

ENTERED  
JUN 25 2019  
*Spw 10:33am*  
COMMISSIONERS OFFICE

COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2019-AH-00019

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

ADVANCE AMERICA, CASH ADVANCE CENTERS  
OF KENTUCKY, INC.

RESPONDENT

**AGREED ORDER**

\* \* \* \* \*

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. Advance America, Cash Advance Centers of Kentucky, Inc. ("Respondent") is authorized to do business in Kentucky as a deferred deposit and check cashing licensee pursuant to KRS Chapter 286.9, with an office located at 2017-B Brownsboro Road, Louisville, Kentucky 40206 with Deferred Deposit License #17704 (ICIE # 391404). The principal corporate office is located in Spartanburg, South Carolina.

3. DFI conducted a routine examination of Respondent on May 2, 2018. During the examination, the DFI discovered that Respondent failed to record the check numbers on partial payment receipts, in violation of KRS 286.9-074(1) and KRS 286.9-140(1).

4. KRS 286.9-074(1) states: "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.”

5. KRS 286.9-140(1) states, in relevant part: “...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 the 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.”

6. DFI possesses a range of administrative authority in addressing violations of the Act, including license revocation or denial, as well as the imposition of civil penalties in an amount up to five thousand dollars (\$5,000) per violation. See KRS 286-9.110; 286.9-991.

7. In this case, the DFI assessed a civil penalty against Respondent in the amount of one thousand dollars (\$1,000) for the above-described violations of KRS 286.9-074(1) and KRS 286.9-140(1) for a total penalty of one thousand dollars (\$1,000).

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

- a. Respondent agrees to a civil penalty assessment in the amount of one thousand dollars (\$1,000) for the violations described herein;
- b. Payment shall be made 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. 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.

9. 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.

10. 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.

11. 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.

12. 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.

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

IT IS SO ORDERED on this the 25<sup>th</sup> day of June, 2019.

  
\_\_\_\_\_  
CHARLES A. VICE  
COMMISSIONER

**Consented to:**

This 20<sup>th</sup> day of June, 2019.

This 5<sup>th</sup> day of June, 2019.

Marni G. Gibson

Dorsey Hall, Division Director  
Division of Non-Depository Institutions  
Department of Financial Institutions

Marni Gibsom, Deputy Commissioner

[Signature]

Authorized Representative  
Advance America, Cash Advance  
Centers of Kentucky, Inc.  
Deferred Deposit License # CC17704

**ACKNOWLEDGEMENT**

STATE OF South Carolina )

COUNTY OF Spartanburg )

Sarah Rouse On this the 5<sup>th</sup> day of June, 2019, before me  
Dence Roth, the undersigned, Dence Roth, did personally  
appear and acknowledge himself/herself to be the authorized representative of Advance  
America, Cash Advance Centers of Kentucky, 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: 12-10-2024

Sarah Rouse  
Notary Public



**Certificate of Service**

I hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 25<sup>th</sup> day of June, 2019, by certified mail, return receipt requested, to the following:

Ms. Valerie Grimes  
Regulatory Relations Specialist  
Advance America, Cash Advance Centers of Kentucky, Inc.  
135 North Church Street  
Spartanburg, SC 29306

And by Hand-Delivery to:

Hon. Christine Foster  
Kentucky Department of Financial Institutions  
1025 Capital Center Drive, Suite 200  
Frankfort, KY 40601

NAME: Allison Reed

TITLE: Executive Staff Advisor

By: Stacy Parker Neace