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COMMISSIONERS OFFICE

COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2019-AH-00045

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

AGREED ORDER

FCFS KY, INC.

RESPONDENT

PARTIES

1. The Department of Financial Institutions (DFI) is responsible for regulating and licensing entities engaged in the business of cashing checks and accepting deferred deposit transactions in accordance with the provisions set forth in KRS Chapter 286.9 and the rules and regulations enacted pursuant thereto ("Subtitle 9").

2. Respondent FCFS KY, Inc. is a Kentucky Corporation that operates under the trade names Mister Money, and First Cash Pawn ("FCFS") with a registered principal office at 1600 West 7th Street, Fort Worth, Texas 76102. FCFS's registered agent for service of process is Corporation Service Company, located at 421 West Main Street, Frankfort, Kentucky 40601. FCFS is an authorized deferred deposit licensee with DFI, and holds license numbers 227-1, 227-2, 227-3, 227-4, 227-5, 224-1, and CC13174.

FACTUAL BACKGROUND

*Summary*

3. FCFS has operated deferred deposit branches in Kentucky, including five branches in Louisville and two branches in Lexington. Per Subtitle 9, each physical branch operates under a unique license from DFI. As DFI is required to conduct regular examinations of all deferred

deposit licensees under Subtitle 9, each location is subject to an individual examination schedule.

The following compliance examinations form the basis of this Agreed Order:

- a. An examination of license number 227-2, conducted on June 28, 2018;
- b. An examination of license number 227-3, conducted on August 23, 2018;
- c. An examination of license number 224-1, conducted on April 24, 2019;
- d. An examination of license number 227-4, conducted on April 18, 2019; and
- e. An examination of license number 227-2, conducted on September 12, 2019.

4. DFI's compliance examinations of FCFS's deferred deposit locations, along with two investigations conducted by DFI, established that FCFS violated Subtitle 9 by: failing to provide information to the Department during an examination; entering into deferred deposit transactions with customers where those customers had not signed a transaction agreement; and entering into deferred deposit transactions with customers that caused those customer's total debt from deferred deposit transaction in Kentucky to exceed \$500.

***Examination of Lic. 227-2***

5. On June 28, 2018, DFI conducted a routine compliance examination for license number 227-2, located at 5238 Bardstown Road, Louisville, KY.

6. During this examination, DFI found that FCFS had entered into deferred deposit transactions with four separate customers where the transaction agreements had not been signed by the customer as required by KRS 286.9-100(13). Similar violations were also noted in a previous examination of this location in 2017.

***Examination of Lic. 227-3***

7. On August 23, 2018, DFI conducted a routine compliance examination for license number 227-3, located at 9808 Taylorsville Road in Louisville, Kentucky.

8. During this examination, DFI provided FCFS with a list of information which is required to be provided as a part of a compliance examination. However, FCFS failed to provide this information to DFI as required under KRS 286.9-074(2). FCFS also failed to provide required information during a previous examination of this location in 2017.

*Examination of Lic. 224-1*

9. On April 24, 2019, DFI conducted a routine compliance examination for license number 224-1, which is operated by FCFS in Lexington, Kentucky at 1300 Winchester Road.

10. During this examination, DFI determined that FCFS had entered into a deferred deposit transaction with a customer without first obtaining the customer's signature on the transaction agreement as required under KRS 286.9-100(13). FCFS was cited for similar violations during a previous examination of this location in 2018.

*Examination of Lic. 227-4*

11. On April 18, 2019, DFI conducted a routine compliance examination for license number 227-4, located at 3501 Bardstown Road in Louisville, Kentucky.

12. During this examination, DFI found that FCFS had entered into deferred deposit transactions with three customers without first obtaining signed transaction agreements from those customers as required under KRS 286.9-100(13). FCFS has also been previously cited for similar violations during a previous examination of this location in 2018.

13. DFI's examination also determined that FCFS had entered the wrong social security number for one of their deferred deposit customers in the Veritec database. This error enabled the customer to open an additional transaction, and accumulate an amount of debt in excess of the five hundred dollar limit established in KRS 286.9-100.

*Examination of Lic. 227-2*

14. On September 12, 2019, DFI conducted a routine compliance examination for license number 227-2, located at 5238 Bardstown Road, Louisville, KY.

