

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	FINDINGS OF FACT
Ace Cash Express, Inc.)	CONCLUSIONS OF LAW
701 Galvin Road, Suite 116)	AND
Bellevue, Sarpy 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 45-930 (Reissue 2010; Cum. Supp. 2014) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-920 (Cum. Supp. 2014), the Department has examined the books, accounts, and records of Ace Cash Express, Inc., 701 Galvin Road, Suite 116, Bellevue, Sarpy 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 No. 1964 was originally granted March 23, 2006, and has been renewed annually on May 1st since that time pursuant to Neb. Rev. Stat. § 45-910 (Cum. Supp. 2014).
2. On February 17, 2015, the Department commenced an examination of Ace pursuant to Neb. Rev. Stat. § 45-920 (Cum. Supp. 2014). This examination included an on-site visitation of Ace’s Bellevue, Sarpy County, Nebraska location.

3. The February 17, 2015 Report of Examination (“Report”) was forwarded to Ace on March 5, 2015. The Report noted a number of violations of the Act. Ace submitted a response received by the Department on March 26, 2015.

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. 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.

6. Ace failed to make records available to Department examiners in nine instances for customers JB, JH (3), LL, MP, and KS (3).

7. Ace failed to properly maintain accurate payment records in twenty-two instances for customers BE (9), KJ (2), MM (2), MO, CW (4), JH (2), and VJ (2).

8. Ace held a check for more than thirty-four days for customer MC.

9. Ace failed to obtain correctly completed same day transaction verification forms (“SDTVFs”) in four instances for customers HE (2) and CM (2).

10. Ace deposited multiple checks through a back office capture process and failed to destroy the original checks within ninety days after the substitute checks were created.

11. 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).

12. 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 (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. § 45-915.01 (Reissue 2010) provides that a licensee shall keep or make available the books and records relating to transactions made under the Delayed Deposit Services Licensing Act as are necessary to enable the Department to determine whether the licensee is complying with the Act. The books and records shall be maintained in a manner consistent with accepted accounting practices.

4. The facts set forth in Finding of Fact No. 6 constitute nine separate violations of Neb. Rev. Stat. § 45-915.01 (Reissue 2010).

5. The facts set forth in Finding of Fact No. 7 constitute twenty-two separate violations of Neb. Rev. Stat. § 45-915.01 (Reissue 2010).

6. 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.

7. The facts set forth in Finding of Fact No. 8 constitute one violation of Neb. Rev. Stat. § 45-919(1)(c) (Reissue 2010).

8. Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) provides that no licensee shall 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.

9. The facts set forth in Finding of Fact No. 9 constitute four separate violations of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) and Neb. Rev. Stat. § 45-915.01 (Reissue 2010).

10. Neb. Rev. Stat. § 45-919(2) (Reissue 2010) provides that completion of a delayed deposit transaction means the licensee has presented a makers check for payment to a financial institution as defined in Section 8-101.

11. As set forth in Department Interpretative Opinion No. 5, effective May 1, 2011, a licensee can initially present, or deposit, a check through a back office capture process provided the licensee has a copy of any agreements with its financial institution on file and the licensee develops a policy regarding destruction of the original check where the time frame for destruction of the original check which shall be no later than ninety days after the substitute check has been created.

12. The facts set forth in Finding of Fact No. 10 constitute multiple violations of Neb. Rev. Stat. § 45-919(2) and Department Interpretative Opinion No. 5.

13. 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.

14. 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).

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

16. 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 February 17, 2015 examination of Ace's Bellevue, Sarpy County, Nebraska location. 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 days after the effective date of this Consent Agreement, Ace shall pay a fine of Two Hundred Dollars (\$200.00) for each of the nine instances where it failed to provide records to Department examiners in violation of Neb. Rev. Stat. § 45-915.01 (Reissue 2010).

2. Within ten 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-two instances where Ace failed to properly maintain customer records in violation of Neb Rev. Stat. § 45-915.01 (Reissue 2010).

3. Within ten days after the effective date of this Consent Agreement, Ace shall pay a fine of Two Hundred and Fifty Dollars (\$250.00) for the one instance it held a check for more than thirty-four days in violation of Neb. Rev. Stat. § 45-919(1)(c) (Reissue 2010).

4. Within ten days after the effective date of this Consent Agreement, Ace shall pay a fine of Fifty Dollars (\$50.00) for each of the four instances where Ace failed to obtain correctly completed SDTVFs in violation of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) and Neb. Rev. Stat. § 45-915.01 (Reissue 2010).

5. Within ten days after the effective date of this Consent Agreement, Ace shall pay a fine of Five Hundred Dollars (\$500.00) for the multiple instances where it deposited checks

through a back office capture process and failed to destroy the original checks within ninety days after the substitute checks were created in violation of Neb. Rev. Stat. § 45-919(2) and Department Interpretative Opinion No. 5.

6. Within ten 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, Four Thousand Nine Hundred Fifty Dollars (\$4,950.00), 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 Five Thousand Four Hundred Fifty Dollars (\$5,450.00) 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 24th day of July, 2015.


ACE CASH EXPRESS, INC.

By: 
Laurie Goodine Hill
Senior Vice President, Deputy General Counsel

1231 Greenway Drive, Suite 600
Irving, Texas 75038

DATED this 30 day of July, 2015.

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

By: 

Mark Quandahl, Director

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