

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2019-AH-00054**

ENTERED
SEP 03 2019
APR 1 PM
COMMISSIONERS OFFICE

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 502 Eastwood Shopping Center, Frankfort, Kentucky 40601 with Deferred Deposit License # 103-19 (ICIE # 391610). The principal corporate office is located in Spartanburg, South Carolina.

3. DFI conducted a routine examination of Respondent on February 26, 2019. During the examination, the DFI discovered that Respondent; 1) entered into an agreement with a borrower without the required signatures, in violation of KRS 286.9-100(13), 2) failed to record the check numbers on partial payment receipts in violation of KRS 286.9-074(1) and KRS 286.9-140(1), and 3) reopened a transaction in the Veritec database in violation of KRS 286.9-140.

4. KRS 286.9-100(13) states: "Each deferred deposit transaction shall be made according to a written agreement that shall be dated and signed by the customer and the licensee or an authorized agent of the licensee at the licensed location, and made available to the commissioner upon request. The customer shall receive a copy of this agreement."

5. 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 policy."

6. 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 provided 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 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.”

7. 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.

8. In this case, the DFI assessed a civil penalty against Respondent in the amount of three thousand dollars (\$3,000) for the above-described violations of KRS 286.9-074(1), KRS 286.9-100(13), and KRS 286.9-140.

9. 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 three thousand dollars (\$3,000) for the violations described herein;
- b. Payment shall be made in the form of a cashier’s 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.

10. 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.

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 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.

13. 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.

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

IT IS SO ORDERED on this the 3rd day of September, 2019.



CHARLES A. VICE
COMMISSIONER

Consented to:

This 30th day of August, 2019.

Marni Gibson

Marni Gibson, Deputy Commissioner
Division of Non-Depository Institutions
Department of Financial Institutions

This 22nd day of August, 2019.

[Signature]

Authorized Representative
Advance America, Cash Advance
Centers of Kentucky, Inc.
Deferred Deposit License # 103-19

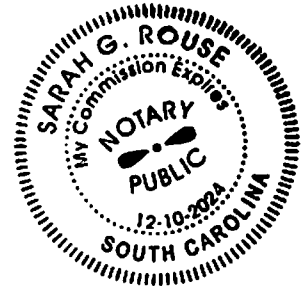
ACKNOWLEDGEMENT

STATE OF South Carolina)
COUNTY OF Spartanburg)

On this the 22nd day of August, 2019, before me Sarah G. Rouse, the undersigned, Jeffrey W Newman, 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 G. Rouse
Notary Public



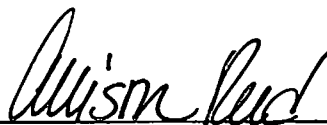
Certificate of Service

I hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 3rd day of September, 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



Kentucky Department of Financial Institutions