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COMMISSIONERS OFFICE

COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2016-AH-00093  
AGENCY CASE NO. 2016-AH-00114  
AGENCY CASE NO. 2016-AH-00115  
AGENCY CASE NO. 2016-AH-00116  
AGENCY CASE NO. 2016-AH-00117

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

**AGREED ORDER**

SOUTHERN SPECIALTY FINANCE, INC.,  
d/b/a CHECK 'N GO  
(License #: CC18868)  
(License #: CC18879)  
(License #: CC18847)  
(License #: CC18852)  
(License #: CC18870)

RESPONDENTS

\* \* \* \* \*

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.

2. Southern Specialty Finance, Inc. d/b/a Check 'n Go ("Respondent") is authorized to do business in the Commonwealth of Kentucky as a deferred deposit and check cashing licensee pursuant to KRS Chapter 286.9. The principal corporate office is located at 7755 Montgomery Road, Suite 400, Cincinnati, Ohio 45236.

3. Respondent has sixteen (16) licensed branches in the Commonwealth of Kentucky. The license number and address of each branch is as follows:

- a. License # CC18846 - 81 W Highway 80 Suite E, Somerset, KY 42503
- b. License # CC18847 – 393 Waller Avenue, Lexington, KY 40504
- c. License # CC18848 – 3063 Richmond Road, Suite C, Lexington, KY 40509
- d. License # CC18850 – 315 Leonardwood Road, #4, Frankfort, KY 40601
- e. License # CC18851 – 790 N. Dixie Highway, Suite 300, Elizabethtown, KY 42701
- f. License # CC18852 – 330 US 31 W Bypass, Suite 201, Bowling Green, KY 42101
- g. License # CC18854 – 1999 Highway 60 E, Henderson, KY 42420
- h. License # CC18855 – 401 Scott Street, Covington, KY 41011
- i. License # CC18857 – 3976 Alexandria Pike, Cold Springs, KY 41076
- j. License # CC18858 – 7277 Turfway Road, Suite B, Florence, KY 41042
- k. License # CC18868 – 105 Magnolia Drive, Suite 2, Georgetown, KY 40324
- l. License # CC18870 – 208 South Second Street, Central City, KY 42330
- m. License # CC18875 – 1650 Starlite Drive, Owensboro, KY 42301
- n. License # CC18876 – 3601 Frederica Street, Suite 8, Owensboro, KY 42301
- o. License # CC18879 – 3200 Park Avenue, Paducah, KY 42001
- p. License # CC18882 – 2532 Burlington Pike, Burlington, KY 41005

4. DFI conducted routine examinations of Respondent on the following dates and at the following locations:

- a. License # CC18868 – Examination Date: August 5, 2016 - 105 Magnolia Drive, Suite 2, Georgetown, KY 40324 (ICIE: 373483)
- b. License # CC18879 - Examination Date: June 15, 2016 - 3200 Park Avenue, Paducah, KY 42001 (ICIE: 378900)
- c. License # CC18847 - Examination Date: July 18, 2016 - 393 Waller Avenue, Lexington, KY 40504 (ICIE: 378898)
- d. License # CC18852 – Examination Date: July 12, 2016 - 330 US 31 W Bypass, Suite 201, Bowling Green, KY 42101 (ICIE: 378897)
- e. License # CC18870 – Examination Date: September 20, 2016 - 208 South Second Street, Central City, KY 42330 (ICIE: 378899)

5. During the examinations, the DFI discovered the existence of redemption policies being used by Respondent for deferred deposit transactions at the five (5) locations that did not conform to statutory or regulatory requirements. Respondent has subsequently acknowledged the existence of the following redemption and card payment processes at all of its 16 licensed branches in Kentucky:

a. Respondent accepted credit cards or debit cards without procuring personal identification numbers as redemption payments for deferred deposit loans by either telephone call to a licensed location or in-person at each of the 16 licensed branches in Kentucky.

b. Respondent completed and closed deferred deposit transactions by telephone call to a licensed branch or in-person at each of the 16 licensed branches in Kentucky upon accepting redemption payment by credit card or debit card without procuring personal identification numbers.

c. Upon accepting credit cards or debit cards without procuring personal identification numbers for redemption payments, Respondent issued customer receipts and maintained records of these receipts at each of the 16 licensed branches in Kentucky. These receipts contained a printed statement indicating redemption payment for each deferred deposit transaction was made by "Credit Card Sale".

