
IN THE MATTER OF:

GREAT PLAINS LENDING, LLC
(“Great Plains”)

JOHN R. SHOTTON
(“Shotton”)

CLEAR CREEK LENDING
(“Clear Creek”)

(collectively, “Respondents”)

ORDER DISMISSING
ADMINISTRATIVE PROCEEDINGS

AND

ORDER VACATING CIVIL PENALTY

WHEREAS, the Banking Commissioner (“Commissioner”) is charged with the administration of Part III of Chapter 668, Sections 36a-555 to 36a-573, inclusive, of the Connecticut General Statutes, “Small Loan Lending and Related Activities”, and the regulations adopted thereunder, Sections 36a-570-1 to 36a-570-17, inclusive, of the Regulations of Connecticut State Agencies;

WHEREAS, on October 24, 2014, the Commissioner issued a Temporary Order to Cease and Desist, Order to Make Restitution, Notice of Intent to Issue Order to Cease and Desist, Notice of Intent to Impose Civil Penalty and Notice of Right to Hearing (collectively, “Notice”) against Respondents;

WHEREAS, on November 10, 2014, Respondents filed a Motion to Dismiss the Notice;

WHEREAS, on January 6, 2015, the Commissioner denied the Motion to Dismiss and issued an Order to Cease and Desist and Order Imposing Civil Penalty against Respondents (“2015 Order”);

WHEREAS, the 2015 Order directed Shotton to cease and desist from participating in the violation of subdivisions (1) and (2) of Section 36a-555 and Section 36a-573(a) of the Connecticut General Statutes;

WHEREAS, on January 23, 2015, Respondents appealed the 2015 Order to the Superior Court for the Judicial District of New Britain (“Superior Court”);

WHEREAS, on June 14, 2017, the Department issued a Restated Order and Ruling on Motion to Dismiss (“2017 Order”);

WHEREAS, the 2017 Order again directed Shotton to cease and desist from participating in the violation of subdivisions (1) and (2) of Section 36a-555 and Section 36a-573(a) of the Connecticut General Statutes;

WHEREAS, on July 26, 2017, Respondents appealed the 2017 Order to the Superior Court;

WHEREAS, on November 19, 2018, the Superior Court issued its Memorandum of Decision (“Decision”), which was appealed to the Connecticut Appellate Court on January 16, 2019. On September 3, 2019, the Appellate Court transferred the matter to the Connecticut Supreme Court;

WHEREAS, on May 20, 2021, the Connecticut Supreme Court reversed in part and remanded in part the Decision holding that: (1) an entity claiming arm of the tribe status bears the burden of proving its entitlement to that status under the test articulated by the United States Court of Appeals for the Tenth Circuit in *Breakthrough Management Group, Inc. v. Chukchansi Gold Casino & Resort*, 629 F.3d 1173, 1187 (10th Cir. 2010), cert. dismissed, 564 U.S. 1061 (2011); (2) based on the administrative record Great Plains met its burden of demonstrating it is an arm of the tribe, (3) Shotton, as an officer of Great Plains and the tribe, is entitled to sovereign immunity against civil penalties but is “not immune from injunctive relief prospectively enjoining him from violating Connecticut usury and banking laws in connection with his duties for the tribe and the entities”; and (4) the matter be remanded to the Superior Court with direction to render judgment (a) sustaining the appeal, (b) directing the Commissioner to dismiss the administrative proceeding against Great Plains and vacate the imposition of civil penalties against Shotton and (c) remanding to the Commissioner for further proceedings to determine whether Clear Creek is an arm of the tribe and whether Shotton is entitled to tribal sovereign immunity for civil penalties for his actions taken as an official of Clear Creek;

WHEREAS, on July 15, 2021, the Superior Court issued an Order rendering judgment as directed by the Connecticut Supreme Court;

WHEREAS, the Commissioner acknowledges that Clear Creek represents that it ceased doing business in Connecticut in February 2015 and Connecticut residents who received small loans from Clear Creek were eligible for a cash payment and/or loan cancellation and deletion of negative credit reporting pursuant to the class action settlement in *Solomon et al. v. American Web Loan Inc.* (4:17-cv-00145) approved on July 9, 2021 in the United States District Court, Eastern District of Virginia, Newport News Division;

NOW THEREFORE, I HEREBY ORDER, that the administrative proceeding against Clear Creek be hereby **DISMISSED**, the administrative proceeding against Great Plains be hereby **DISMISSED**, and the civil penalty imposed upon Shotton by the 2015 Order, and restated by the 2017 Order, be hereby **VACATED**.

Dated at Hartford, Connecticut,
this 2nd day of September 2021.

/s/

Jorge L. Perez
Banking Commissioner

CERTIFICATION

On this 2nd day of September 2021, I caused the foregoing Order Dismissing Administrative Proceedings and Order Vacating Civil Penalty to be sent by electronic mail and certified mail, return receipt requested, to Linda L. Morkan, Esq., Robinson & Cole LLP, 280 Trumbull Street Hartford, Connecticut 06103, Certified Mail No. 7012 3050 0000 6999 5248; Jeffrey J. White, Robinson & Cole LLP, 280 Trumbull Street Hartford, Connecticut 06103, Certified Mail No. 7015 1730 0002 2411 3625; Saba Bazzazieh, Esq., Rosette LLP, 1100 H Street NW, Suite 820, Washington, DC 02005, Certified Mail No. 7016 2070 0001 0462 3184; and Robert A. Rosette, Rosette LLP, 565 W Chandler Boulevard #212, Chandler, Arizona 85225, Certified Mail No. 7016 2070 0001 0462 3191.

/s/

Emily B. Bochman
Paralegal