

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	FINDINGS OF FACT
Ace Cash Express, Inc.,)	CONCLUSIONS OF LAW
10916 Q Street,)	AND
Omaha, Douglas County, Nebraska)	CONSENT AGREEMENT

THIS MATTER comes before the Nebraska Department of Banking and Finance (“DEPARTMENT”), by and through its Director, pursuant to its authority under the Delayed Deposit Services Licensing Act, Neb. Rev. Stat. §§ 45-901 to 45-929 (Reissue 2010) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-920 (Reissue 2010), the DEPARTMENT has examined the books, accounts, and records of Ace Cash Express, Inc., 10916 Q Street, Omaha, Douglas County, Nebraska (“ACE”). As a result of such examination, and being duly advised and informed in the matter, the Director and ACE enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

FINDINGS OF FACT

1. ACE holds a delayed deposit services business license under the Act. License #1963 was originally issued on February 28, 2006. The license has been renewed annually on May 1st since that time, pursuant to Neb. Rev. Stat. § 45-910 (Reissue 2010).
2. On January 11, 2011, the DEPARTMENT commenced an examination of ACE pursuant to Neb. Rev. Stat. § 45-920 (Reissue 2010). This examination included an on-site visitation of ACE’s Omaha, Douglas County, Nebraska locations.
3. The January 11, 2011 Report of Examination (“Report”) was forwarded to ACE on February 8, 2011. The Report noted a number of violations of the Act. ACE submitted a response received by the DEPARTMENT on March 3, 2011.

4. The DEPARTMENT has reviewed the response submitted by ACE and has taken it into consideration in determining the appropriate actions to be taken in this matter.

5. The previous regular examination of ACE was conducted November 9, 2009 (“2009 Exam”), and revealed a number of violations of the Act. This Exam resulted in a Consent Agreement between the DEPARTMENT and ACE with an effective date of July 14, 2010. Repeat violations of the Act will be noted below.

6. References in this Consent Agreement to customers of ACE will be by way of initials, in order to protect the privacy of such customers. ACE knows or should know the identity of these customers. If ACE is unable to ascertain the identity of these customers, the DEPARTMENT will provide a list of these customers upon receipt of a written request.

7. The Report noted twelve (12) instances where ACE failed to properly maintain copies of customer records, namely, one customer check and eleven payment receipts for customers MV, AAK, RB, MG, TKW, DK(2), AL, LM(2), RN, and DS, respectively.

8. ACE’s failure to properly maintain copies of customer records in twelve (12) instances represents twelve (12) separate repeat violations of Neb. Rev. Stat. § 45-915.01(2) (Reissue 2010) as noted in the 2009 Exam and corresponding Consent Agreement.

9. The Report noted one (1) instance where ACE failed to keep and maintain separate books, accounts, and records of the delayed deposit services business apart from another ACE business for customer LB.

10. ACE’s failure to keep and maintain separate books, accounts, and records of the delayed deposit services business apart from another ACE business represents a violation of Neb. Rev. Stat. § 45-916(1) (Reissue 2010).

11. The Report noted three (3) instances where ACE failed to obtain the customers' signatures on the disclosure agreements for customers TP, IW, and VY.
12. ACE's failure to obtain the customers' signatures on the disclosure agreements in three (3) instances represents three (3) separate violations of Neb. Rev. Stat. § 45-917(1)(a) (Reissue 2010).
13. The Report noted one (1) instance where ACE held a check for more than the statutorily allowed time for customer TH.
14. ACE's holding of a check for longer than the statutorily allowed time in one (1) instance represents one (1) violation of Neb. Rev. Stat. § 45-919(1)(c) (Reissue 2010).
15. The Report noted twenty-nine (29) instances where ACE failed to obtain completed Same Day Transaction Verification Forms ("SDTVFs") for customers.
16. ACE's failure to obtain completed SDTVFs in twenty-nine (29) instances represents twenty-nine (29) separate repeat violations of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) and Neb. Rev. Stat. § 45-915.01(2) (Reissue 2010) as noted in the 2009 Exam and corresponding Consent Agreement.
17. The DEPARTMENT could conclude that the actions of ACE warrant the commencement of administrative proceedings to determine whether it should impose an administrative fine in an amount up to five thousand dollars per violation, plus investigation costs, pursuant to Neb. Rev. Stat. § 45-925 (Reissue 2010).
18. The DEPARTMENT incurred a minimum of five hundred dollars (\$500.00) in investigation costs in this matter.

CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-908 (Reissue 2010) provides that in order to issue a delayed deposit services business license, the Director must determine that the character

and general fitness of the applicant and its officers, directors, and shareholders are such as to warrant a belief that the business will be operated honestly, fairly, efficiently, and in accordance with the Act.

2. Neb. Rev. Stat. § 45-915.01(2) (Reissue 2010) provides that a licensee shall, at a minimum, include in its books and records copies of all application materials relating to makers, disclosure agreements, checks, payment receipts, and proofs of compliance required by Section 45-919.

3. Neb. Rev. Stat. § 45-916(1) (Reissue 2010) provides that a licensee may operate a delayed deposit services business at a location where any other business is operated or in association or conjunction with any other business if the books, accounts, and records of the delayed deposit services business are kept and maintained separate and apart from the books, accounts, and records of the other business.

