

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	
Great Plains Specialty Finance, Inc.)	FINDINGS OF FACT
d/b/a Check 'n Go)	CONCLUSIONS OF LAW
9517 "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 45-930 (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 Great Plains Specialty Finance, Inc., d/b/a Check 'n Go, 9517 "Q" Street, Omaha, Douglas County, Nebraska ("Check 'n Go"). As a result of such examination, and being duly advised and informed in the matter, the Director and Check 'n Go enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

FINDINGS OF FACT

1. Check 'n Go holds a delayed deposit services business license under the Act. License No. 1840 was originally granted December 3, 1997, and has been renewed annually on May 1st since that time pursuant to Neb. Rev. Stat. § 45-910 (Cum. Supp. 2014).
2. On July 6, 2015, the Department commenced an examination of Check 'n Go pursuant to Neb. Rev. Stat. § 45-920 (Cum. Supp. 2014). This examination included an on-site visitation of Check 'n Go's Omaha, Douglas County, Nebraska locations.

3. The July 6, 2015 Report of Examination (“Report”) was forwarded to Check ‘n Go on August 19, 2015. The Report noted a number of violations of the Act. Check ‘n Go submitted a response received by the Department on September 10, 2015.

4. The Department has reviewed the response submitted by Check ‘n Go and has taken it into consideration in determining the appropriate actions to be taken in this matter.

5. The previous regular examination of Check ‘n Go was conducted January 27, 2014 (“2014 Exam”), and revealed a number of violations of the Act. The 2014 Exam resulted in a Consent Agreement between the Department and Check ‘n Go with an effective date of May 7, 2014. Repeat violations of the Act will be noted below.

6. References in this Consent Agreement to customers of Check ‘n Go will be by way of initials, in order to protect the privacy of such customers. Check ‘n Go knows or should know the identity of these customers. If Check ‘n Go 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. Check ‘n Go used the word “loan” without the term being preceded by the word “payday” in three instances on receipts for customers DB and VS (2).

8. Check ‘n Go failed to properly maintain accurate payment records in thirty-four instances for customers, comprised of:

a. One instance where an inaccurate payment receipt was in the customer file for customer GL;

b. Three instances where an incorrect check number was entered into an automated system for customers KT, MW, and AN;

c. One instance where incorrect check information was on a Customer History Report provided to a Department examiner for customer MW;

d. One instance where a manual buyback receipt did not have a transaction date for customer RP;

e. One instance where a Collection Inventory Report provided to a Department examiner had an inaccurate balance amount for customer RS;

f. One instance where a contract was signed by a person other than the customer for customer RL's transaction;

g. Twenty-six instances where the classification of different payment methods was incorrect and conflicted with the actual payment method for customers;

h. Three instances where the incorrect loan end date was listed on customer histories for customers PB (2) and MZ.

9. Check 'n Go failed to make records available to the Department during the examination in seven instances for customers DA, MW, MB, BL, DG, MV, and KT.

10. Check 'n Go failed to post a disclosure informing customers that a returned check may be collected as an Automatic Clearing House ("ACH") transaction at one branch location.

11. Check 'n Go held a check for more than thirty-four days for customer GT.

12. Check 'n Go failed to obtain a Same Day Transaction Verification Form ("SDTVF") in three instances for customers RP, CA, and DD.

13. Check 'n Go failed to obtain correctly completed SDTVFs in fourteen instances for customers PA, MW, CR, MC, AM, ME CR, BL (2), RP, DW, KT, and MW (2).

14. The Department could conclude that the actions of Check 'n Go 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).

15. 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. § 45-902(2) (Reissue 2010) defines “delayed deposit services business” as a person who for a fee (a) accepts a check dated subsequent to the date it was written or (b) accepts a check dated on the date it was written and holds the check for a period of days prior to deposit or presentment pursuant to an agreement with or any representation made to the maker of the check. This definition does not include offering loans. As set forth in Department Interpretative Opinion #8, effective June 5, 2014, to operate in accordance with the Act, a licensee may use the phrase “payday loan” in its advertising, signage, coupons, contracts, or other customer contacts, but may not use the term “loan” by itself for any purpose.

3. The facts set forth in Finding of Fact No. 7 constitute three violations of Neb. Rev. Stat. § 45-908 (Reissue 2010) and Department Interpretative Opinion #8.

4. 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.

5. Neb. Rev. Stat. § 45-915.01(1) (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.

6. The facts set forth in Finding of Fact No. 8 constitute thirty-seven repeat violations of Neb. Rev. Stat. § 45-915.01 (Reissue 2010) as noted in the 2014 Exam and corresponding Consent Agreement.

7. The facts set forth in Finding of Fact No. 9 constitute seven separate violations of Neb. Rev. Stat. § 45-915.01 (Reissue 2010).

