

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2014-AH-0069



COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

CASH EXPRESS OF TENNESSEE, LLC

RESPONDENT

AGREED ORDER

* * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. The Department of Financial Institutions (“Department”) is the agency of Kentucky state government charged with the administration of the provisions of KRS Chapter 286, the Kentucky Financial Services Code and the rules and regulations promulgated thereunder.

2. The Respondent, Cash Express of Tennessee, LLC (“Respondent”) is a limited liability company organized under the law of the State of Tennessee, registered with the Kentucky Secretary of State to do business in Kentucky under the name of Cash Express, LLC, and with a principle place of business at 263 West Spring Street, Cookeville, Tennessee 38501.

3. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), under several license numbers, each license being unique to one specific location where the Respondent may operate.

4. Pursuant to KRS 286.9-100(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).”

5. The General Assembly, via KRS 286.9-140, required the Department to implement a common database whereby licensees can verify whether any deferred deposit transactions are outstanding for a particular person prior to entering into a transaction with that person.

6. In order to ensure that data is entered into the verification database correctly, the statute mandates that a “licensee shall accurately and promptly submit such data before entering into each deferred deposit transaction ... including the ... date that the completed transaction is closed...” KRS 286.9-140(1).

7. The term “closed” is defined as follows by statute:

“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.

KRS 286.9-010(6).

8. By order of the Commissioner dated April 28, 2010, the following additional definitions of “closed” or “close” were added:

- (a) The customer’s payment instrument was accepted by a licensee before January 1, 2010;
- (b) The customer’s payment instrument was unpaid and the licensee has sold the underlying debt to a non-affiliated third party;

- (c) The underlying debt represented by the customer's payment instrument has been discharged in bankruptcy; and
- (d) Fourteen (14) calendar days have elapsed since the customer's payment instrument was deposited by the licensee and the customer's payment instrument was not returned as unpaid.

9. By statute, "no licensee shall engage in unfair or deceptive acts [or] practices ... in the conduct of the licensed business." KRS 286.9-100(7).

10. "The commissioner may levy a civil penalty against a person who violates any provision of, or administrative regulation promulgated under, [KRS ch. 286, subtitle 9] or any order issued by the commissioner under [KRS ch. 286, subtitle 9]." KRS 286.9-991(1)

11. "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 ... including reasonable attorney's fees and court costs." KRS 286.9-991(2).

12. "The commissioner may void a deferred deposit transaction agreement when it is determined by the commissioner that the licensee has violated any provision of [KRS 286.9]. The licensee shall be allowed to recover from the customer any principal paid by the licensee to the customer, but the licensee shall not recover any service fee or other charge related to the deferred deposit transaction." KRS 286.9-035(2).

LICENSE NO. 21762 (ICIE NO. 288221), CUSTOMER "MB"

13. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 21762 at 5414 South Highway 27, Somerset, Kentucky.

14. The Department conducted a routine examination of Respondent on or about April 2, 2014, during which time the Department examined the books, accounts, financial reports and records of the licensee.

15. The Respondent entered into two deferred deposit transactions with customer "MB" totaling \$500.00 in outstanding transactions: one on June 4, 2013, for \$250.00, check number 1701, and another on June 17, 2013, for \$250.00, check number 1702.

16. The Respondent deposited check number 1701 on June 29, 2013, and caused the transaction to be designated as "closed" in the verification database.

17. At the time Respondent caused the check number 1701 transaction to be closed in the verification database, none of the definitions of "closed"¹ had been satisfied.

18. The Respondent entered into a third deferred deposit transaction with customer "MB" for \$250.00 on July 2, 2013, check number 1704.

19. Check number 1701 was thereafter returned for insufficient funds, and the Respondent "reopened" the transaction in the verification database.

20. As of the examination on April 2, 2014, all three of the above transactions were open and outstanding.

**COUNT I – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

21. Paragraphs 1-20 are restated and incorporated herein by reference.

22. As a result of the foregoing, the Respondent had three outstanding deferred deposit transactions, totaling \$750.00, from customer "MB" in excess of both the two-transaction and \$500.00 limits allowed by KRS 286.9-100(9).