4. Neb. Rev. Stat. § 45-917(1)(a) (Reissue 2010) provides that every licensee shall, at the time any delayed deposit services transaction is made, give to the maker of the check, or if there are two or more makers, to one of them, a notice written in plain English disclosing the fee to be charged for the transaction.

5. Neb. Rev. Stat. § 45-919(1)(c) (Reissue 2010) provides that no licensee shall hold or agree to hold a check for more than thirty-four days.

6. Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) provides that a licensee shall not enter into another delayed deposit transaction with the same maker on the same business day as the completion of a delayed deposit transaction unless prior to entering into the transaction the maker and the licensee verify on a form prescribed by the DEPARTMENT that completion of the prior delayed deposit transaction has occurred. The DEPARTMENT has prescribed the SDTVF for this purpose.

7. Neb. Rev. Stat. § 45-925 (Reissue 2010) provides that if the Director finds, after notice and opportunity for hearing, that any person has violated the Act, the Director may order such person to pay an administrative fine of not more than five thousand dollars for each separate violation and the costs of an investigation.

8. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined that ACE has violated the Act, and that an administrative fine in an amount of not more than five thousand dollars for each separate violation plus costs of investigation should be imposed in accordance with Neb. Rev. Stat. § 45-925 (Reissue 2010).

9. Under the Act's statutory framework, the Director has the legal and equitable authority to fashion significant remedies.

10. It is in the best interest of ACE, and it is in the best interest of the public, for ACE and the DEPARTMENT to resolve the issues included herein.

CONSENT AGREEMENT

The DEPARTMENT and ACE agree as follows:

Stipulations: In connection with this Consent Agreement, ACE and the Director stipulate to the following:

1. The DEPARTMENT has jurisdiction as to all matters herein.
2. This Consent Agreement shall resolve all matters raised by the DEPARTMENT's January 11, 2011 examination of ACE's Omaha, Douglas County, Nebraska locations. Should future circumstances warrant, the facts from this matter may be considered in a future administrative action by the DEPARTMENT.
3. This Consent Agreement shall be in lieu of all other proceedings available to the DEPARTMENT, except as specifically referenced in this Consent Agreement.

ACE further represents as follows:

1. ACE is aware of its right to a hearing on these matters at which it may be represented by counsel, present evidence, and cross-examine witnesses. The right to such a hearing, and any related appeal, is irrevocably waived.

2. ACE is acting free from any duress or coercion of any kind or nature.

3. This Consent Agreement is executed to avoid further proceedings and constitutes an admission of violations of the Act solely for the purpose of this Consent Agreement and for no other purpose.

IT IS THEREFORE AGREED as follows:

1. Within ten (10) days after the effective date of this Consent Agreement, ACE shall pay a fine of two hundred fifty dollars (\$250.00) for each of the twelve (12) instances it failed to maintain copies of customer records in repeat violation of Neb. Rev. Stat. § 45-915.01(2) (Reissue 2010) as noted in the 2009 Exam and corresponding Consent Agreement.

2. Within ten (10) days after the effective date of this Consent Agreement, ACE shall pay a fine of fifty dollars (\$50.00) for the one (1) instance ACE failed to keep and maintain books, accounts, and records of the delayed deposit services business separate and apart from the books, accounts, and records of another business in violation of Neb. Rev. Stat. § 45-916(1).

3. Within ten (10) days after the effective date of this Consent Agreement, ACE shall pay a fine of one hundred dollars (\$100.00) for each of the three (3) instances it failed to obtain signed disclosure agreements from customers in violation of Neb. Rev. Stat. § 45-917(1)(a) (Reissue 2010).

4. Within ten (10) days after the effective date of this Consent Agreement, ACE shall pay a fine of two hundred fifty dollars (\$250.00) for the one (1) instance it held a check longer than the statutorily allowed time in violation of Neb. Rev. Stat.

§ 45-919(1)(c) (Reissue 2010).

5. Within ten (10) days after the effective date of this Consent Agreement, ACE shall pay a fine of one hundred dollars (\$100.00) for each of the twenty-nine (29) instances it failed to obtain completed SDTVFs in repeat violation of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) and Neb. Rev. Stat. § 45-915.01(2) (Reissue 2010) as noted in the 2009 Exam and corresponding Consent Agreement.

6. Within ten (10) days after the effective date of this Consent Agreement, ACE shall pay the DEPARTMENT's investigation costs in the amount of five hundred dollars (\$500.00).

7. The total amount of the fine, six thousand five hundred dollars (\$6,500.00), plus the total amount of investigation costs, five hundred dollars (\$500.00), shall be payable in one check or money order in the amount of seven thousand dollars (\$7,000.00) to the DEPARTMENT.

8. In the event ACE fails to comply with any of the provisions of this Consent Agreement, the DEPARTMENT may commence such action regarding ACE as it deems necessary and appropriate in the public interest.

9. If, at any time, the DEPARTMENT determines ACE has committed any other violations of the Act, the DEPARTMENT may take any action available to it under the Act.

10. The effective date of this Consent Agreement will be the date of the Director's signature.

DATED this 2ND day of January, 2012.

Ace Cash Express, Inc.

By: 
John Tyson, Vice President of Compliance

1231 Greenway Drive, Suite 600
Irving, Texas 75038

DATED this 5th day of January, 2012.

**STATE OF NEBRASKA
DEPARTMENT OF BANKING AND FINANCE**

By: 
John Munn, Director

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