

A day
in the life

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THE TRUTH WELL TOLD

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Lenders v. lawyers

Gallup financing company closes stores amid lawsuit, bankruptcy

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GALLUP — Cash Cow closed all of its stores Jan. 29 except for Cash Cow Auto Sales on New Mexico Highway 602 because of liquidation of the business caused by a class action lawsuit and bankruptcy.

In the class action complaint filed in U.S. District Court, attorneys from the Albuquerque firm Feferman & Warren state Tim Delgado violated the federal Truth in Lending Act and the New Mexico Unfair Practices Act. The

complaint states Cash Cow knew it was doing wrong because before entering into the loan transactions at issue in this lawsuit, Cash Cow had been sued for some of the same violations. It then cites a Jan. 10, 2012, case against Quick Cash Inc. in 11th Judicial District Court.

Quick Cash owner Delgado announced July 6 that he filed for Chapter 11 reorganization under the U.S. Bankruptcy Code as a result of the pending lawsuit. The lawsuit has been stayed as a result.

On Feb. 3 a sign on each store's door stated it would be closed until further notice. A bill pay drop slot was available, but leaving a payment at

a building that was to be closed for an unknown length of time could be risky and an invitation to burglars.

Delgado responded Feb. 9 to emailed questions in a written statement. He stated Cash Cow is working with its customers to ensure they get what they need, including their vehicle titles. He encouraged customers to continue paying on their loans.

"Several of our customers were told by New Mexico Legal Aid and consumer credit lawyers not to make payments, encouraging them to be irresponsible. ... Our customers have been making their payments," Delgado stated. "Some

of them drop the payments off at the store and slide them in the payment slot. Others have been going to our Auto Sales store on Highway 602."

Delgado added Cash Cow reports to the credit bureau to help its customers build and rebuild their credit.

As to why the other Cash Cow stores are closed and how long they will be closed, Delgado responded: "New Mexico Legal Aid and the other attorneys on the consumer claimants committee want to close our business permanently. We reached an agreement with our se-

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cured creditor SFI of Oklahoma to reopen. These consumer credit lawyers said they are not stopping until we are out of business. They don't care that they are putting people out of work."

Delgado's side

During a telephone interview Wednesday, Delgado said Cash Cow has reopened the furniture store to collect payments only, but not for sales. He said Cash Cow's secured creditor is in agreement with Cash Cow to reopen and operate as usual and the unsecured creditors are in agreement, but the "consumer claimants committee" comprising New Mexico Legal Aid and private attorney Richard Feferman of the Albuquerque firm Feferman & Warren are not in agreement to let Cash Cow operate its business.

"They want to shut us down," Delgado said. "They even said if I go to open another business they will go after me, my wife and I — and I even have emails stating that."

Delgado said Cash Cow has changed everything the consumer claimants committee asked them to change when negotiations started a year and a half ago.

"I think the biggest issue now is in the liquidation of the business that they want us to do," Delgado said. "The clients in the lawsuit are not going to receive anything in the plan they've proposed to liquidate us, only the secured creditor will receive anything. So knowing that they want to put us out of business ... So every move we've made recently, laying people off and all that, is them telling us what to do. It's not our desire."

about four months ago. He said two weeks ago, the remaining 29 people were laid off. The only people still with Cash Cow are Delgado and his general manager, he said.

"Remember, all these moves have not been our moves, they're requested by the secured creditor and New Mexico Legal Aid and Richard Feferman," Delgado said. "And Feferman is suing all the other 13 businesses in town as well."

Cash Cow was mentioned as one of the local businesses currently facing class action lawsuits over lending practices in a list distributed by the Navajo Nation Human Rights Commission at a seminar Jan. 28. Delgado specified in his written statement that the lawsuit filed against Cash Cow in June 2014 "was not over 'predatory lending.'" He explained a consumer credit lawyer claimed the \$25 fee Cash Cow charged was not in the right place on its installment agreement. The lawyer said the fee had to be included with the annual percentage rate. Delgado stated Cash Cow hasn't charged the \$25 processing fee since July 2015.

"We've also gone to zero percent financing," Delgado wrote. "We want to reshape how business is conducted in Gallup, to set a new trend."

Delgado said Wednesday since negotiations started a year and a half ago, Cash Cow reduced interest rates and stopped issuing cash loans, focusing instead on financing furniture. He said furniture financing was reduced to 0 percent at one time.