¹ See *supra*, ¶¶ 7-8.

LICENSE NO. 7383 (ICIE NO. 288223), CUSTOMER “KP”

23. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 7383 at 4113 Bardstown Road, Louisville, Kentucky.

24. The Department conducted a routine examination of Respondent on or about March 27, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

25. The Respondent entered into a deferred deposit transaction with customer “KP” for \$300.00 on March 11, 2013, check number 1003.

26. The Respondent deposited check number 1003 on March 30, 2013, and caused the transaction to be designated as “closed” in the verification database.

27. At the time Respondent caused the check number 1003 transaction to be closed in the verification database, none of the definitions of “closed”² had been satisfied.

28. The Respondent entered into a second deferred deposit transaction with customer “KP” for \$300.00 on April 1, 2013, check number 1006.

29. Check number 1003 was thereafter returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database.

30. The check number 1003 transaction was paid by the customer and closed on April 5, 2013.

**COUNT II – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

31. Paragraphs 1-12 and 23-30 are restated and incorporated herein by reference.

² See *supra*, ¶¶ 7-8.

32. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$600.00 from customer “KP” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 7383 (ICIE NO. 288223), CUSTOMER “ES”

33. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 7383 at 4113 Bardstown Road, Louisville, Kentucky.

34. The Department conducted a routine examination of Respondent on or about March 27, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

35. The Respondent entered into a deferred deposit transaction with customer “ES” for \$150.00 on November 20, 2013, check number 0313.

36. The Respondent thereafter deposited check number 0313 and caused the transaction to be designated as “closed” in the verification database on December 9, 2013.

37. At the time Respondent caused the check number 0313 transaction to be closed in the verification database, none of the definitions of “closed”³ had been satisfied.

38. The Respondent entered into a second deferred deposit transaction with customer “ES” for \$425.00 on December 9, 2013, check number 0315.

39. Check number 0313 was subsequently returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database on December 10, 2013.

40. The check number 0313 transaction was paid by the customer and closed on December 10, 2013.

³ See *supra*, ¶¶ 7-8.

**COUNT III – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

41. Paragraphs 1-12 and 33-40 are restated and incorporated herein by reference.

42. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$575.00 from customer “ES” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 7383 (ICIE NO. 288223), CUSTOMER “HN”

43. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 7383 at 4113 Bardstown Road, Louisville, Kentucky.

44. The Department conducted a routine examination of Respondent on or about March 27, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

45. The Respondent entered into a deferred deposit transaction with customer “HN” for \$500.00 on December 28, 2013, check number 105.

46. The Respondent deposited check number 105 on January 31, 2014, and caused the transaction to be designated as “closed” in the verification database.

47. At the time Respondent caused the check number 105 transaction to be closed in the verification database, none of the definitions of “closed”⁴ had been satisfied.

48. The Respondent entered into a second deferred deposit transaction with customer “HN” for \$400.00 on February 4, 2014, check number 106.

49. Check number 105 was thereafter returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database on February 6, 2014.

⁴ See *supra*, ¶¶ 7-8.

50. The check number 105 transaction was paid by the customer and closed on February 6, 2014.

**COUNT IV – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

51. Paragraphs 1-12 and 43-50 are restated and incorporated herein by reference.

52. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$900.00 from customer “HN” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 21518 (ICIE NO. 288219), CUSTOMER “WW”

53. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 21518 at 1327 East Fourth Street, Owensboro, Kentucky.

54. The Department conducted a routine examination of Respondent on or about April 2, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

55. The Respondent entered into a deferred deposit transaction with customer “WW” for \$500.00 on June 10, 2013, check number 1043.

56. The Respondent deposited check number 1043 on July 4, 2013.

57. The Respondent caused the check number 1043 transaction to be designated as “closed” in the verification database on July 8, 2013.

58. At the time Respondent caused the check number 1043 transaction to be closed in the verification database, none of the definitions of “closed”⁵ had been satisfied.

