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COMMISSIONERS OFFICE

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2021-AH-0008**

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

AGREED ORDER

THE JIFFY CASH CO.

RESPONDENT

STATEMENT OF FACTS

1. The Kentucky Department of Financial Institutions (hereinafter, the "Department") is responsible for administering the provisions of Kentucky Revised Statutes (KRS) Chapter 286, the Kentucky Financial Services Code, as well as any applicable rules, regulations, and orders enacted pursuant to the Code.

2. The Jiffy Cash Co. is a corporation formed in Kentucky, with a principal address at 2841 North Main Street, Suite 101, Hazard, KY 41701.

3. The Jiffy Cash Co. is referenced hereinafter as "Respondent."

4. On December 14, 2020, the Department performed a routine examination of the Respondent.

5. The Department discovered three occasions when the Respondent had reopened a transaction in Veritec system that had auto-closed.

6. The reopening of transactions in Veritec occurred in three different consumer accounts.

STATUTORY AUTHORITY

7. KRS 286.9-140(1) states,

The commissioner shall, on or before July 1, 2010, implement a common database with real-time access through an Internet connection for deferred deposit service business licensees as provided in this subtitle unless implementing the database by that date would be financially impracticable for the commissioner to design and operate a database or because a contract with a qualified third-party provider has

not been entered into. The database shall be accessible to the department and the deferred deposit service business licensee to verify whether any deferred deposit transactions are outstanding for a particular person. 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. The commissioner may adopt rules to administer and enforce the provisions of this subtitle and to assure that the database is used by deferred deposit service business licensees in accordance with this subtitle.

8. KRS 286.9-140(16) states,

The commissioner may use the database to administer and enforce this subtitle.

9. KRS 286.9-140(7) states,

The database provider shall automatically designate a deferred deposit service transaction as closed in the database five (5) days after the transaction maturity date unless a deferred deposit service business licensee reports to the database provider before that time that the transaction remains open because of the customer's failure to make payment; that the transaction is open because the customer's payment instrument or an electronic redeposit is in the process of clearing the banking system; or that the transaction remains open because the customer's payment instrument is being returned to the deferred deposit service business licensee for insufficient funds, a closed account, or a stop payment order; or because of any other factors determined by the commissioner. If a deferred deposit service business licensee reports the status of a transaction as open in a timely manner, the transaction remains an open transaction until it is closed and the database provider is notified that the transaction is closed.

10. 808 KAR 9:010 Section 2(3) states,

A licensee shall not cause a closed deferred deposit transaction to be reopened in the database unless all of the following conditions are satisfied:

(a) The deferred deposit transaction was closed by reason of clerical error by the licensee;

(b) The licensee causes the deferred deposit transaction to be reopened on or before the close of business on the business day after the transaction was closed; and

(c) Reopening the transaction would not cause the consumer to exceed the transaction limits set forth in KRS 286.9-100(9).

11. 808 KAR 9:010 Section 2(4) states,

A licensee shall not accept, collect, or seek payment on a deferred deposit transaction that is designated as closed in the database.

12. 808 KAR 9:010 Section 2(5) states,

A licensee that has reported to the database provider that a deferred deposit transaction is open beyond the maturity date pursuant to KRS 286.9-140(7) shall immediately notify the database provider when the transaction becomes closed.

13. KRS 286.9-991 states,

(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.

(3) Any civil penalties imposed may be in addition to any other remedy or penalty imposed in this subtitle.

VIOLATION

14. The Respondent reopened Veritec database transactions but lacked a proper reason for reopening any of the auto-closed transactions.

15. Lacking an appropriate statutory exception, the Respondent is prohibited from reopening transactions that have auto-closed or allowed to collect on a loan once closed in the Veritec database.

AGREEMENT AND ORDER

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

17. In the interest of economically and efficiently resolving the violations described herein, it is hereby **AGREED** and **ORDERED**:

i. The Respondent agrees to pay a civil fine in the amount of **four thousand five hundred dollars (\$4,500.00)** for the violations described herein, which shall be due and payable within thirty (30) days of the entry of this Order;

- ii. All payments under this Order shall be in the form of an ACH payment made via secure website, pursuant to instructions provided to Respondents, or by a certified check or money order made payable to "Kentucky State Treasurer" and mailed to the Department of Financial Institutions, Securities Division, 2021-AH-0008, 500 Mero Street, Frankfort, Kentucky 40601;
- iii. Respondent shall cease and desist from any future violations of the Kentucky Financial Services Code;
- iv. Respondent waives the 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;
- v. Respondent consents to and acknowledges the jurisdiction of the Department over this matter and that this Agreed Order is a matter of public record and may be disseminated as such;
- vi. 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, the Department, 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;

vii. 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; and

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

SO ORDERED on this the 29th day of April, 2021.



CHARLES A. VICE
COMMISSIONER

Justin M. Burse, Deputy Commission

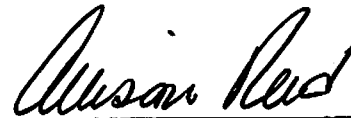
CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing Agreed Order was served by certified mail, postage pre-paid, return receipt requested, this 17th day of June, 2021 to:

Deedra Mullins
THE JIFFY CASH CO.
2841 North Main Street, Suite 101
Hazard, KY 41701
Representative on behalf of The Jiffy Cash Co.

And by messenger mail or electronic delivery to:

Brandon Adcock, Staff Attorney III
DEPARTMENT OF FINANCIAL INSTITUTIONS
500 Mero Street
Frankfort, KY 40601
brandon.adcock@ky.gov
Counsel for Department of Financial Institutions



Allison Reed, Record Custodian
DEPARTMENT OF FINANCIAL INSTITUTIONS