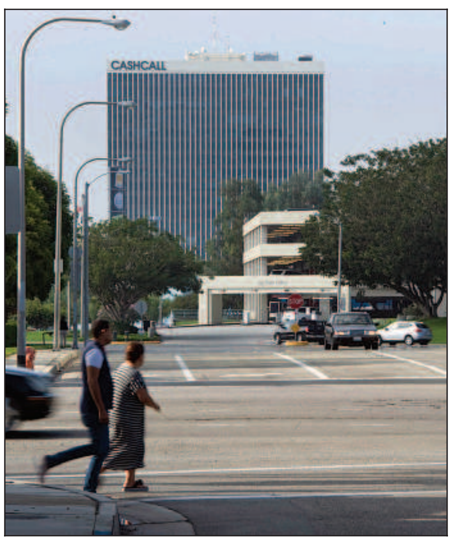
BUSINESS

A COSTLY LINE IN LENDING

LOOPHOLE IN FINANCIAL CODE ALLOWS LENDERS TO CHARGE TRIPLE-DIGIT INTEREST RATES ON SMALL-DOLLAR LOANS.



JOSHUA SUDOCK, STAFF PHOTOGRAPHER

CashCall headquarters in Orange. Lenders like CashCall can charge any interest rate for loans of $2,500 or over.

Retired and low on cash, Lynn Frampton borrowed $2,600 from online lender CashCall to make ends meet. The loan came with a hefty price tag: a total finance charge of more than $11,000 if she paid it over four years. Her monthly payments were almost $300. The loan carried an annual interest rate of 138.58 percent.

MARNI USHEROFF
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"I can't believe I agreed to that," says Frampton, now 67. "It was stupid on our part. The interest is outrageous."

The Santa Ana resident made her first two payments, then fell behind. Frampton, who eventually resumed payments, says she owes roughly $10,000. Delbert Services, a CashCall affiliate, has offered to settle her debt for $980, she says.

It might seem like a lot less, but she still can't afford it.

It's not illegal in California to charge triple-digit interest annually on consumer loans. The trick is to craft a loan of $2,500 or more.

Lenders who are licensed under the California Finance Lenders Law can choose any interest rate they want for consumer loans of $2,500 and over. Most loans under that amount are subject to an interest rate cap of roughly 30 percent.

This $2,500 cut-off played a prominent role in a false advertising complaint filed earlier this summer by the California Commissioner of Business Oversight, which asked that CashCall's finance lenders licenses be suspended for up to 12 months. The company has asked for a hearing on the matter.

The regulator claims the Orange-based lender falsely advertised loans of up to $2,600. When consumers called the company or went to its website, they were told CashCall did not make such loans.

The CBO complaint states that when consumers told CashCall they wanted a loan for less than $2,600, the company routinely told them that on the day of funding or shortly thereafter, borrowers could give back whatever amount they didn't want as a

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Votes point to Allergan meeting

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Valeant Pharmaceuticals and activist shareholder William Ackman have amassed enough support to force a special shareholder meeting at Allergan Inc., where they hope to replace most of the Botox maker's directors with ones more sympathetic to their hostile bid, Ackman's hedge fund said Friday.

The fund, Pershing Square Capital Management, said it had garnered 31 percent of Allergan shareholder votes in favor of calling the meeting, well above the 25 percent required. It said it delivered the supporting documents to Allergan's Irvine headquarters Friday afternoon, and that meeting requests from more shareholders would

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Billionaires fan flames

Burning Man has become playground for tech elite.

BY NICK BILTON
THE NEW YORK TIMES

FILE PHOTO: THE ASSOCIATED PRESS

Sam Ray visits the "Baby Head" art piece at Burning Man in Gerlach, Nev. in August 2013.

There are two disciplines in which Silicon Valley entrepreneurs excel above almost everyone else. The first is making exorbitant amounts of money. The second is pretending they don't care about that money.

To understand this, let's enter into evidence Exhibit A: the annual Burning Man festival in Black Rock City, Nev.

If you have never been to Burning Man, your perception is likely this: a white-hot desert filled with 50,000 stoned, half-naked hippies doing sun salutations while techno music thumps through the air.

