner Peckford conducts the following types of activities:

- Random mystery shops of member stores to ensure compliance with the Code;
- Targeted compliance audits as a follow-up to complaints;
- Investigations of potential Code violations that are brought to the Commissioner's attention.

Code Violations

The Office of the Ethics and Integrity Commissioner typically handles complaints of two types of Code violations:

- 1) An action undertaken by a single store or a representative/employee of that store, or;
- 2) A company policy that flouts the provisions of the Code.

In the eyes of this office, the second type of violation is significantly more serious as represents a flagrant disregard for the values of the CPLA and its membership. As such, proven violations which are corporate in nature are usually subject to stiffer sanctions and penalties.

Sanctions

The Commissioner has the authority to levy a range of penalties including written warnings, public disclosure of Code violations and fines of up to \$30,000. In the rare circumstance of systemic infractions, the Commissioner has the authority to expel members from the Association.

Consumers may file a complaint against a company if they feel that the Code has been violated.

Investigation Process

The Commissioner's Office conducts two tracks of investigations – reactive and proactive.

Reactive investigations are those which most often commence with a consumer complaint which has its origins in the belief that the consumer has been improperly dealt with by the lender and wants redress or compensation. In many instances, the consumer does not specifically refer to a Code violation, but rather, the Commissioner's Office deduces which violation is alleged based on the nature of the complaint.

Multiple complaints of a similar nature against a particular company often point to a systemic or corporate problem which will cause the Office to broaden the nature of its investigation.

If a consumer receives a payday loan from a company that is a member of the Canadian Payday Loan Association and believes that the company may not have complied with the Code of Best Business Practices, they may register a complaint with the Commissioner's Office and must provide evidence to support it.

The Commissioner's office will assist them in dealing with the member company to achieve redress, if it is warranted. In addition, if the evidence suggests a potential Code violation the Commissioner will initiate an investigation of the member company and, where necessary, impose an appropriate sanction which could include a monetary penalty.

A complainant is to be contacted by the member company within 14 days of filing a complaint. The member company will work with them to achieve a fair resolution. Once a resolution has been achieved, the member company will advise the Commissioner's office. The Commissioner's Office then contacts the complainant to verify that a fair resolution has been reached.

There is also a “self-policing” element of the Code of Best Business Practices that requires a member to notify the Office of the Commissioner if they are aware that another member is in breach of the Code. Through discussions with their customers, our members are often in the best position to gain information on the practices of other members.

The proactive track of investigations is initiated by the Office of the Ethics and Integrity Commissioner. A compliance verification program is done on a bi-annual basis to ensure continued compliance to the Code by all member companies. A private, third-party firm is engaged to conduct the program.

Ten percent of the total retail outlets are “shopped” in order to ascertain that members are adhering to the Code. Each member is shopped during each verification session, with the number of shops per member in proportion to their overall number of stores. In addition, the stores that are shopped are rotated on a random basis to ensure that there are no indications of an ongoing mystery shop.

There are two basic shops, one is testing primarily for rollovers, the other on the right to rescind. In addition, the collection practices and goods and insurance clauses are also tested. At the end of the program, the Commissioner is provided with a written report that details the number and type of Code infractions that were uncovered.

Stores that have been found to have committed Code violations are tested again in six months to ensure any outstanding issues have been corrected.

Handling Complaints Regarding Non-member Companies

The Commissioner’s Office also accepts complaints regarding the practices of non-member companies. Many of these complaints are the result of credit counselors or consumer offices within provincial governments encouraging customers to contact this office. While the office’s capacity is limited in its dealings with non-member companies, it works diligently to arrange a fair resolution to the complaint.

The Compliance Officer in the Commissioner’s office will contact the owner or operator of the non-member by telephone and review the circumstances of the complaint and attempt to develop a resolution. However, since these are not CPLA members, there is no mechanism for the office to impose sanctions or use any other leverage to bring these companies into compliance with the CPLA Code of Best Business Practices.

The Year in Review

The period of this annual report commences with the opening of the Office of the Ethics and Integrity Commissioner on May 2006 and starting June 1, 2006 and concludes at May 31, 2007.

