

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2014-AH-002



DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v.

VICTORY LLC
D/B/A/ APPALACIAN CHECK EXCHANGE

RESPONDENT

FINAL ORDER

* * * * *

This matter is before the Commissioner of the Department of Financial Institutions (“DFI”), pursuant to KRS Chapter 286.9. The Commissioner hereby enters this **Final Order** against Victory LLC d/b/a, pursuant to KRS Chapter 286.9.

FINDINGS OF FACT

1. DFI is responsible for regulating and licensing check cashers and deferred deposit service businesses, in accordance with the provisions of KRS Chapter 286.9. All licensees must accurately and promptly enter customer’s information into the deferred deposit database, including the customer’s correct social security number. *See* KRS 286.9-140(1).

2. As of April 2, 2013, Respondent was registered as a deferred deposit service business in Kentucky pursuant to KRS 286.9.

3. On April 2, 2013, the DFI conducted a routine examination of the Respondent’s office. During the course of that examination, DFI discovered that Respondent failed to accurately enter a customer’s correct social security number in the Veritc database. This resulted

in the customer receiving proceeds in excess of the statutory \$500 limit for deferred deposit transactions.

4. On January 6, 2014, DFI, by counsel, filed an Administrative Complaint in this matter requesting a civil penalty against Respondent. The Administrative Complaint was sent via certified mail, return receipt requested, to Respondent's last known address, Attention: Janet Vanover, 1224 Kentucky Route 122, Martin, Kentucky 41649.

5. The Administrative Complaint explained that the Respondent must file an answer to the Complaint, including a request for hearing, within twenty (20) days of service. The Administrative Complaint also explained that if a request for hearing was not received within 20 days, DFI would seek a Final Order from the Commissioner granting the relief requested in the Complaint.

6. The U.S. Post Office served the Complaint upon Respondent on January 8, 2014, and the DFI received notice of service on January 10, 2014.

7. More than twenty (20) days have passed, and the Respondent has failed to respond to the Complaint or request a hearing in this matter.

STATUTORY AUTHORITY

1. KRS 286.9-140(1) states, "A licensee shall not have more than two (2) deferred deposit transactions from any one (1) customer at any one time. The total proceeds received by the customer from all of the deferred deposit transactions shall not exceed five hundred dollars (\$500)."

2. KRS 286.9-140(1) states in pertinent part:

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 provider 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 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.

3. Pursuant to KRS 286.9-100(19)(b), a licensee shall promptly and accurately access the database through an internet real-time connection, and verify that the customer meets the eligibility requirements for a deferred presentment service transaction under this subtitle.

4. Pursuant to KRS 286.9-140(2), a licensee shall accurately enter into the database all transactions it undertakes.

5. Pursuant to KRS 286.9-991, the Commissioner has the ability to levy a civil penalty against any person who violates any provision of KRS Chapter 286.9. The civil penalty shall not

be less than one thousand dollars (\$1,000), nor more than five thousand dollars (\$5,000) per violation.

CONCLUSIONS OF LAW

1. Respondent violated KRS 286.9-100(19)(b), 286.9-140(1), and 286.9-140(2) when it failed to accurately enter information into the database, thereby resulting in the customer receiving proceeds in excess of the statutory \$500 limit for deferred deposit transactions.
2. The Respondent was properly served with a copy of the Administrative Complaint by certified mail/return receipt requested pursuant to KRS 286.8-044(2) and service was complete on January 8, 2014.
3. The Respondent has failed to respond to the Complaint or request a hearing within twenty (20) days of service. Thus, the Respondent is in default and has waived its right to a hearing.

ORDER

THEREFORE, based upon the Findings of Fact, Statutory Authority, and Conclusions of Law set forth above, the Commissioner **ORDERS** that a civil penalty of one thousand dollars (\$1,000) is hereby assessed against the Respondent, Victory LLC d/b/a Appalachian Check Exchange. This is a **FINAL AND APPEALABLE** Order.

Executed on this 8th day of July, 2014.



CHARLES A. VICE, COMMISSIONER
Department of Financial Institutions
1025 Capital Center Drive, Suite 200
Frankfort, KY 40601

NOTICE OF APPEAL RIGHTS

Pursuant to KRS 13B.140, you are hereby notified that you have the right to appeal this Final Order of the Commissioner. If you chose to appeal, you must file a written petition for judicial review with the Franklin Circuit Court or other court of competent jurisdiction within thirty (30) days after mailing of this Final Order. A copy of any Petition must also be served on the Commissioner.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Final Order** was sent by certified mail to, return receipt requested, on this the 8 day of July, 2014 to:

Victory LLC d/b/a Appalachian Check Exchange attn.: Janet Vanover 1224 KY Route 122 Martin, KY 41649	

And by hand-delivery to:

William Owsley
1025 Capital Center Drive, Suite 200
Frankfort, KY 40601
Attorney for Petitioner


Christina Hayden