

**COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2019-AH-00032**

ENTERED
MAY 23 2019
3:15 PM
COMMISSIONERS OFFICE

DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

vs.

THE CHECK EXCHANGE

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. The Check Exchange, 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 3823 Winston Avenue, Latonia, Kentucky 41015 with Deferred Deposit License #CC132-10 (ICIE # 391520). The principal corporate office is located in Lexington, Kentucky.

3. DFI conducted a routine examination of Respondent on November 26, 2018. During the examination, the DFI discovered that Respondent closed and then improperly reopened five (5) customers' loans in the Veritec database, in violation of KRS 286.9-140(1).

4. KRS 286.9-140(1) provides, in part: "...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."

5. 808 KAR 9:010(3) provides: "A licensee shall not cause a closed deferred deposit transaction to be reopened in the database unless all of the following conditions are satisfied:

- a. The deferred deposit transaction was closed by reason of clerical error by the licensee;
- b. The licensee causes the deferred deposit transaction to be reopened on or before the close of business on the business day after the transaction was closed; and
- c. Reopening the transaction would not cause the consumer to exceed the transaction limits set forth in KRS 286.9-100(9)."

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 each of the above-described violations of KRS 286.9-140(1), for a total penalty of five thousand dollars (\$5,000). In addition, DFI requires a refund of all fees for the five (5) effected customers.

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 five thousand dollars (\$5,000) 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.

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 23rd day of May, 2019.

Walter R. G. [Signature] Deputy
CHARLES A. VICE
COMMISSIONER
for Charles
A. Vice
Commissioner

Certificate of Service

I hereby certify that a copy of the foregoing **Agreed Order** was sent on this the 23rd day of May, 2019, by certified mail, return receipt requested, to the following:

Mr. Rod Pederson
President
The Check Exchange, Inc.
644 North Broadway
Lexington, KY 40508

And by Hand-Delivery to:

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

NAME: Alison Reed
TITLE: Executive Staff Advisor