

ENTERED
MAY 20 2021
9:45AM AETZ
COMMISSIONERS OFFICE

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NOS. 2019-AH-00008 & 2020-AH-0010**

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

BUCKEYE CHECK CASHING OF KENTUCKY, INC.
d/b/a CHECK\$MART

RESPONDENT

**AGREED ORDER RESOLVING
AMENDED ADMINISTRATIVE COMPLAINT 2019-AH-0008
AND ADMINISTRATIVE COMPLAINT 2020-AH-0010**

1. The Complainant, the Kentucky Department of Financial Institutions (hereafter "DFI") is the agency within the Commonwealth of Kentucky charged with the administration of the provisions of Subtitle 9 of KRS Chapter 286, and the rules and regulations promulgated thereunder.

2. The Respondent is a foreign corporation incorporated under the laws of the State of Ohio, registered with the Kentucky Secretary of State to do business in Kentucky under the name of Buckeye Check Cashing of Kentucky, Inc., (hereafter "Buckeye") with its principal place of business located at 5165 Emerald Parkway, Suite 100, Dublin, OH 43017. Buckeye operates fifteen (15) licensed branches located in the Commonwealth of Kentucky.

3. The DFI filed its Administrative Complaint on February 26, 2019. The Department thereafter on July 26, 2019, filed its Amended Administrative Complaint (2019-AH-0008).

4. The Amended Administrative Complaint alleges in the years 2017, 2018,

and 2019, that Buckeye improperly accepted cash payment prior to receiving notice of dishonor of payment(s) from the customer's bank or financial institution on eighty-four (84) loans. The DFI asserted that the acceptance of cash payments prior to receiving notice of dishonor from the customer's bank or financial institution is an unfair practice and a violation of KRS 286.9-100(7).

5. DFI has further alleged in its Amended Administrative Complaint that Buckeye violated certain provisions of KRS Chapter 286.9 including KRS 286.9-010(6)¹, KRS 286.9-100, KRS 286.9-140(1) and 808 KAR 9:010(3).

6. The DFI filed a second Administrative Complaint on March 6, 2020 (2020-AH-10) alleging similar violations of KRS 286.9 that are set forth in the Initial Amended Administrative Complaint.

7. In the interest of economically and efficiently resolving the alleged violations described herein, DFI and Buckeye agree as follows:

- a. Buckeye will "close" accounts in accordance with the requirements of KRS 286.9-010(7) and 808 KAR 9:010;
- b. Buckeye is legally entitled to accept debit cards without obtaining a PIN as a means of repaying the customer's obligation on a given deferred presentment transaction. In cases where the customer's check has been deposited for collection, Buckeye shall have received confirmation from the customer or the financial institution that the customer's check has been returned to Buckeye unpaid. Buckeye will take measures to ensure that credit cards are not taken as a payment instrument to

¹ Due to a renumbering of the applicable statutory provision, KRS 286.9-010(6) became KRS 286.9-010(7).

- redeem the loan, or as part of the internal collection process after a customer's check has been returned for nonpayment;
- c. Buckeye may follow written guidance provided by the DFI to licensees regarding interactions with the Kentucky database;
 - d. DFI acknowledges that, in response to a written request from DFI prior to the initiation of the first Administrative Complaint, Buckeye ceased the practice of accepting payments after a customer's payment instrument has been introduced into the UCC check collection process through presentment to the customer's bank, but prior to that payment instrument being returned for nonpayment.
 - e. Buckeye will implement the following procedures when, and if, a payment is taken after the payment instrument had been deposited for collection through the bank account:
 - 1. Buckeye shall maintain proof the payment instrument collection has been stopped through a "Stop Payment" order from the customer, specifically identifying the payment instrument; or
 - 2. Buckeye shall obtain proof from the customer or the depository institution in written form, that the payment instrument has been presented to the bank and has been denied (NSF) and is being, or has been, returned to the Licensee;
 - 3. Such documentation shall be made readily available upon

each exam, if requested;

- f. Buckeye agrees to a civil fine assessment in the amount of thirteen thousand dollars (\$13,000) for the alleged violations listed in the Complaints referred to above;
- g. Buckeye agrees to and shall pay the total civil fine assessed herein of thirteen thousand dollars (\$13,000), which shall be due upon execution and entry of the Agreed Order. The Payment shall be in the form of either an ACH payment or a certified check or money order made payable to the "Kentucky State Treasurer" and mailed to the Department of Financial Institutions, Attn: Non-Depository Division, 500 Mero Street 2SW19, Frankfort, KY 40601; and
- h. Buckeye shall devote the time and resources necessary to ensure continual and full compliance with all statutory requirements set forth in KRS 286.9.