⁵ See *supra*, ¶¶ 7-8.

59. The Respondent entered into a second deferred deposit transaction with customer “WW” for \$500.00 on July 8, 2013, check number 1048.

60. Check number 1043 was returned for insufficient funds on July 9, 2013, and the Respondent “reopened” the transaction in the verification database.

61. As of the examination on April 2, 2014, both of the above transactions were open and outstanding.

**COUNT V – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

62. Paragraphs 1-12 and 53-61 are restated and incorporated herein by reference.

63. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$1,000.00 from customer “WW” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 13754 (ICIE NO. 288222), CUSTOMER “RC”

64. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 13754 at 2192 North Main Street, Jamestown, Kentucky.

65. The Department conducted a routine examination of Respondent on or about April 1, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

66. The Respondent entered into a deferred deposit transaction with customer “RC” for \$500.00 on January 27, 2014, check number 1005.

67. The Respondent deposited check number 1005 on February 11, 2014, and caused the transaction to be designated as “closed” in the verification database.

68. At the time Respondent caused the check number 1005 transaction to be closed in the verification database, none of the definitions of “closed”⁶ had been satisfied.

69. The Respondent entered into a second deferred deposit transaction with customer “RC” for \$500.00 on February 14, 2014, check number 1012.

70. Check number 1005 was thereafter returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database.

71. The check number 1005 transaction was paid by the customer and closed on February 27, 2014.

**COUNT VI – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

72. Paragraphs 1-12 and 64-71 are restated and incorporated herein by reference.

73. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$1,000.00 from customer “RC” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 212-2 (ICIE NO. 288220), CUSTOMER “KP”

74. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 212-2 at 1044 South Highway 27, Box 7, Somerset, Kentucky.

75. The Department conducted a routine examination of Respondent on or about April 2, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

76. The Respondent entered into a deferred deposit transaction with customer “KP” for \$500.00 on January 2, 2014, check number 1214.

⁶ See *supra*, ¶¶ 7-8.

77. The Respondent thereafter deposited check number 1214 and caused the transaction to be designated as “closed” in the verification database.

78. At the time Respondent caused the check number 1214 transaction to be closed in the verification database, none of the definitions of “closed”⁷ had been satisfied.

79. The Respondent entered into a second deferred deposit transaction with customer “KP” for \$500.00 on January 22, 2014, check number 12214.

80. Check number 1214 was thereafter returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database.

81. The check number 1214 transaction was paid by the customer and closed on February 25, 2014.

**COUNT VII – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

82. Paragraphs 1-12 and 74-81 are restated and incorporated herein by reference.

83. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$1,000.00 from customer “KP” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 8280 (ICIE NO. 285912), CUSTOMER “KD”

84. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 8280 at 1145 East New Circle Road, Lexington, Kentucky.

85. The Department conducted a routine examination of Respondent on or about February 13, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

⁷ See *supra*, ¶¶ 7-8.

86. The Respondent entered into a deferred deposit transaction with customer “KD” for \$500.00 on May 8, 2013, check number 833.

87. The Respondent deposited check number 833 on June 6, 2013, and caused the transaction to be designated as “closed” in the verification database.

88. At the time Respondent caused the check number 833 transaction to be closed in the verification database, none of the definitions of “closed”⁸ had been satisfied.

89. The Respondent entered into a second deferred deposit transaction with customer “KD” for \$500.00 on June 7, 2013, check number 836.

90. Check number 833 was thereafter returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database.

91. The check number 833 transaction was paid by the customer and closed on June 19, 2013.

**COUNT VIII – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

92. Paragraphs 1-12 and 84-91 are restated and incorporated herein by reference.

93. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$1,000.00 from customer “KD” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 12285 (ICIE NO. 285900), CUSTOMER “RP”

94. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 12285 at 116 Flemingsburg Road, Morehead, Kentucky.

⁸ See *supra*, ¶¶ 7-8.

