

**COMMONWEALTH OF KENTUCKY  
PUBLIC PROTECTION CABINET  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
AGENCY CASE NO. 2009-AH-007**

Department of Financial Institutions

Complainant

v.

**FINAL ORDER REVOKING LICENSE**

Wage Express, Inc.  
92 Appalachian Plaza  
S. Williamson, KY 41503

Respondent

\* \* \* \* \*

Pursuant to KRS 286.9-110 the Commissioner of the Department of Financial Institutions (“DFI”) issues this ORDER revoking the license of Wage Express, Inc.

**FINDINGS OF FACT**

1. The DFI is responsible for regulating and licensing deferred deposit service businesses in accordance with the provisions of KRS Chapter 286, Subtitle 9. These businesses are commonly known as “check cashers.”

2. Respondent is a check casher licensed with the DFI to engage in the business of cashing checks in Kentucky.

3. Brenda Koontz is an owner of Respondent. Leslie Koontz was formerly an owner of Respondent.

4. On October 9, 2008, the DFI conducted an examination of the activities of Respondent.

5. During the examination, the DFI reviewed “on payment” account files of the Respondent. This account review indicated that these accounts are not handled in a consistent manner. With some accounts, the customer’s check was immediately deposited at the end of the

two-week term and those that “bounced” were forwarded to a collection company. With other accounts, the customer was afforded the opportunity to make payments of their outstanding check directly to the Respondent.

6. With respect to customers who were allowed to make payments, some were provided computer generated receipts but others were not, although management stated that these customers were provided a copy of the Respondent’s ledger showing the payment. Not all accounts were maintained in a ledger.

7. In addition, Respondent required customers who made their payments in person to provide a new check for the remaining balance on their account. Customers who paid by mail were not required to provide a new check; however, in at least one account, the Respondent changed the check amount on the original retained check to reflect the customer’s new balance.

8. The DFI reviewed the “on payment” account of C. Adams. The account contained check number 1291 written on January 12, 2008, for \$323.54. The file indicates Respondent accepted a payment of \$100 on the account on February 12, 2008.

9. On September 2, 2008, Brenda Koontz endorsed and deposited the Adams check. However, prior to its deposit, the date of the check was altered from “1-12-08” to “7-12-08.” The alteration was accomplished by adding a dash to the top of the one (1) in the date to make it look like a seven (7).

10. Adams’ bank has since refunded the amount of the check (\$323.54) to her bank account.

11. The Department found a copy of a draft letter in the Adams file addressed to the customer that states:

The check you wrote to WAGE EXPRESS in the amount of \$352.95 on an account that has been closed since 2005 according to your bank. This is a

violation of KRS 514.040. And can and will be persued [sic] as a criminal action of writing a cold check or theft by deception. You have until the 29<sup>th</sup> of August to resolve this matter or legal action will be persued [sic].

12. The draft letter contained various editing marks and was signed by Leslie Koontz. It appears that the letter was never sent to the customer and the customer has stated to DFI that she never received this letter.

13. On January 20, 2009, the DFI notified the Respondent that it considered the above activities to constitute violations of KRS Chapter 286.

14. On February 5, 2009, the Respondent advised the DFI that it was no longer conducting business as a check casher.

15. On February 7, 2009, the DFI mailed an administrative complaint alleging violations of KRS Chapter 286 by certified mail, return receipt requested, to the address of the Respondent on file with the DFI.

16. The complaint was refused by the Respondent on February 20, 2009, and returned unopened to the DFI.

### **CONCLUSIONS OF LAW**

#### **Respondent Failed to Maintain Records as Required**

17. KRS 289.9-100(1) requires licensees to keep and use books, account, and records that the department may require to carry out the provisions of KRS 286.9-010 to 286.9-120.

- a. For accounts set up on payment plans, the Department requires licensees to maintain a ledger identifying all customer checks, fees, payments and current balances.
- b. The Department requires licensees to provide a customer a receipt for partial payments. At a minimum, the receipt must show the customer's name, date of payment, amount of payment, and remaining balance.
- c. The Department requires licensees to retain a customer's original check when maintaining an account on payments. The licensee may not require a new check from the customer for the remaining balance each time the customer makes a payment.