8. Neb. Rev. Stat. § 45-917(2) (Reissue 2010) provides that every licensee shall conspicuously display a schedule of all fees, charges, and penalties for all services provided by the licensee and that such notice shall be posted at every office of the licensee. Department Interpretative Opinion #6, effective May 1, 2011, states that after the initial presentment or deposit of a check, if it is returned as not negotiable, the licensee may attempt to collect the returned check as an electronic Automated Clearing House transaction if the licensee provides conspicuous notice to the customer that a returned check may be collected as an ACH transaction. Such notice must be posted in each office of the licensee, including any branch locations.

9. The facts set forth in Finding of Fact No. 10 constitute one violation of Neb. Rev. Stat. § 45-917 (Reissue 2010) Department Interpretive Opinion #6.

10. 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.

11. The facts set forth in Finding of Fact No. 11 constitute one violation of Neb. Rev. Stat. § 45-919(1)(c) (Reissue 2010).

12. 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.

13. The facts set forth in Finding of Fact No. 12 constitute three repeat violations of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) and Neb. Rev. Stat. § 45-915.01 (Reissue 2010) as noted in the 2014 Exam and corresponding Consent Agreement.

14. The facts set forth in Finding of Fact No. 13 constitute fourteen separate violations of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) and Neb. Rev. Stat. § 45-915.01 (Reissue 2010).

15. 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.

16. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined that Check 'n Go 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).

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

18. It is in the best interest of Check 'n Go, and it is in the best interest of the public, for Check 'n Go and the Department to resolve the issues included herein.

CONSENT AGREEMENT

The Department and Check 'n Go agree as follows:

Stipulations: In connection with this Consent Agreement, Check 'n Go 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 July 6, 2015 examination of Check 'n Go'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.

Check 'n Go further represents as follows:

1. Check 'n Go 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. Check 'n Go 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, Check 'n Go shall pay a fine of Five Hundred Dollars (\$500.00) for the three instances where Check 'N Go used the word "loan" without the term being preceded by the word "payday" in violation of Neb. Rev. Stat. § 45-908 (Reissue 2010) and Department Interpretive Opinion #8.

2. Within ten days after the effective date of this Consent Agreement, Check 'n Go shall pay a fine of Five Thousand Dollars (\$5,000.00) for the thirty-seven instances where Check 'n Go failed to properly maintain customer records in repeat violation of Neb. Rev. Stat. § 45-915.01 (Reissue 2010).

3. Within ten days after the effective date of this Consent Agreement, Check 'n Go shall pay a fine of Two Hundred Dollars (\$200.00) for each of the seven instances Check 'n Go failed to provide records to the Department examiners in violation of Neb. Rev. Stats. § 45-915.01 (Reissue 2010).

4. Within ten days after the effective date of this Consent Agreement, Check 'n Go shall pay a fine of One Hundred Dollars (\$100.00) for the one instance Check 'n Go failed to post a disclosure informing customers that a returned check may be collected as an ACH transaction at a branch location in violation of Neb. Rev. Stat. § 45-917(2) (Reissue 2010) and Department Interpretive Opinion #6.

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

6. Within ten days after the effective date of this Consent Agreement, Check 'n Go shall pay a fine of Two Hundred Dollars (\$200.00) for each of the three instances where Check 'n Go

failed to obtain the SDTVF in repeat violation of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) and Neb. Rev. Stat. § 45-915.01 (Reissue 2010).

7. Within ten days after the effective date of this Consent Agreement, Check 'n Go shall pay a fine of Fifty Dollars (\$50.00) for each of the fourteen instances where Check 'n Go 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).

8. Within ten days after the effective date of this Consent Agreement, Check 'n Go shall pay the Department's investigation costs in the amount of Five Hundred Dollars (\$500.00).

9. The total amount of the fine, Eight Thousand Five Hundred Fifty Dollars (\$8,550.00), 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 Nine Thousand Fifty Dollars (\$9,050.00) to the Department.

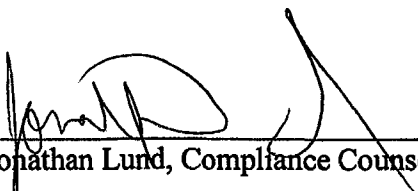
10. In the event Check 'n Go fails to comply with any of the provisions of this Consent Agreement, the Department may commence such action regarding Check 'n Go as it deems necessary and appropriate in the public interest.

11. If, at any time, the Department determines Check 'n Go has committed any other violations of the Act, the Department may take any action available to it under the Act.

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


DATED this 18 day of November, 2015.

**GREAT PLAINS SPECIALTY FINANCE, INC.
D/B/A CHECK 'N GO**

By: 
Jonathan Lund, Compliance Counsel
7755 Montgomery Road, Suite 400
Cincinnati, Ohio 45236

DATED this 23 day of November, 2015.

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

By: 
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