"Everything they've asked us to do, we've done," Delgado said. "We're perplexed. We don't understand why they want to put us out of business."

Delgado said he was served in June 2014 with "an alleged class action lawsuit" claiming

lending act. He said the lawsuit only has one plaintiff, and the attorneys are trying to get more to make it a class action.

Delgado said Cash Cow charged 36 percent APR. He said 36 percent is high, but that was the lowest rate of all local short-term loan providers. He said Cash Cow had the lowest rates in town. He said 36 percent would be really high if it were by the month, but it was the annual percentage rate.

"We're cheaper than the pawn shops," Delgado said. "They can charge 5 percent a month."

He pointed out some credit cards have 36 percent APR.

"I open a company offering better rates than anyone in town — why in the heck am I getting attacked?" Delgado said, adding he's bought houses for people to rent, Baskin Robbins and more as a productive contributor to the community's economy.

Delgado noted Feferman is also suing Gurley Motors and T&R Market, among other respectable local businesses. He said traders have been in Gallup for 100 years, "good ones, too." He said the consumer claimants committee claims Cash Cow and others exploit Native Americans, but the lawyers are the ones exploiting them — the traders are helping the Native Americans.

"They're taking companies that have been here generations and they manipulate the system to line their pocket," he said about the attorneys.

Delgado said he's talked to a Feferman client who came away from a lawsuit with \$500.

"And what does he get? Eighty grand, \$100 grand," Delgado said about Feferman.

"... The first comment he told us a year and a half ago when my wife and I first sat down with him (to negotiate), he said 'You give me a contract

Delgado said when Cash Cow filed Chapter 11, "we called his bluff." He said the lending contract Cash Cow was using was legal according to New Mexico law, but Feferman is trying to use a federal law to trump it.

Delgado wrote in his Feb. 9 statement that Cash Cow tax preparers are taking clients at Cash Cow Auto Sales, and many customers who have been filing their taxes with Cash Cow for years are filing this year "just as they always do."

Feferman says

Feferman said during a telephone interview Thursday he is not trying to put Cash Cow out of business. He said his firm filed a lawsuit to collect money Delgado owes his firm's clients, and they were trying to collect it. He noted putting Delgado out of business won't help matters.

"The problem is, he owes money to a lot of people and he can't pay it back," Feferman said. "He's like anybody else who can't pay his loans. He's a deadbeat."

Feferman mentioned Delgado owes one company in Oklahoma \$4 million.

Feferman said he had nothing to do with making Delgado close Cash Cow.

"The creditors are making him do that," he said. "They're really calling the shots because they have a lien on everything."

Feferman said he has not advised any of his clients to stop paying on their Cash Cow accounts, although he couldn't speak for New Mexico Legal Aid. A call to New Mexico Legal Aid seeking comment was not returned.

"I'm just practicing law here in my office in Albuquerque. I don't know what's going on out there in Gallup," Fefer-

man (clients)."

In response to Delgado's remark that it was an "alleged class action" lawsuit, and that Feferman has only one client, Feferman responded: "That's incorrect. That's how a class action works. I guess he doesn't understand how the law works."

Feferman explained that in a class action, one or a couple of people pick up the banner for an entire group who are in the same situation. He said the bankruptcy court has certified the class for his lawsuit.

"Our client Carol Tullie is representative of all the others," Feferman said. "So it's not an 'alleged' class action, it is a class action. The courts put their stamp of approval on it."

"On the other hand, we believe Mr. Delgado acted illegally and people don't owe what Cash Cow says is owed to them because of those violations of law."

According to the complaint, Cash Cow threatened Tullie with repossession of her truck if she did not refinance her late husband's loans. The resulting

loan agreement is reportedly rife with errors, misstating the nature of the loan, the interest rate, the schedule of payments and the security interest, among other things. The complaint states Cash Cow made the same or similar errors in other loans to Tullie, her late husband and other consumers.

Feferman said they were in the process of settling the lawsuit with Cash Cow when Delgado proposed a plan.

"We were close to having agreement and then he reneged," Feferman said.

Feferman said there are a lot of problems, and even though Delgado may have changed some things at Cash Cow, he's already violated the law in multiple ways.

"He's a slick salesman," Feferman said.

Feferman said the bankruptcy has made it very complicated and the ground is constantly shifting. He said Delgado could have settled the lawsuit a year ago but he decided to file bankruptcy instead.

"We don't have any control over that," Feferman said.

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