

November 18, 2003

Division of Supervision and Consumer Protection
Federal Deposit Insurance Corporation
500 W. Monroe, Suite 3300
Chicago IL 60661

To Whom it May Concern:

I am writing on behalf of Woodstock Institute to request that the Federal Deposit Insurance Corporation consider the payday lending operations in its current safety and soundness examinations of Republic Bank & Trust. Republic Bank & Trust is currently renting the use of its state bank charter to payday loan chains in Texas, Pennsylvania, Arkansas, and North Carolina. Woodstock Institute would like to strongly assert that the practice of payday lending is neither safe nor sound because it does not consider the borrower's ability to repay the loan and the predatory nature of this practice poses a reputational risk to the bank. Consequently, the FDIC should issue a cease-and-desist order for any payday lending activity conducted by Republic Bank & Trust through ACE Cash Express, Advance America, National Cash Advance, or any of its other payday lending affiliates.

The most egregious violation of safety and soundness regulations is the failure of payday lenders to consider the borrowers ability to repay. This practice has been deemed unacceptable for lenders providing home purchase and refinance loans, and it should be consider just as unacceptable for consumer loans. The business model often employed by payday lenders ignores a borrower's ability to repay the loan and instead depends on subsequent loans and refinancing to maximize profit and maintain the borrower in a perpetual state of debt. In many cases, borrowers can barely afford the interest payments, spending much of their paycheck on rollover fees to extend the term of the loan. This practice is detrimental to the financial health of the consumer, and puts Republic Bank & Trust in a precarious position of having adequate capital to assume this high level of volatility and risk. Given the disregard for a borrower's ability to repay the loan and the high level of risk associated with it, the FDIC should closely consider the payday lending operations of Republic Bank & Trust during its safety and soundness examination.

As you well know, payday lenders only perform minimal analysis of a borrower's ability to repay a short term unsecured loan. In many cases, borrowers are only required to provide proof of a regular income, or undergo a simple credit check to determine whether or not he or she has any outstanding payday loans or has a history of bouncing checks. These crude measures of creditworthiness do not account for other outstanding debts and obligations. In addition, these checks are performed by Republic's third party payday affiliates and not by the bank itself, calling into question the degree of responsibility Republic has retained for ensuring the safety and soundness of its payday loan portfolio.

There is also evidence that Republic Bank & Trust is renting its state charter to payday lenders to evade a variety of state consumer protection laws. These laws address the size and cost of loans, state interest rate caps, or other lending practices explicitly prohibited. The use of the state charter to allow payday lenders to evade the consumer protection laws in other states represents a gross misuse of a bank charter, in addition to representing an unsafe and unsound banking practice.

Republic Bank & Trust currently operates 27 banking centers throughout Kentucky as well as over 600 payday lending locations through three major affiliates. This limited assessment area and regional focus of the bank's lending operations make it highly unlikely that Republic is adequately overseeing the payday lending operations of its third party affiliates that operate out of over 600 locations and serve 70,000 customers nationwide. In fact there is reason to believe that these figures, which were provided in a recent Republic press release, are a glaring underestimate. Actual data collected by the North Carolina Banking Commission, as well as other national data sources, indicate that the number of customers served by Republic's payday lending affiliates may number as high as 400,000. The scope of the Republic's payday lending operation compared to the limited scope of its banking operations, along with its inaccurate estimate of the overall size of its customer base, indicates that the bank itself does not have the sufficient understanding or capacity to ensure the safety and soundness of its third party affiliates.

It has also come to our attention that the FDIC has taken the position that payday lending is the result of the market's failure to provide low-cost, short term, unsecured consumer credit. While payday lenders may in fact fill the demand for this type of credit, they do not do so in a manner that is befitting a state chartered financial institution. Simply because there is a lack of short term credit in a community does not justify a federally insured financial institution to fill this need with an abusive and predatory product.

Finally, it is the responsibility of the FDIC to protect consumers from abusive bank practices and to ensure the safety and soundness of state chartered institutions. Allowing the payday lending affiliates of Republic Bank & Trust to continue operating under Republic's state charter, despite evidence of limited capacity to supervise their activities and substantial risk to the reputation of the bank, we can only conclude that the FDIC has abandoned its core mission of protecting consumers. We certainly hope this is not the case.

Should the practice of renting bank charters be allowed to continue, FDIC regulated banks will become safe havens for payday lenders seeking a bank charter. The OCC has already order Goleta National Bank in California to cease its partnership with ACE Cash Express on the grounds that it had insufficient capacity to monitor the activities of one third party affiliate. We believe that the FDIC should certainly investigate the operations of a state chartered bank that has partnered with at least three payday lending affiliates.

Failure to recognize the safety and soundness issues inherent in the payday lending practice is damaging to financial institutions, the customers serve, and the communities that depend on them. Furthermore, failure to address these issues is also degrading to the integrity and value of the state bank charter.

We urge you consider the lending, reporting, and management process of Republic Bank & Trust's payday loan affiliates and take immediate steps to stop its payday loan activities on the grounds that they intentionally circumvent state consumer protection laws and do not represent safe and sound banking practices. We also request that you contact us regarding the status of the safety and soundness investigation and any remedial actions taken.

Sincerely,

Marva Williams
Senior Vice President

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