d. For Telephone-Initiated Redemption Payments: Respondent allowed customers to telephone its licensed branches and provide a card number directly to an employee of the Respondent. The employee failed to ask for the personal identification number associated with the card number provided by the customer for the telephone-initiated payment. The employee manually entered in the card number into Respondent's card payment processing system. For each of those telephone-initiated payment transactions, Respondent clearly and conspicuously noted on the receipt the following statement: "Customer Not Present; Paid Over Phone". Each receipt generated by Respondent for those telephone-initiated payment transactions contained a printed statement indicating redemption payment for deferred deposit transaction was made by "Credit Card Sale". Respondent closed and completed the telephone-initiated deferred deposit transaction upon accepting the card payment without a personal identification number.

e. For In-Person Redemption Payments: Respondent accepted in-person redemption payments of deferred deposit transactions from customers who provided credit cards or accepted debit cards without procuring personal identification numbers at each of Respondent's 16 licensed branches. Respondent failed to ask for the personal identification number associated with the card number provided by the customer for the in-person redemption payment. The customers signed the receipts at the Respondent's licensed locations and the receipts contained a clear and conspicuous statement indicating the redemption payment for the deferred deposit transaction was made by "Credit Card Sale". Respondent closed and completed the in-person deferred deposit transaction upon accepting the card payment without a personal identification number.

6. KRS 286.9-010(6) provides: "Closed" or "close" means that one (1) of the following has occurred in connection with a deferred deposit service transaction concerning the customer's payment instrument:

- (a) The payment instrument is redeemed by the customer by payment to the licensee of the face amount of the payment instrument in cash;
- (b) The payment instrument is exchanged by the licensee for a cashier's check or cash from the customer's financial institution;
- (c) The payment instrument is deposited by the licensee, and the licensee has evidence that the person has satisfied the obligation;
- (d) The payment instrument is collected by the licensee or its agent through any civil remedy available under the laws of this state; or
- (e) Any other reason that the commissioner may deem to be proper under this subtitle;

7. 808 KAR 9:010, Section 1 provides: The following shall be additional definitions of "closed" or "close" under KRS 286.9-010(6)(e):

- (1) The customer's payment instrument was unpaid and the licensee has sold the underlying debt to a non-affiliated third party without recourse;

- (2) The underlying debt represented by the customer's payment instrument has been discharged in bankruptcy;
- (3) The database provider has designated the deferred deposit transaction concerning the customer's payment instrument as closed pursuant to KRS 286.9-140(7); or
- (4) The licensee has reported to the database provider that the deferred deposit transaction concerning the customer's payment instrument is closed following being held open pursuant to KRS 286.9-140(7).

8. KRS 286.9-100(7) provides, "No licensee shall engage in unfair or deceptive acts, practices, or advertising in the conduct of the licensed business."

9. KRS 286.9-140(1) provides, in part:

... A deferred deposit service business licensee shall accurately and promptly submit such data before entering into each deferred deposit transaction in such format as the commissioner may require by rule or order, including the customer's name, Social Security number or employment authorization alien number, address, driver's license number, amount of the transaction, date of transaction, date that the completed transaction is closed, and any additional information required by the commissioner.

10. On July 7, 2015, DFI issued a memorandum to all licensed deferred deposit entities ("July 7<sup>th</sup> Debit PIN Memorandum"), including to the Respondent. The title of the memorandum was "Debit Card Transaction as a Redemption Method for a Payment Instrument". In the memorandum, DFI stated that "pinned debit card transactions constitute "cash" for purposes of KRS 286.9-010(6)."

11. DFI has alleged Respondent violated certain provisions of KRS Chapter 286.9 and 808 KAR 9, including KRS 286.9-010, 808 KAR 9:010, Section 1, KRS 286.9-100(7) and KRS 288,9-140(1) and failed to follow the requirements of the July 7<sup>th</sup> Debit PIN Memorandum.

12. Respondent acknowledged receipt of and knowledge of the July 7<sup>th</sup> Debit PIN Memorandum. Respondent acknowledged and understands the requirements of KRS Chapter 286.9 and 808 KAR 9, including the specific requirements for closing a deferred deposit transaction, the definitions and procedures for "closed" or "close", as enumerated in KRS 286.9-010 and 808 KAR 9:010, Section 1. Respondent acknowledged the specific prohibition against the use of unfair or deceptive acts, practices, or advertising in the conduct of its licensed businesses, as enumerated in KRS 286.9-100(7).

13. In the interest of economically and efficiently resolving the violation(s) described herein, and without Respondent admitting or denying the statements of fact and legal conclusions herein, DFI and Respondent agree as follows:

- a. Respondent will discontinue accepting and processing debit card and/or credit card payments as a method of redeeming and closing outstanding deferred deposit loans at all of its Kentucky branches.
- b. Respondent will discontinue the issuance of receipts that read "Credit Card Sale" for card payments, as no card payments will be accepted at any of its Kentucky branches. Respondent shall notify DFI prior to re-instituting the operation and use of a new card payment channel any of its Kentucky branches, as discussed further in this Agreed Order.
- c. Respondent will only allow deferred deposit customers to redeem and close outstanding loans with currency for a payment instrument at all of its Kentucky branches. The permitted forms of redemption accepted

by Respondent shall be by check, draft, money order, personal money order, travelers' check or other demand instruments, except for debit or credit cards. Respondent shall notify DFI prior to re-instituting the operation and use of a new card payment channel (for debit cards with the provision of personal identification number, only) at any of its Kentucky branches, as discussed further in this Agreed Order.

