COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2016-AH-0058

DEPARTMENT OF FINANCIAL INSTITUTIONS COMPLAINANT

vs. **AGREED ORDER**

DANIEL NEFF RESPONDENT

* * * * * * * * * * * * * *

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 Kentucky Revised Statute (KRS) Chapter 286.9.

2. Daniel Neff ("Respondent") is the sole proprietor of the Cawood Pit Stop, a convenience store located at 3544 S. Highway 3001, Cawood, Kentucky 40815.

3. KRS 286.9-020 provides that it is unlawful for a person to engage in the business of cashing checks or accepting deferred deposit transactions for a fee or other consideration without having first obtained a license.

4. KRS 286.9-035(1) further provides that any deferred deposit transaction agreement made with an unlicensed person is void and that it is unlawful for an unlicensed person to attempt to collect any principal, fee, interest, charges or recompense associated with the void transaction.

5. Pursuant to KRS 286.9-070, DFI has the power to investigate all complaints filed by any person if the complaints are not criminal in nature and if they relate to the check cashing or the deferred deposit service business.

6. DFI possesses a range of administrative authority in addressing violations of KRS 286.9, including ordering that refunds to customers be made, issuing cease-and-desist orders, or ordering civil penalties in an amount up to $5,000 per violation. *See* KRS 286.9-110; 286.9-991.

7. DFI received information that Respondent was engaging in the business of accepting deferred deposit transactions at the Cawood Pit Stop and collecting and attempting to collect principal and fees related to those transactions.

8. Neither Respondent nor Cawood Pit Stop is licensed to engage in the business of cashing checks or accepting deferred deposit transactions as those terms are defined by KRS 286.9.

9. In the interest of economically and efficiently resolving the violations described herein, and without Respondent admitting or denying the statements of fact herein, DFI and Respondent agree as follows:

a. Respondent agrees to a civil penalty assessment in the amount of two thousand five hundred dollars ($2,500.00) for the violations described herein;

b. Respondent agrees that 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;

c. The two thousand five hundred dollars ($2,500) shall be due as follows:

1. $500.00 due on or before August 1, 2016
2. $500.00 due on or before September 1, 2016
3. $500.00 due on or before October 1, 2016
4. $500.00 due on or before November 1, 2016
5. $500.00 due on or before December 1, 2016

d. Respondent agrees to cease and desist, either as an individual, through Cawood Pit Stop, or through any other business entity, from engaging in the business of cashing checks or accepting deferred deposit transactions for a fee or other consideration while not being licensed to do so;

e. Respondent agrees that any deferred deposit or check cashing transaction that he may have entered into either individually, through Cawood Pit Stop or through another business entity is both void and unenforceable as a matter of law;

f. Respondent agrees to cease and desist, as an individual, through Cawood Pit Stop or through any other business entity, from seeking to collect or collecting any principal, fee, interest, charges or recompense associated with any deferred deposit or check cashing transaction he engaged in without a license to do so;

g. DFI hereby releases Respondent from any claims it may have related to unlicensed deferred deposit or check cashing transactions engaged in by Respondent prior to execution of this Agreed Order.

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

11. 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.

12. In consideration of execution of this Agreed Order, Respondent 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.

13. By signing below, Respondent acknowledges he has read the foregoing Agreed Order and knows and fully understands its contents.

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

IT IS SO ORDERED on this the 12 day of July, 2016.

CHARLES A. VICE
COMMISSIONER

Consented to:

This 11th day of July, 2016.

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

This 22ND day of June, 2016.

Daniel Neff

ACKNOWLEDGEMENT

STATE OF KENTUCKY)
)
COUNTY OF HARLAN)

On this the 22ND day of JUNE, 2016, before me OTIS DOAN, JR., the undersigned, DANIEL NEFF, did personally appear and entered into and executed the foregoing instrument for the purposes therein contained.

My Commission Expires: 3/25/2019

Notary Public

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 12 day of July, 2016, by certified mail, return receipt requested, to:

Hon. Otis Doan
117 North 1st Street
Harlan, Kentucky 40831

Daniel Neff
3544 S. Highway 3001
Cawood, Kentucky 40815

And by Hand-Delivery to:

Hon. Taylor Payne
1025 Capitol Center Drive
Frankfort, Kentucky 40601

Christina M. Hayden
Kentucky Department of Financial Institutions