95. The Department conducted a routine examination of Respondent on or about March 11, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

96. The Respondent entered into a deferred deposit transaction with customer "RP" for \$300.00 on July 9, 2013, check number 504.

97. The Respondent deposited check number 504 on July 23, 2013, and caused the transaction to be designated as "closed" in the verification database.

98. At the time Respondent caused the check number 504 transaction to be closed in the verification database, none of the definitions of "closed"⁹ had been satisfied.

99. The Respondent entered into a second deferred deposit transaction with customer "RP" for \$400.00 on July 26, 2013, check number 508.

100. Check number 504 was returned for insufficient funds, and the Respondent "reopened" the transaction in the verification database on July 30, 2013.

101. The check number 504 transaction was paid by the customer and closed on July 30, 2013.

**COUNT IX – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

102. Paragraphs 1-12 and 94-101 are restated and incorporated herein by reference.

103. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$700.00 from customer "RP" in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

⁹ See *supra*, ¶¶ 7-8.

LICENSE NO. 8385 (ICIE NO. 102840), CUSTOMER “LK”

104. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 8385 at 1805 North Dixie Avenue, Elizabethtown, Kentucky.

105. The Department conducted a routine examination of Respondent on or about February 11, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

106. The Respondent entered into a deferred deposit transaction with customer “LK” for \$500.00 on September 26, 2013, check number 825.

107. The Respondent deposited check number 825 on October 11, 2013.

108. The Respondent caused the check number 825 transaction to be designated as “closed” in the verification database on October 12, 2013.

109. At the time Respondent caused the check number 825 transaction to be closed in the verification database, none of the definitions of “closed”¹⁰ had been satisfied.

110. The Respondent entered into a second deferred deposit transaction with customer “LK” for \$500.00 on October 12, 2013, check number 827.

111. Check number 825 was returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database on or about October 17, 2013.

112. The check number 825 transaction was paid by the customer and closed on October 26, 2013.

**COUNT X – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

113. Paragraphs 1-12 and 104-112 are restated and incorporated herein by reference.

¹⁰ See *supra*, ¶¶ 7-8.

114. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$1,000.00 from customer “LK” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 8385 (ICIE NO. 102840), CUSTOMER “AJ”

115. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 8385 at 1805 North Dixie Avenue, Elizabethtown, Kentucky.

116. The Department conducted a routine examination of Respondent on or about February 11, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

117. The Respondent entered into a deferred deposit transaction with customer “AJ” for \$500.00 on September 26, 2013, check number 1373.

118. The Respondent deposited check number 1373 on October 11, 2013.

119. The Respondent caused the check number 1373 transaction to be designated as “closed” in the verification database on October 12, 2013.

120. At the time Respondent caused the check number 1373 transaction to be closed in the verification database, none of the definitions of “closed”¹¹ had been satisfied.

121. The Respondent entered into a second deferred deposit transaction with customer “AJ” for \$500.00 on October 12, 2013, check number 1376.

122. Check number 1373 was returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database on or about October 17, 2013.

¹¹ See *supra*, ¶¶ 7-8.

123. The check number 1373 transaction was paid by the customer and closed on October 21, 2013.

**COUNT XI – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

124. Paragraphs 1-12 and 115-123 are restated and incorporated herein by reference.

125. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$1,000.00 from customer “AJ” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 7848 (ICIE NO. 99727), CUSTOMER “JH”

126. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 7848 at 1033 Paris Pike, Georgetown, Kentucky.

127. The Department conducted a routine examination of Respondent on or about January 16, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

128. The Respondent entered into a deferred deposit transaction with customer “JH” for \$500.00 on May 10, 2013, check number 1066.

129. The Respondent thereafter deposited check number 1066 and caused the transaction to be designated as “closed” in the verification database.

130. At the time Respondent caused the check number 1066 transaction to be closed in the verification database, none of the definitions of “closed”¹² had been satisfied.

131. The Respondent entered into a second deferred deposit transaction with customer “JH” for \$500.00 on June 5, 2013, check number 1091.

¹² See *supra*, ¶¶ 7-8.

