



28 September 2020

SEC REVOKES FCASH GLOBAL LENDING'S LICENSE

The Securities and Exchange Commission (SEC) has canceled the certificate of authority (CA) of FCash Global Lending, Inc. to operate as a lending company for its unfair debt collection practices.

In an order dated August 25, the SEC Corporate Governance and Finance Department (CGFD) found FCash liable for multiple violations of SEC Memorandum Circular No. 18, Series of 2019 (SEC MC 18), which provides for the Prohibition on Unfair Debt Collection Practices of Financing Companies and Lending Companies.

The company, which operates online lending platforms Fast Cash and Fast Cash Loan, has made multiple attempts to collect loan payments by contacting or threatening persons other than those that the borrower has identified as guarantors or co-makers, according to the CGFD.

FCash has likewise sent messages threatening borrowers with charges for estafa, complaints before the National Bureau of Investigation, and service of writ of garnishment or writ of attachment.

Furthermore, FCash threatened to report borrowers to their respective employers and used abusive words when talking to them over the phone. The CGFD also noted how FCash took advantage of borrowers' lack of awareness of legal terminologies to compel them to pay their loans.

The Commission initially imposed a fine of P25,000 against FCash for its first violation of SEC MC 18 on September 25, 2019 and another fine amounting to P50,000 for its second violation on September 26, 2019.

On December 12, 2019, the CGFD formally charged FCash for its third violation of SEC MC 18.

FCash contended that it should not be charged with violating SEC MC 18 based on complaints involving loan transactions consummated prior to the effectivity of the circular.

"Respondent was bound to comply with its provisions at the time it became effective – with respect to new and existing loan accounts, insofar as the latter remain pending and demandable," the CGFD noted.

“In any case, even before the effectivity of SEC MC 18, there was neither right nor obligation on the respondent’s part to harass or employ abusive tactics in conducting its collection. It is basic that in the exercise of rights and performance of duties, one must act with justice, give everyone his due and observe honesty and good faith.”

The Commission issued SEC MC 18, which took effect on September 8, 2019, in response to several complaints for unreasonable, abusive, and unfair practices that lending and financing companies used in order to collect debt from borrowers.

FCash has had one of the most number of complaints for collection harassment since 2017, according to the CGFD.

“[The SEC] has consistently reminded the public to be cautious and mindful of the terms and conditions of a loan contract before consenting to the same, especially the interest rates, penalties, and other charges,” the CGFD said.

“On the other hand, the Commission is not blind to the pernicious effects of the abusive collection practices of some lending companies – loss of employment and livelihood, psychological trauma, domestic strife, and even loss of lives.”

The SEC has remained steadfast in stamping out abusive and predatory lending and financing companies, while enjoining the public to be cautious and mindful of their transactions with entities representing themselves as lending or financing companies.

Earlier this year, the SEC ordered four online lending applications, namely CashAB, CashOcean, KwikPeso and Little Cash, to cease operations for lack of authority to operate as a lending or financing company. The online lending operators were also found to have employed abusive collection practices.

“While the Commission fully supports the growth of lending and financing companies and recognizes the significant role they play in terms of financial inclusion and access to credit, it shall remain relentless and steadfast in its mandate to crack down abusive lending companies that prey on the desperate and vulnerable,” the CGFD noted.

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