A few years ago, this assumption would have been mostly correct. But now things are a little different. Over the last two years, Burning Man, which this year runs from Aug. 25 to Sept. 1, has been the annual getaway for a new crop of millionaire and billionaire technology moguls, many of whom are one-upping one another in a secret game of I-can-spend-more-money-than-you-can and, some say, ruining it for everyone else.

Some of the biggest names in technology have been making the pilgrimage to the desert for years, happily blending in unnoticed. These include Larry Page and Sergey Brin, the Google founders, and Jeff Bezos, chief executive of Amazon. But now a new set of younger rich techies are heading east, including Mark Zuckerberg of Facebook, employees from Twitter, Zynga and Uber, and a slew of khaki-wearing venture capitalists.

Before explaining just how

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MORE INSIDE

FUTURISTIC KIRAVAN

A Disney Imagineer is ready for the apocalypse. He has built a futuristic offroad armored vehicle named after his daughter Kira. **Page 4**

FED CHIEF CAUTIOUS

Fed chief Janet Yellen said the economy was improving but that the Fed was awaiting more evidence about the health of labor markets before deciding when to start raising interest rates. **Page 5**

MARKET RECAP

Dow Industrials	Close: 17,001.22	Change: -38.27
10-year Treasury:	Close: 2.40%	Change: -0.01
Nasdaq Index	Close: 4,538.55	Change: +6.45
Oil per barrel:	Close: $93.65	Change: -$0.31
S&P 500 Index	Close: 1,988.40	Change: -3.97
O.C. gas prices:	Gallon: $3.823	Change: -$0.005

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ALLERGAN

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arrive over the next few weeks.

The delivery of the documents "starts the clock on the calling of the special meeting," Pershing Square said in a written statement. "Under its own interpretation of its bylaws, Allergan is now required to call the meeting no later than December 20, 2014."

However, the timing of a meeting, and even the meeting itself, is far from certain. Outstanding court battles between the two sides – over Allergan's bylaws and over its contention that Valeant and Ackman violated insider trading laws – could alter the course of the takeover battle between now and the end of the year.

Allergan confirmed that it had received the meeting requests, saying it will review them with an independent inspector and "expects to report the results promptly following this review." The company said "many stockholders have explicitly conveyed their view" that calling for a meeting is "not an endorsement of Valeant's offer." The offer is "grossly inadequate," but the board of directors "fully supports the right of stockholders to vote on the value proposition offered by Valeant at the appropriate time," Allergan said.

The formal request for a meeting came one day after a federal court judge in Santa Ana declined to intervene in the fight over whether to convene it. Judge David O. Carter rejected a request by Allergan to expedite its insider-trading lawsuit against Valeant and Pershing Square. Allergan had hoped that a quick ruling against them would eliminate the need for the shareholder meeting.

That's because Allergan's bylaws do not allow its board to call a meeting if it has been requested by someone who has violated securities laws. But the judge said it was "not clear that Allergan's bylaws require Allergan's directors to wait for the court to resolve the claims before they can act." He kicked that question back to a court in Delaware.

Pershing Square and Valeant filed a request Friday in Delaware for an order that would compel Allergan to call the special meeting. Allergan called that filing "premature," since it has not yet examined the meeting requests.

Ackman, in a letter to an in-house Allergan lawyer, said that shareholders supporting the call for a meeting include "some of the most well-respected institutional investors in the world, many of whom have been investors in the company for many years."

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LOANS: Critics say borrowers in a 'sweatbox'

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prepayment. On these loans, CashCall charged up to 179 percent interest.

CashCall declined to comment.

LENDING OPTIONS

The industry of small-dollar lenders has insisted it provides a valuable service for borrowers, and that higher interest rates counter the risk of loaning money to consumers with lower credit scores.

Small-dollar loans are a topic "near and dear to my heart," says state Sen. Lou Correa, D-Santa Ana. A member and former chairman of the State Senate Committee on Banking and Financial Institutions, Correa said he believes these loans are a form of credit for people who don't have other options.