132. Check number 1066 was thereafter returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database.

133. The check number 1066 transaction was paid by the customer and closed on June 7, 2013.

**COUNT XII – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

134. Paragraphs 1-12 and 126-133 are restated and incorporated herein by reference.

135. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$1,000.00 from customer “JH” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 7848 (ICIE NO. 99727), CUSTOMER “BW”

136. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 7848 at 1033 Paris Pike, Georgetown, Kentucky.

137. The Department conducted a routine examination of Respondent on or about January 16, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

138. The Respondent entered into a deferred deposit transaction with customer “BW” for \$400.00 on January 4, 2013, check number 204.

139. The Respondent thereafter deposited check number 204 and caused the transaction to be designated as “closed” in the verification database.

140. At the time Respondent caused the check number 204 transaction to be closed in the verification database, none of the definitions of “closed”¹³ had been satisfied.

141. The Respondent entered into a second deferred deposit transaction with customer “BW” for \$400.00 on January 23, 2013, check number 210.

142. Check number 204 was thereafter returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database.

143. The check number 204 transaction was paid by the customer and closed on February 4, 2013.

**COUNT XIII – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

144. Paragraphs 1-12 and 136-143 are restated and incorporated herein by reference.

145. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$800.00 from customer “BW” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 13371 (ICIE NO. 99729), CUSTOMER “JC”

146. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 13371 at 46 Broadway, Dry Ridge, Kentucky.

147. The Department conducted a routine examination of Respondent on or about January 8, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

¹³ See *supra*, ¶¶ 7-8.

148. The Respondent entered into two deferred deposit transactions with customer “JC” totaling \$500 in outstanding transactions: one on February 5, 2013, for \$150.00, check number 165, and another on February 8, 2013, for \$350.00, check number 167.

149. The Respondent thereafter deposited check number 165 and caused the transaction to be designated as “closed” in the verification database.

150. At the time Respondent caused the check number 165 transaction to be closed in the verification database, none of the definitions of “closed”¹⁴ had been satisfied.

151. The Respondent entered into a third deferred deposit transaction with customer “JC” for \$150.00 on February 25, 2013, check number 168.

152. Check number 165 was thereafter returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database.

153. The check number 165 transaction was paid by the customer and closed on March 6, 2013.

**COUNT XIV – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

154. Paragraphs 1-12 and 146-153 are restated and incorporated herein by reference.

155. As a result of the foregoing, the Respondent had three outstanding deferred deposit transactions totaling \$650.00 from customer “JC” in excess of both the two-transaction and \$500.00 limits allowed by KRS 286.9-100(9).

LICENSE NO. 13371 (ICIE NO. 99729), CUSTOMER “SJ”

156. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 13371 at 46 Broadway, Dry Ridge, Kentucky.

¹⁴ See *supra*, ¶¶ 7-8.

157. The Department conducted a routine examination of Respondent on or about January 8, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

158. The Respondent entered into a deferred deposit transaction with customer "SJ" for \$500.00 on September 17, 2013, check number 1508.

159. The Respondent thereafter deposited check number 1508 and caused the transaction to be designated as "closed" in the verification database.

160. At the time Respondent caused the check number 1508 transaction to be closed in the verification database, none of the definitions of "closed"¹⁵ had been satisfied.

161. The Respondent entered into a second deferred deposit transaction with customer "SJ" for \$500.00 on October 9, 2013, check number 1514.

162. Check number 1508 was thereafter returned for insufficient funds, and the Respondent "reopened" the transaction in the verification database.

163. The check number 1508 transaction was paid by the customer and closed on November 14, 2013.

**COUNT XV – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

164. Paragraphs 1-12 and 156-163 are restated and incorporated herein by reference.

165. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$1,000.00 from customer "SJ" in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

¹⁵ See *supra*, ¶¶ 7-8.

LICENSE NO. 13371 (ICIE NO. 99729), CUSTOMER “DN”

166. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 13371 at 46 Broadway, Dry Ridge, Kentucky.

