

## Business

# San Jose payday-advance startup faces racial discrimination, retaliation lawsuit

PayActiv says lawsuit is without merit

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PUBLISHED: July 17, 2019 at 12:07 pm | UPDATED: July 18, 2019 at 4:01 am

A former manager at PayActiv, a San Jose startup that provides payday advances, is accusing the company of racial discrimination and questionable business practices.

In a lawsuit filed this month, Pedro Ibarra said he was fired because he complained about being harassed by the company's founders over his ethnicity, and because he raised concerns about PayActiv's handling of user data and whether the company is acting like a regular payday lender and therefore should be classified as a creditor.

Ibarra said in his lawsuit that he was the only Hispanic employee when he was hired in 2014, the year the company was founded. The co-founders are of Pakistani descent, the suit said.

Ibarra, who is of Mexican descent, was subjected to discriminatory comments "from approximately the beginning to the end of his employment" at the startup, according to the lawsuit. He also said he tried to encourage the company's top executives to hire more minorities — other than those of Pakistani origin — in engineering positions, but they did not, the suit said.

But things got worse right before the 2016 U.S. presidential election, and afterward, Ibarra said in an interview and according to his lawsuit.

"Their behavior became more oppressive," he said. "I guess they felt like their ethnicity was superior to mine."

In a statement, PayActiv said, “We believe the lawsuit is spurious and without merit. We will not comment further on pending litigation but will remain focused on our mission to bring financial security, dignity, and savings to the millions of Americans experiencing financial stress.”

In response to questions about PayActiv’s handling of user data, the company said in a statement from Chief Operating Officer Ijaz Anwar, “Exchanged data is encrypted and stored in a secure manner. Data is only shared with third-party vendors for payment processing for the services we provide for earned wage access. We will never sell user data or give data to third-parties for marketing purposes.”

According to the lawsuit, Ibarra was regularly called by a derogatory term referring to Mexicans, and encouraged not to vote for Donald Trump for president because he was told “his people” could get deported. After Trump was elected, according to the lawsuit, Anwar sent him a text message that read, “Mexicans sold out. You lost the Alamo — again.” Then Ibarra was blamed for the election results and “subjected to intensified harassment,” the lawsuit states.

“I’m sort of quiet, I don’t share my opinions in the workforce, whether it’s religious or political,” Ibarra said in an interview. “People tend to take advantage of that.”

He said he couldn’t complain to the human resources department of the 50-employee company. “I was HR,” he said. “I was in charge of on-boarding employees, hiring, posting jobs — it’s a startup.”

Because of stress from work, he went on what was supposed to be a one-month medical leave last November, the suit said. A couple of weeks into that leave, Ibarra sent the company’s founders an email reiterating his concerns about business practices.

The startup, which has partnered with employers Walmart, Goodwill and about 100 others, lets employees access up to half of their earned income before payday. The company says that it doesn’t charge interest. Borrowers are charged \$5 each pay period they want to get an advance. But because they’re allowed to roll over balances, Ibarra was concerned that the practice was “predatory,” and wanted to make sure the company was complying with state and federal regulations, said his lawyer, Shawn Tillis.

“When you roll over, that’s no longer based on earned income,” Tillis said.

A few days later, Ibarra received a letter from the company’s attorney informing him that he was fired, according to the lawsuit. He then received several phone calls from Anwar, who “described his numerous connections to organized crime and threatened Plaintiff against going public with his claims,” according to the lawsuit, which was filed in early July in Santa Clara County Superior Court.

Besides Anwar, the lawsuit names as defendants Chief Executive Safwan Shah, Chief Technology Officer Sohail Aslam, and Ajit Medhekar, a board director of the company.

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