

Shop owner in remote Indigenous community fined \$167,500 for illegal credit scheme

Mintabie man sold second-hand cars through 'book-up' loans – then took almost \$1m from his customers' accounts



Lindsay Kobelt has been fined for breaching federal laws by taking control of his customers' finances. Photograph: Dave Hunt/AAP

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A general store owner who used an illegal credit scheme to exert control over the finances of remote Indigenous communities has been fined \$167,500.

Lindsay Kobelt was last year found to have breached federal laws by operating an informal “book-up” scheme from the Nobby’s general store in Mintabie, in South Australia’s remote Anangu Pitjantjatjara Yankunytjatjara (APY) lands.

The scheme allowed customers to buy goods – mostly second-hand cars – on the spot in exchange for handing over their debit cards and pin numbers.

Kobelt would then withdraw wages or welfare payments from customers’ accounts as they came in.

Between mid-2010 and November 2012, Kobelt took almost \$1m from the accounts of 85 book-up customers who had bought second-hand cars.

About 80% of his customers were members of the APY communities, who were vulnerable, had low financial literacy and did not understand credit laws.

Kobelt used the scheme to effectively control the finances of his customers and bind them to his store.

He allowed some of the money he withdrew from their bank accounts to be handed back to them, as a further loan, which they could then use on food, groceries, or other necessities.

Kobelt took measures to ensure they spent that money at his store.

The customers could only get the cash at his store and he charged a fee if they wanted to make purchase orders for goods elsewhere. He only gave them small amounts.

A complaint was eventually made through the Australian Securities and Investments Commission's Indigenous outreach service. The watchdog warned Kobelt about his behaviour but he continued the scheme, prompting federal court action.

Asic said the scheme had left customers "deprived of the means of obtaining the necessities of life", and caused them to be completely dependent on Kobelt.

The credit was expensive and most of the customers had no idea they were being charged extra for the service.

Last year the federal court found Kobelt to have breached consumer credit laws 92 times by selling cars on credit in 2011 and 2012 without a licence. He also breached the Asic Act 117 times because his system of credit was deemed "unconscionable".

On Thursday Justice Richard White fined Kobelt \$167,500. He accepted that Kobelt had believed the book-up scheme was a practical solution to the needs of the remote Indigenous communities in the APY lands.

Kobelt, who spent much of his life in remote communities, did not believe what he was doing was wrong, the court found.

"I accept that Mr Kobelt did, albeit erroneously, hold the belief that his conduct was acceptable," White said. "I accept that this is not a case of a trader knowing that the conduct was unlawful but choosing to engage in it regardless."

But White also found that Kobelt knew his customers were in a vulnerable position and had continued with the scheme even after warnings from Asic.

"Mr Kobelt then had the opportunity to modify his practices but did not do so," White said. "In my opinion, Mr Kobelt's knowledge of Asic's view of his conduct undermined the reasonableness of his belief that his conduct was acceptable."

Kobelt has appealed last year's decision against him. He will not have to pay the fine until the appeal is resolved.