167. The Department conducted a routine examination of Respondent on or about January 8, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

168. The Respondent entered into a deferred deposit transaction with customer “DN” for \$500.00 on January 3, 2013, check number 580.

169. The Respondent thereafter deposited check number 580 and caused the transaction to be designated as “closed” in the verification database.

170. At the time Respondent caused the check number 580 transaction to be closed in the verification database, none of the definitions of “closed”¹⁶ had been satisfied.

171. The Respondent entered into a second deferred deposit transaction with customer “DN” for \$500.00 on February 7, 2013, check number 705.

172. Check number 580 was thereafter returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database.

173. The check number 580 transaction was paid by the customer and closed on February 9, 2013.

**COUNT XVI – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

174. Paragraphs 1-12 and 166-173 are restated and incorporated herein by reference.

¹⁶ See *supra*, ¶¶ 7-8.

175. As a result of the foregoing, the Respondent had outstanding deferred deposit transactions totaling \$1,000.00 from customer “DN” in excess of the \$500.00 limit allowed by KRS 286.9-100(9).

LICENSE NO. 13371 (ICIE NO. 99729), CUSTOMER “MM”

176. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18), by license number 13371 at 46 Broadway, Dry Ridge, Kentucky.

177. The Department conducted a routine examination of Respondent on or about January 8, 2014, during which time the Department examined the books, accounts, financial reports, and records of the licensee.

178. The Respondent entered into two deferred deposit transactions with customer “MM” totaling \$500.00 in outstanding transactions: one on October 5, 2012, for \$300.00, check number 188, and another on October 11, 2012 for \$200.00, check number 191.

179. The Respondent thereafter deposited check number 188 and caused the transaction to be designated as “closed” in the verification database.

180. At the time Respondent caused the check number 188 transaction to be closed in the verification database, none of the definitions of “closed”¹⁷ had been satisfied.

181. The Respondent entered into a third deferred deposit transaction with customer “MM” for \$300.00 on October 24, 2012, check number 195.

182. Check number 188 was thereafter returned for insufficient funds, and the Respondent “reopened” the transaction in the verification database.

¹⁷ See *supra*, ¶¶ 7-8.

183. The check number 188 transaction was paid by the customer and closed on May 28, 2013.

**COUNT XVII – OUTSTANDING DEFERRED DEPOSIT
TRANSACTIONS IN EXCESS OF THE LIMITS**

184. Paragraphs 1-12 and 176-183 are restated and incorporated herein by reference.

185. As a result of the foregoing, the Respondent had three outstanding deferred deposit transactions totaling \$800.00 from customer “MM” in excess of both the two-transaction and \$500.00 limits allowed by KRS 286.9-100(9).

**COUNT XVIII – FAILURE TO ENTER PRIOR TRANSACTION DATA
INTO DATABASE BEFORE ENTERING NEW TRANSACTION**

186. Paragraphs 1-185 are restated and incorporated herein by reference.

187. By closing the deferred deposit transaction in the verification database without satisfying the definitions of “closed,” the Respondent failed to “promptly and accurately” enter the closed date of prior transactions into the database in violation of KRS 286.9-140(1).

COUNT XIX – UNFAIR OR DECEPTIVE TRADE PRACTICE OR ACT

188. Paragraphs 1-187 are restated and incorporated herein by reference.

189. By prematurely closing in the verification database outstanding deferred deposit transactions that did not satisfy any of the definitions of “closed,” the Respondent routinely and consistently engaged in a pattern of unfair or deceptive acts or practices in violation of KRS 286.9-100(7).

AGREEMENT AND ORDER

WHEREFORE, the Department and the Respondent, in the interest of economically and efficiently resolving the violations set forth in the foregoing Findings of Fact and Conclusions of Law, agree as follows:

A. 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 Order.

B. 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.

C. 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, the 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.

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

E. Respondent is assessed and agrees to pay a fine in the amount of one thousand dollars (\$1,000.00) for each of the 17 violations of KRS 286.9-100(9), three thousand dollars

(\$3,000) for the violation of KRS 286.9-140(1), and five thousand dollars (\$5,000.00) for the violation of KRS 286.9-100(7) set forth in the Findings of Fact and Conclusions of Law, for a total fine of twenty-five thousand dollars (\$25,000.00).