"My perspective is to do everything we can to assure that people can borrow money – that people have access to capital," Correa says. "When you begin to talk about caps on fees, what people should charge ... you may actually be limiting people's ability to borrow. There may not be loans if lenders aren't interested in lending money."

Correa said it can be difficult for lenders to cover their costs when faced with interest-rate caps for loans under $2,500.

RATE CAP HISTORY

The $2,500 line in the lending sand dates to 1985.

When the late Democratic state Sen. Rose Ann Vuich authored a bill to lower the ceiling on regulated loans to $2,500 – increasing the number of loans with unlimited rates – supporters said they thought it would open up competition and eventually push rates down. In fact, the limit had been lowered to $5,000 from $10,000 in 1983.

"Rates above $5,000 are now set competitively in the marketplace and are generally below the former statutory rate ceilings," Vuich wrote in a letter to then-Gov. George Deukmejian. The current bill "is expected to lead similarly to lower rates for loans in the $2,500 to $5,000 bracket."

The state Department of Corporations at the time argued in favor of the 1985 bill, stating "rate regulation provides very little consumer protection and may even work against consumers since lenders tend to lend money at the maximum allowable rate irrespective of the credit worthiness of the borrower."

THE SWEATBOX

Critics contend that on small-dollar loans, repayment is not a priority.

A 2008 class action lawsuit filed against CashCall in San Francisco federal court claims CashCall made loans with unconscionable loan terms including unconscionable usury rates. The suit partly involves California residents who borrowed from $2,500 to $2,600 from CashCall at an interest rate of 90 percent or higher from 2004 to 2011 for personal, family or household use.

In a counterclaim, CashCall denied the allegations, requested they be dismissed and asked for damages resulting from two of the plaintiff's alleged breach of contract when they defaulted on their loans. The parties are currently in settlement talks.

Paul Leonard, the California director of the Center for Responsible Lending, has been following the lawsuit against CashCall.

He notes the litigation has brought to light a high level of defaults on the lender's $2,600 loan products. According to a judge's recent order from the suit, "the default rate for the $2,600 loan product has been 35 percent to 45 percent" from 2004 to the present.

Leonard asks at what point do excessive levels of charge-offs (debts written off as a loss by the lender) suggest these loans are being given to consumers without properly analyzing their ability to repay them.

He compares the loan process to the so called "sweatbox" model.

Georgetown University law professor Adam Levitin used the term in congressional testimony on abusive credit card practices. Coined by another law professor, "the sweatbox model does not aim to have the principal repaid," Levitin wrote in his testimony on the credit card industry in 2009.

Levitin explains that in this model, a lender is counting on interest and fees to make back enough money should the consumer default and never repay the principal. Ultimately the principal gets discharged in bankruptcy, and the lender still makes a profit. By using high interest rates and high fees, the lender keeps the borrower in a proverbial sweatbox as long as possible.

"The business model is based on the idea that they're going to eat really high levels of losses and still make a profit," Leonard says. "Maybe it's profitable for the business, but for the borrowers it's horrific."

CashCall's website states borrowers must provide an active bank account statement and proof of income as part of its qualification process for unsecured personal loans.

AUTO TITLE LOANS

Auto title lenders are another group that seem to be capitalizing on California's $2,500 and higher lending loophole. These loans, which use the borrower's car title as collateral, are usually for less than 30 days and allow the lender to take ownership of the borrower's car if the loan is not repaid. The lender can then sell the car to recoup the loan amount.

These loans are based on the value of a borrower's car that is owned free and clear, rather than the ability of the borrower to repay the loan, according to a 2013 report by the Center for Responsible Lending. The report analyzed records from more than 500 auto title borrowers made public during a suit against a Delaware-based lender. The median loan size was $845.

The Department of Business Oversight's 2012 annual report shows that registered California lenders made less than 1,000 auto title loans under $2,500, and about 8,000 loans of $5,000 to $9,999 and 1,000 loans of $10,000 or more. But they made more than 54,000 for loans of $2,500 to $4,999.

According to the Center for Responsible Lending, 16 states explicitly allow auto title lending at triple-digit interest rates and four others, including California, allow it through a legislative loophole. Yes, that very same loophole.