The individual quarterly reports for the period of this annual report may be found on the Commissioner's web site at www.cplaethicscommissioner.ca/english/reports.html.

Overview

During the 12 months ended May 31, 2007, the Office received and investigated 164 complaints via the toll-free telephone complaint line or e-mail. Of these, there were 150 alleged violations of the Code of Best Business Practices. All these allegations were investigated by the Office. Out of the 150 alleged Code violations, a total of 87 were deemed by the Office to warrant further investigation.

Following investigations by the Office, there were 16 instances where a Notice of Determination was issued. These were matters where the Office deemed that a violation of the Code of Best Business Practices had in fact occurred. In six of those instances, the offending members responded with a satisfactory resolution to the matter. The remaining 10 determinations resulted in Sanctions imposed against member companies. Six of the Sanctions involved fines totaling \$7,900 against member companies.

2006-2007 Complaints to Office of Ethics and Integrity Commissioner									
Category	Collection Practices	Penalty Fees	Privacy	Rollovers	Multiple Loans	Loans to Certain Customers	Disclosure	Right to Rescind	TOTAL
Initial Complaint	84	30	20	7	3	2	1	3	150
Matter resolved	41	11	10	0	0	1	1	1	65
Further investigation	43	19	10	7	3	1		2	85
Matter resolved	39	17	10	2	3	1		0	72
Notice of Determination	4	4		5		1		2	16
Mitigated	1	3		2					6
Notice of Sanction	3	1		3		1		2	10
Type of Sanction									7
?Warning	3	1				1			5
?Fine				3				2	5

Summary

Approximately two million Canadians using payday loan facilities each year and a significant percentage of those transactions being conducted at CPLA member retail outlets accounting for approximately 500 of the 1,350 outlets across Canada (the remaining 850 are not subject to the Code of Best Business Practices of the CPLA or the authority of the Office of the Ethics and Integrity Commissioner).

The Office of the Ethics and Integrity Commissioner is encouraged by the high level of compliance with the CPLA Code of Best Business Practices by its members. This level of compliance is clearly demonstrated in a number of ways:

- 1) The overall number of complaints is relatively minor compared to the high volume of transactions conducted annually.
- 2) Any perception that the number of complaints is low because people are reluctant to complain, is dispelled by the high rate of compliance determined by the Office's "Mystery Shopper" program.
- 3) The number of complaints which are resolved amicably, often through the good auspices of the Office providing the role of an unofficial credit counselling service to help customers contractually engage in an acceptable payment plan.

The Office recognizes that throughout the year there was a small number of Code violations and these were treated quite seriously and dealt with accordingly with the full authority vested in the Commissioner. The Office intends to continue working with the CPLA and the member companies in question to ensure that these violations are not repeated and that other member companies are aware that similar violations will not be tolerated. Furthermore, should member companies re-offend, the Commissioner fully intends to deal with those matters with increased punitive measures.

Overall, the Commissioner is satisfied that the Office is acting in its fullest capacity to protect the integrity of the payday loan industry and ensure that customers of member companies are treated with fairness and respect in accordance with the Code of Best Business Practices which imposes a standard of conduct on CPLA member companies above and beyond that currently in place or proposed through any provincial legislation across Canada.

Investigations and Sanctions

During the 12 months ending May 31, 2007, the Office received and investigated 164 complaints via the toll free complaint line or email. Of these, there were 150 alleged violations of the Code of Best Business Practices. All these violations were investigated by the Office. Out of the 150 alleged Code violations, a total of 87 were deemed by the Office to warrant further investigation.

Following investigation by the Office, 16 of the 87 alleged Code violations resulted in a Notice of Determination being issued. These were matters where the Commissioner deemed that a Code violation had occurred.

Of the 16 Notices of Determination, six were resolved with diligent responses and corrections by the companies involved.

The remaining ten Notices of Determination resulted in various sanctions being imposed, including \$7900 in fines.

Payment of Fines

Fines were paid by all members involved – with the exception of one member who elected to leave the Association after the fine was assessed.