- d. Respondent will remove card payment channels from all of its Kentucky branches. Deferred Deposit customers will not be able to redeem or close out outstanding loans by payment with a debit or card, either in person or by telephone, at any of its Kentucky branches.
- e. Respondent shall devote the time and resources necessary to ensure continual and full compliance with all statutory requirements set forth in KRS Chapter 286.9.

14. DFI possesses a range of administrative authority in addressing statutory and regulatory violations, including license revocation or denial, suspension or the imposition of civil penalties. See KRS 286.9-110 and KRS 286.9-991.

15. In this case, DFI acknowledges Respondent will:

- a. Terminate the use of card payment channels at all of its Kentucky branches, as of the date of the full execution of this Agreed Order.
- b. Will not accept any card payment, either in person or by telephone, as a means of redemption for outstanding deferred deposit loans by customers as of the date of the full execution of this Agreed Order.

**16. Respondent agrees to notify DFI, in writing, at least seven (7) calendar days prior to the implementation, operation and use of a new card payment channel at a specific Kentucky branch (or all branches, if applicable) when it will begin the operation of new card payment channels at any of its Kentucky branches, and such card payment channels will:**

- a. Only allow Respondent to accept debit card payment with a personal identification number.**
- b. Only create and issue receipts for debit card payments with a personal identification number wherein payment by debit card is clearly and conspicuously identified on the receipt.**
- c. If and when Respondent institutes a new card payment channel allowing the payment of deferred deposit loans by telephone, such card payment channel shall be automated, shall only allow debit card payments to be redeemed if a personal identification number is provided with the automated transaction and upon the completion and closure of the deferred deposit transaction, Respondent agrees to mail the original check provided by the customer at the initiation of the loan, clearly marked as "Paid", back to the customer at the address on file in the customer's account.**

**17. Pursuant to its authority under KRS Chapter 286.9, DFI reserves its right and ability to assess a civil penalty and other administrative remedies against Respondent should it determine Respondent has failed to follow any portion of this Agreed Order**



18. 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.

19. 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.

20. 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.

21. By signing below, Respondent acknowledges it has read the foregoing Agreed Order, knows and fully understands its contents, and that the individual signing on behalf of Respondent is authorized to enter into and execute this Agreed Order and legally bind Respondent.

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

IT IS SO ORDERED on this the 22<sup>nd</sup> day of Feb, 2017.



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CHARLES A. VICE  
COMMISSIONER

**CONSENTED TO:**

This 20<sup>th</sup> day of February, 2017.

This 14 day of February, 2017.

Tammy R. Scruggs  
Tammy Scruggs, Director  
Division of Non-Depository Institutions  
Department of Financial Institutions

[Signature]  
Authorized Representative  
Southern Specialty Finance, Inc.  
d/b/a Check 'n Go  
(On Behalf of All Licensed Kentucky  
Branches)

**ACKNOWLEDGEMENT**

STATE OF Ohio )  
 )  
COUNTY OF Hamilton )

On this the 14<sup>th</sup> day of February, 2017, before me Deborah Kessen, the undersigned, Alex Yi, did personally appear and acknowledge himself/herself to be the authorized representative of **Southern Specialty Finance, Inc. d/b/a Check 'n Go (on behalf of all licensed Kentucky branches)** and that he/she, being authorized to do so, entered into and executed the foregoing instrument for the purposes therein contained.

My Commission Expires: Mar-5-2017

[Signature]  
Notary Public



Deborah A. Kessen  
Notary Public, State of Ohio  
My Commission Expires 03-05-2017

**CERTIFICATE OF SERVICE**

23 I hereby certify that a copy of the foregoing **Agreed Order** was sent on this the day of February, 2017, by certified mail, return receipt requested, to:

**Mr. Alexander Yi  
Compliance Counsel  
Southern Specialty Finance, Inc.  
d/b/a Check 'n Go  
7755 Montgomery Road, Suite 400  
Cincinnati, Ohio 45236**

And by Hand-Delivery to:

**Hon. Tiffany J. Bowman  
1025 Capital Center Drive, Suite 200  
Frankfort, KY 40601  
Attorney for the Kentucky Department of Financial Institutions**

**Kentucky Department of Financial Institutions**

Name: Allison E. Hites

Title: Executive Staff Advisor