F. Respondent shall pay the total fine assessed herein of twenty-five thousand dollars (\$25,000.00), which shall be due and payable upon entry of this Agreed Order; **the payment shall be in the form of a certified check or money order made payable to “Kentucky State Treasurer”** and mailed to the Department of Financial Institutions, Attn: Non-Depository Division – Order, 1025 Capital Center Drive, Suite 200, Frankfort, Kentucky 40601.

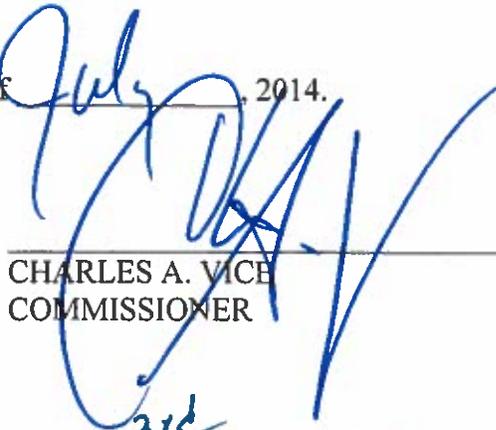
G. Pursuant to KRS 286.9-035(2), Respondent shall make restitution, by check drawn on the Respondent’s account, to all affected customers by refunding the service fees and other charges in excess of the principle on the transactions that created the database violation and to maintain records—consistent with KRS 286.9-074—that such refund checks were issued to the customers and were processed for payment by the customer; if after reasonable due diligence, the customer cannot be located, the Respondent shall notify the Department of its efforts to locate the customer and shall document same in its records.

H. Respondent shall immediately cease and forever desist from all activity of the nature resulting in the violations described herein.

I. 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, all regulations set forth in 808 KAR Chapter 9, and this Order.

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

IT IS SO ORDERED on this the 10th day of July, 2014.

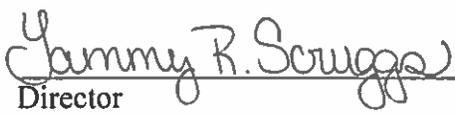


CHARLES A. VICE
COMMISSIONER

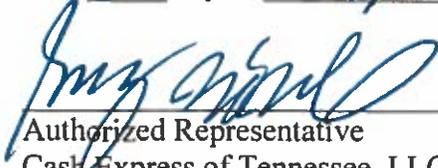
Consented to:

This 9th day of July, 2014.

This 3rd day of July, 2014.



Director
Division of Non-Depository Institutions
Department of Financial Institutions



Authorized Representative
Cash Express of Tennessee, LLC

ACKNOWLEDGEMENT

STATE OF TENNESSEE)
)
COUNTY OF Putnam)

On this, the 3rd day of July, 2014, before me Rhonda Cole, the undersigned, Garry McNabb, did personally appear and acknowledge himself/herself to be the CEO (insert title), an authorized representative, of Cash Express of Tennessee, LLC and that he/she, being authorized to do so, entered into and executed the foregoing instrument for the purposes therein contained.

In witness whereof I hereunto set my hand:





Notary Public

My Commission Expires: 12/20/16

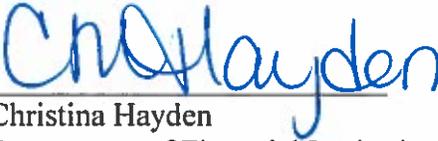
CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 10 day of July, 2014, by certified mail, return receipt requested, to the following:

Cash Express of Tennessee, LLC
263 W. Spring Street
Cookeville, TN 38501

VIA HAND DELIVERY TO:

William H. Adams II
1025 Capital Center Drive, Suite 200
Frankfort, KY 40601
Counsel for the Department


Christina Hayden
Department of Financial Institutions