Code of Best Business Practices

The Code of Best Business Practices was developed through close consultation with government officials and consumer advocates. It sets a high ethical standard, ensures consumer protection, and ensures that all consumers will be treated fairly and with respect.

Consumers who intend to borrow money from a lender that is not a member in good standing of the CPLA, may be putting themselves at risk.

It is a condition of membership in the CPLA that each member follow the Code of Best Business Practices and that they make an annual pledge to do so. The Code is prominently displayed in all member stores, as is a door sticker indicating current membership status.

The CPLA's Code of Best Business Practices has clear rules for disclosure of fees and charges, maximum interest charges, fair collection practices and customer privacy and its "no rollover" policy is one of the strongest industry-imposed control measures in the world:

No Rollovers

A Member will not grant a customer an extension of an outstanding payday loan for a fee or advance a new payday loan to pay out their existing payday loan.

Multiple Loans

A Member shall not grant multiple payday loans to a customer that in total exceed what the Member initially approved the customer to borrow.

Default and Post-Maturity Interest Charges

A Member shall not charge a penalty fee and/or NSF fee that exceeds an amount set from time to time by the Association. Interest on each \$100 of a payday loan in default will not exceed \$0.90 per week for the first thirteen weeks and \$0.50 per week thereafter.

Credit Counselling

A Member must advise customers who have defaulted twice within one year of credit counselling services, and offer to forgo accrual of interest if the customer obtains credit counselling.

Collateral

A Member may not take title to chattels or assets of a borrower as security for repayment of payday loans.

Collection Practices

A Member will collect past due accounts in a fair, lawful and professional manner. Members are prohibited from taking an assignment of wages.

Loans to Certain Customers

A Member shall not grant payday loans to customers on the basis of social assistance payments received by that customer.

Amount Loaned

A Member shall not grant a payday loan that exceeds \$1500.

Term of Loan

A Member shall not grant a payday loan with a term that exceeds 31 days.

Record Keeping

A Member will keep and maintain records of financial transactions with their customers in accordance with standards established by the Association.

Right to Rescind

A customer shall have the right to rescind a payday loan at no cost on or before the close of the following business day.

Privacy Protection

Members are prohibited from using personal and confidential information for marketing or other purposes unrelated to the payday loan without the consent of the customer and will comply with all privacy laws.

Selling Other Goods or Insurance

A Member is prohibited from requiring a customer to obtain insurance as a condition of taking out a payday loan.

Advertising Standards

Members will follow the advertising standards as established by the Association and must also comply with all Provincial laws governing advertising.

Disclosure to Customer

A Member shall use plain language in their documentation, will disclose all the fees, costs and interest in a clear manner and will prominently indicate the high-cost nature of the payday loan on all loan documentation.

Education and Awareness Campaigns

Members shall prominently display the Code of Best Business Practices, the CPLA logo showing membership in the Association, credit counselling and CPLA educational brochures, and information on how customers can contact the Association with complaints or comments.

Member Non-Compliance

The Association will ensure Members comply with all elements of the Code. A Member will report to the Association any violation of this Code by any other Member.

Responding to Consumer Complaints

A Member must respond diligently to all complaints of their customers. If a customer is not satisfied with redress of their complaint they are invited to contact the Association action line at 1-800-413-0147 or by email at inquiry@cpla-

acps.ca. The Association will investigate and take any appropriate and necessary action to resolve customer complaints.

CPLA Member Companies

The following companies were members of the Canadian Payday Loan Association in good standing as of May 31, 2007:

- A1 Financing & Loans
- BD Enterprises
- Calgary's Cash Depot
- Cash 4 You
- Cash-in-Hand
- Cash Money
- Cornwall Cash Advantage
- Dash into Cash
- Dial 4 A Loan
- EZ Cash Advance
- Money Mart
- Mr. Payday Easy Loans
- Phone Cash Money Transfer
- Premiere Cash
- Quickloans
- Rapid Cash Advance
- Speedy Cash Payroll Advances
- Speedy Cash
- The Fast Cash Co.
- The Money Shack
- The Money Tree
- Western Cash Mart
- Xtra Cash

Affiliate Members:

- Western Union
- Brinks

Contact Information

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