15. During this examination, DFI found that FCFS had entered into deferred deposit transactions with a customer without accepting a payment instrument from that customer; that FCFS had entered into a deferred deposit transaction with seven (7) customers without providing those customers with a copy of the written agreement which formed the basis for their loan; and that FCFS had entered into deferred deposit transactions with nine (9) customers where the written transaction agreement was not signed by the customer.

**STATUTORY AUTHORITY**

16. KRS 286.9-074 details the recordkeeping obligations of entities licensed under Subtitle 9, and states in part that:

(1) Each licensee shall keep and use in its business any books, accounts, financial reports, and records the commissioner may require to administer and regulate the provisions of this subtitle and the administrative regulations promulgated under this subtitle. Every licensee shall preserve the books, accounts, financial reports, and records for a minimum of three (3) years, unless applicable state or federal law requires a longer retention period.

(2) Records required to be preserved under this section may be maintained in an electronic retrievable format, or other similar form of medium, provided that it is readily accessible to examination, investigation, and inspection by the commissioner.

17. KRS 286.9-100 sets out a number of procedures which are to be followed by all deferred deposit licensees, including the following:

(7) No licensee shall engage in unfair or deceptive acts, practices, or advertising in the conduct of the licensed business.

...

(9) A licensee shall not have more than two (2) deferred deposit transactions from any one (1) customer at any one time. The total proceeds received by the customer from all of the deferred deposit transactions shall not exceed five hundred dollars (\$500).

...

(13) Each deferred deposit transaction shall be made according to a written agreement that shall be dated and signed by the customer and the licensee or an authorized agent of the licensee at the licensed location, and made available to the commissioner upon request. The customer shall receive a copy of this agreement.

18. KRS 286.9-120 provides for the Commissioner's authority to file administrative complaints, and provides as follows:

(1) The commissioner may file an administrative complaint against any person if it appears on grounds satisfactory to the commissioner that a potential or actual violation of this subtitle has been committed and when the person may be subject to the penalties of KRS 286.9-071, 286.9-110, and 286.9-991. The commissioner shall serve the administrative complaint to the last known address of the person named in the complaint. Service shall be by certified mail or personal delivery. The person named in the administrative complaint shall be entitled to an administrative hearing conducted in accordance with KRS Chapter 13B but only upon timely receipt of a written answer and request for an administrative hearing within twenty (20) days of the mailing or hand delivery of the administrative complaint. If timely requested, an administrative hearing shall be held in accordance with the provisions of KRS Chapter 13B. If an answer is not timely filed, or a written request for a hearing is not timely filed, the commissioner may enter a final order.

19. KRS 286.9-090, which establishes the Commissioner's authority to examine and inspect deferred deposit licensees, provides in part that:

(2) To assure compliance with the provisions of this subtitle, the commissioner may examine the business, books, and records of any licensee, and each licensee shall pay an examination fee sufficient to cover the cost of the examination based upon fair compensation for time and actual expense as established by order or administrative regulations.

20. KRS 286.9-991 authorizes the Commissioner to assess fines and penalties against licensees who violate the provisions of Subtitle 9, and states in part that:

(1) The commissioner may levy a civil penalty against a person who violates any provision of, or administrative regulation promulgated under, this subtitle or any order issued by the commissioner under this subtitle.

(2) The civil penalty shall be not less than one thousand dollars (\$1,000) or more than five thousand dollars (\$5,000) per violation for each day the violation is outstanding, plus the state's costs and expenses for the examination, investigation, and prosecution of this matter, including reasonable attorney's fees and court costs.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

21. As a result of the conduct described above, the Department finds that:
- A. By entering into fifteen (15) deferred deposit transactions with customers where the customer did not sign the transaction agreement, FCFS violated KRS 286.9-100(13);
  - B. By entering into two (2) deferred deposit transactions which caused the customer's total debt from deferred deposit transactions to exceed five hundred dollars (\$500), FCFS violated KRS 286.9-100(9);
  - C. By failing to provide information in a timely manner to the Department which was requested in the course of a regular examination, FCFS violated KRS 286.9-074(2);
  - D. By entering into deferred deposit transactions with seven (7) customers without providing those customers with copies of their written agreements, FCFS violated KRS 286.9-100(13); and
  - E. By entering into a deferred deposit transaction with a customer without receiving a payment instrument from that customer, FCFS violated KRS 286.9-100(7).