8. Buckeye 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.

9. Buckeye 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.

10. This Agreed Order will resolve: (a) all violations alleged in the Amended Administrative Complaint 2019-AH-0008 and Administrative Complaint 2020-AH-10, (b) all violations that preceded the filing of Administrative Complaint 2020-AH-10, (c) all

examinations of Buckeye included in the 2018 and 2019 exam cycle, and (d) the two (2) examinations of Buckeye which were conducted January 11 and February 2, 2021 (Lic. #CC18841), and May 15, 2020 (Lic. #CC18142), respectively. This Agreed Order settles (a) any claim DFI may have with respect to any card payments accepted by Buckeye and (b) any claim DFI may have with respect to Buckeye's acceptance of payments prior to receiving notice of dishonor from the customer's bank, in each case, up to the date this Agreed Order is executed and delivered.

11. Payment of the civil fine referenced above is made by Buckeye in compromise of various disputed claims between the parties in both administrative complaints and is not to be asserted or construed as an admission of liability by Buckeye. Buckeye neither admits nor denies violations of KRS 288.9.

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. Pursuant to its authority under KRS Chapter 288.9, DFI reserves the right and ability to assess a civil penalty and other administrative remedies against Buckeye should it reasonably determine Buckeye has failed to follow any portion of this Agreed Order; provided, however, that to the extent that any law, regulation or policy is changed in a manner that would rescind, in whole or in part, any obligations imposed by this Agreed Order, Buckeye will have the benefit of such change in such law, regulation, or policy. Buckeye would then be entitled to demand a hearing at which it would have the right to legal representation, to confront and cross-examine witnesses, and to present evidence on its own behalf, or to otherwise appeal or set aside any future civil penalty or other

administrative remedy.

13. Administrative Actions 2019-AH-008 and 2020-AH-20 are hereby resolved, and this Agreed Order is a final order in the matter.

IT IS SO ORDERED on this the day of , 2021.

/s/ Charles A. Vice

CHARLES A. VICE
COMMISSIONER

Charles A.
Vice

Digitally signed by: Charles A. Vice
DN: CN = Charles A. Vice email =
Charles.Vice@ky.gov C = US O =
KY/DFI OU = Commissioner's
Office
Date: 2021.05.18 12:11:35 -04'00'

Consented to:

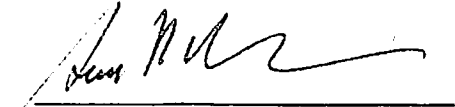
This _____ day of _____, 2021.

This 20th day of April, 2021.

**Chad
Harlan**

Digitally signed by: Chad Harlan
DN: CN = Chad Harlan email =
chadk.harlan@ky.gov C = US
OU = DFI
Date: 2021.05.14 15:47:49 -
04'00'

**Director
Division of Non-Depository Institutions
Department of Financial Institutions**



**Authorized Representative
Buckeye Check Cashing of Kentucky Inc.**

ACKNOWLEDGMENT

STATE OF Ohio)
COUNTY OF Franklin)

On this the 20th day of April, 2021, before me
Panthini Patel, the undersigned, Sean P. O'Brien, did
personally appear and acknowledge himself/herself to be the authorized representative
of Buckeye Check Cashing of Kentucky, Inc. 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.

My Commission Expires: 01/16/2023



Notary Public



CERTIFICATE OF SERVICE

20th I hereby certify that a copy of the foregoing **Agreed Order** was sent on this the
day of May, 2021, by certified mail, return receipt requested, to the
following:


Greg A. Jennings, Esq.
Jennings Law Office
101 North 7th Street
Louisville Ky 40202

George Cate, III
Bradley Arant Boult Cummings LLP
Roundabout Plaza, 1600 Division Street, Suite 700
Nashville, TN 37203

Sean O'Brien, General Counsel
Buckeye Check Cashing of Kentucky, Inc.
d/b/a CheckSmart
5165 Emerald Parkway, Suite 100
Dublin, Ohio 43017

And by hand-delivery to:

Kathryn Adams Cornett
Staff Attorney
Kentucky Department of Financial Institutions
Department of Financial Institutions
500 Mero Street, 2SW19
Frankfort, Kentucky 40601
Counsel for the Complainant


Name: Allison Reed
Title: Executive Staff Advisor
Department of Financial Institutions