PILOT PROGRAM

Seeing a need for more consumer loans in the $300 to $2,500 bracket, the Legislature created a pilot program for Increased Access to Responsible Small Dollar Loans earlier this year. The program targets loans subject to interest rate caps, which might be less attractive to lenders. (Payday loans, which are $300 or less, are an exception to the interest rate cap rule, hence the pilot program's range.)

The program requires approved licensed lenders to provide some financial education to consumers, and an assessment of the ability to repay in exchange for a slightly higher maximum interest rate of 36 percent. So far, four firms have qualified for the program.

Leonard says there are simple alternatives to small-dollar loans: Ask friends and family or consider different decisions about spending and the urgency of spending.

"Everybody who needs money doesn't necessarily need a loan to solve their problem," Leonard adds. Especially if they don't have the money to pay it off.

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BURNING

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ridiculous the spending habits of these baby billionaires have become, let's go over the rules of Burning Man: You bring your own place to sleep (often a tent), food to eat (often ramen noodles) and the strangest clothing possible for the week (often not much). There is no Internet or cell reception. While drugs are technically illegal, they are easier to find than candy on Halloween. And as for money, with the exception of coffee and ice, you cannot buy anything at the festival. Selling things to people is also a strict no-no. Instead, Burners (as they are called) simply give things away. What's yours is mine. And that often means everything from a meal to saliva.

FILE PHOTO: THE ASSOCIATED PRESS

A "Mobile Board Room" moves along the at the Burning Man festival in Gerlach, Nev., in August 2013.

In recent years, the competition for who in the tech world could outdo who evolved from a need for more luxurious sleeping quarters. People went from spending the night in tents to renting recreational vehicles to building actual structures.

"We used to have RVs and precooked meals," said a man who attends Burning Man with a group of Silicon Valley entrepreneurs. (He asked not to be named so as not to jeopardize those relationships.) "Now, we have the craziest chefs in the world and people who build yurts for us that have beds and air conditioning." He added with a sense of amazement, "Yes, air conditioning in the middle of the desert!"

His camp includes about 100 people from the Valley and Hollywood startups, as well as several venture capital firms. And while dues for most non-tech camps run about $300 a person, he said his camp's fees this year were $25,000 a person. A few people, mostly female models flown in from New York, get to go free, but when all is told, the weekend accommodations will collectively cost the party-goers more than $2 million.

And now, the rich are spending thousands of dollars to get their own luxury restroom trailers, just like those used on movie sets.

"Anyone who has been going to Burning Man for the last five years is now seeing things on a level of expense or flash that didn't exist before," said Brian Doherty, author of the book "This Is Burning Man." "It does have this feeling that, 'Oh, look, the rich people have moved into my neighborhood.' It's gentrifying."

For those with even more money to squander, there are camps that come with "sherpas," who are essentially paid help.

Tyler Hanson, who started going to Burning Man in 1995, decided a couple of years ago to try working as a paid sherpa at one of these luxury camps. He described the experience this way: Lavish RVs are driven in and connected together to create a private forted area, ensuring that no outsiders can get in. The rich are flown in on private planes, then picked up at the Burning Man airport, driven to their camp and served like kings and queens for a week. (Their meals are prepared by teams of chefs, which can include sushi, lobster boils and steak tartare.)

"Your food, your drugs, your costumes are all handled for you, so all you have to do is show up," Hanson said. "In the camp where I was working, there were about 30 sherpas for 12 attendees."

Hanson said he won't be going back to Burning Man anytime soon. "Burning Man is no longer a counterculture revolution. It's now become a mirror of society," Hanson said.

This year at the premiere of the HBO show "Silicon Valley," Elon Musk, an entrepreneur who was a founder of PayPal, complained that Mike Judge, the show's creator, didn't get the tech world because – wait for it – he had not attended Burning Man.

"I really feel like Mike Judge has never been to Burning Man, which is Silicon Valley," Musk said to a Re/Code reporter, while using a number of expletives to describe the festival. "If you haven't been, you just don't get it."