**AGREEMENT AND ORDER**

22. To resolve this matter without litigation or other adversarial proceedings, DFI and Respondent agree to compromise and settle all claims arising from the above-referenced factual background in accordance with the terms set forth herein.

23. In the interest of economically and efficiently resolving the violations found as described herein, DFI and Respondent hereby agree as follows:

- a. Respondent neither admits nor denies the facts, findings, and conclusions set forth above;
- b. Respondent shall close all open loans in the Veritec database and surrender all currently held deferred deposit licenses issued by the Department;
- c. Respondent shall refund all fees received from customers impacted by the transactions discussed herein;
- d. Respondent agrees to pay a civil fine in the amount of **five thousand dollars (\$5,000)**, which shall be due and payable upon the entry of this Agreed Order;
- e. All payments under this Order shall be in the form of a certified check or money order made payable to "Kentucky State Treasurer" and mailed to:  
  
Public Protection Cabinet  
Department of Financial Institutions  
Non-Depository Division, 2019-AH-00045  
500 Mero Street 2SW19  
Frankfort, Kentucky 40601; and
- f. Respondent shall cease and desist from any violations of the Act.

24. Respondent waives its right to demand a hearing at which it would be entitled to legal representation, to confront and cross-examine witnesses, and to present evidence on its own behalf, or to otherwise appeal or set aside this Agreed Order.

25. Respondent consents to and acknowledges the jurisdiction of DFI over this matter, and that this Agreed Order is a matter of public record and may be disseminated as such.

26. In consideration of execution of this Agreed Order, Respondent for itself, and for its successors and assigns, hereby releases and forever discharges the Commonwealth of

Kentucky, DFI, Office of Legal Services, and each of their members, agents, and employees in their individual capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known and unknown, in law or equity, that Respondent ever had, now has, may have or claim to have against any or all of the persons or entities named in this paragraph arising out of or by reason of this investigation, this disciplinary action, this settlement or its administration.

27. By signing below, the parties acknowledge they have read the foregoing Agreed Order, know and fully understand its contents, and that they are authorized to enter into and execute this Agreed Order and legally bind their respective parties.

28. This Agreed Order shall constitute the Final Order in this matter.

IT IS SO ORDERED on this the 27<sup>th</sup> day of December, 20 19.

Maui R. Gibson, Deputy Commissioner  
CHARLES A. VICE  
COMMISSIONER  
*for Charles A. Vice*



**Consented to:**

This 27<sup>th</sup> day of December, 20 19.

This 26<sup>th</sup> day of December, 20 19.

Signature: Seth Shreffler

[Signature], CEO

Name: Seth Shreffler

Rick Wessel, CEO

Title: Division Director - Nondepository

Authorized Representative

Department of Financial Institutions

FCFS KY, Inc.

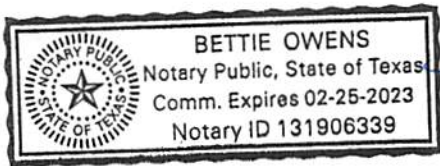
**ACKNOWLEDGEMENT**

STATE OF TEXAS )

COUNTY OF TARRANT )

On this the 26<sup>th</sup> day of December, 20 19, before me Bettie Owens the undersigned, Rick Wessel, did personally appear and acknowledge himself/herself to be the authorized representative of FCFS KY, Inc., and that he/she, being authorized to do so, entered into and executed the foregoing instrument for the purposes therein contained.

My Commission Expires: 02.25.2023



[Signature]  
Notary Public

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 6 day of January, 20 20, by certified mail, return receipt requested, to:

First Cash, Inc.  
Attn: Shoshana Thoma-Isgur  
1600 W. 7th Street  
Fort Worth, Texas 76102  
COUNSEL FOR RESPONDENT

And by Hand-Delivery to:

Stuart D. Michael  
500 Mero Street 2SW19  
Frankfort, KY 40601  
COUNSEL FOR COMPLAINANT

  
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Kentucky Department of Financial Institutions