18. As set forth in paragraphs 5-7, Respondent failed to maintain records as required by the Department in violation of KRS 289.9-100(1).

**Respondent Altered a Customer Check**

19. KRS 286.9-100(7) states that “No licensee shall alter or delete the date on any check accepted by the licensee.”

20. As set forth in paragraphs 8-10, Respondent altered a customer check in violation of KRS 286.9-100(7).

**Respondent Engaged in Unfair or Deceptive Acts**

21. KRS 286.9-100(8) states that “No licensee shall engage in unfair or deceptive acts, practices, or advertising in the conduct of the licensed business.”

22. As set forth in paragraphs 8-10, the Respondents engaged in an unfair practice by depositing a customer check after it had accepted partial payment from the customer.

**Respondent is Incompetent or Untrustworthy to Act as Licensee**

23. KRS 286.9-100(17) states that “No licensee who enters into a deferred deposit transaction with an individual shall prosecute or threaten to prosecute an individual under the provisions of KRS 514.040.”

24. KRS 286.9-110 states that the commissioner may suspend or revoke a license if the licensee has demonstrated his or its incompetency or untrustworthiness to act as a licensee.

25. As set forth in paragraphs 11-12, Respondent drafted a letter to a customer threatening prosecution under KRS 514.040. Despite that the letter was apparently never sent to the customer, this draft evidences intent to threaten prosecution and demonstrates incompetency or untrustworthiness to act as a licensee.

**STATUTORY AUTHORITY**

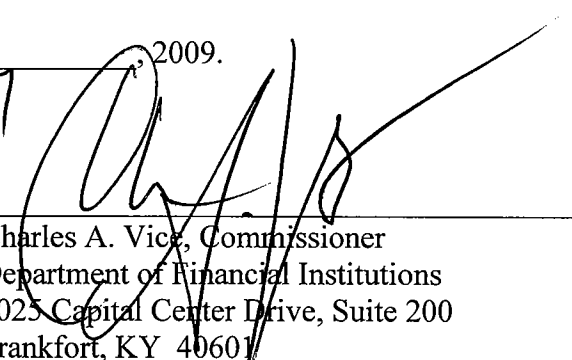
26. KRS 286.9-110(1) provides that the commissioner may suspend or revoke a license if the licensee:

- a) Has committed any fraud, engaged in any dishonest activities, or made any misrepresentations;
- b) Has violated any provisions of KRS 286.9-010 to 286.9-120 or any administrative regulation issued pursuant thereto or has violated any other law in the course of its or his dealings as a licensee;...
- d) Has demonstrated his or its incompetency or untrustworthiness to act as a licensee.

**ORDER**

Pursuant to the authority provided at KRS 286.9-110(1), the Commissioner of the Department ORDERS that the license of Respondent is revoked for the violations set forth in the Findings of Fact and Conclusions of Law stated above. This order constitutes a final order in this matter.

Entered on the 5<sup>th</sup> day of May, 2009.

  
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Charles A. Vick, Commissioner  
Department of Financial Institutions  
1025 Capital Center Drive, Suite 200  
Frankfort, KY 40601

**NOTICE OF RIGHT TO APPEAL**

Pursuant to KRS 13B.140, you have the right to appeal this order to Franklin Circuit Court or to the Circuit Court of the county in which the business operates. To appeal, you must file a petition with the Court within thirty (30) days after this order is mailed.

CERTIFICATE OF SERVICE

I, Paula Call, certify that on the 6<sup>TH</sup> day of May, 2009, a copy of this ORDER OF REVOCATION in Agency Case No. 2009-AH-007 was mailed by certified mail, return receipt requested to:

Brenda Koontz  
Wage Express, Inc.  
92 Appalachian Plaza  
S. Williamson, KY 41503

Paula Call