

STATE OF NEBRASKA
Department of Banking & Finance

In the Matter of:)	
)	
American General Financial Services, Inc.)	
5096 South 108th Street)	FINDINGS OF FACT
Omaha, Nebraska)	
)	CONCLUSIONS OF LAW
American General Financial Services, Inc.)	
4003 "O" Street)	AND
Lincoln, Nebraska)	
)	SETTLEMENT AGREEMENT
American General Financial Services, Inc.)	
5480 North 90 th Street)	
Omaha, Nebraska)	
)	
American General Financial Services, Inc.)	
1517 Broadway, Suite 125)	
Scottsbluff, Nebraska)	
)	
American General Financial Services, Inc.)	
1016 Diers Avenue, Suite 123)	
Grand Island, Nebraska)	

THIS MATTER comes before the Nebraska Department of Banking and Finance ("DEPARTMENT"), by and through its Director, pursuant to its authority under the Nebraska Installment Loan Act, Neb. Rev. Stat. §§ 45-1001 to 45-1069 (Reissue 2004, Cum. Supp. 2006, Supp. 2007) ("the Act"). Pursuant to Neb. Rev. Stat. § 45-1017 (Supp. 2007), the DEPARTMENT has investigated alleged violations and/or examined the books, accounts and records of American General Financial Services, Inc., 5096 South 108th Street, Omaha, Nebraska; 4003 "O" Street, Lincoln, Nebraska; 5480 North 90th Street, Omaha, Nebraska; 1517 Broadway, Suite 125, Scottsbluff, Nebraska; 1016 Diers Avenue, Suite 123, Grand Island, Nebraska (collectively, "AMERICAN GENERAL"), for the years 2005 and 2006.

As a result of such examinations and investigations, and being duly advised and informed in the matter, the Director and AMERICAN GENERAL enter into the following Findings of Fact, Conclusions of Law, and Settlement Agreement.

FINDINGS OF FACT

1. AMERICAN GENERAL holds installment loan licenses under the Act for each of the five above-listed locations. Pursuant to Neb. Rev. Stat. § 45-1017 (Supp. 2007), the DEPARTMENT conducts annual examinations of each of these licensees. The DEPARTMENT also investigates alleged violations of the Act, violations of Chapter 45 Article 2, and of other laws applicable to a licensee's business.

2. In 2004, the DEPARTMENT became concerned that its examinations of many installment loan licensees showed a number of violations repeated from examination to examination. The DEPARTMENT, on July 30, 2004, sent a notice to all licensees under the Act, including AMERICAN GENERAL, stating in part:

The Act sets forth provisions that a licensee must follow in order to engage in installment loan activities. However, a number of recent Reports of Examination show licensees continue to engage in acts or practices that constitute violations of the Act. For instance, documents have been lost, computer records have been inaccessible, and prepayment penalties have been calculated incorrectly. The Department is concerned about this activity and the repeated pattern of violations.

In the past, violations noted in a licensee's Report of Examination were commented on by the Department but, in many cases, no sanctions were imposed. Please be advised that beginning September 1, 2004, if a licensee fails to comply with provisions of the Act, the Installment Sales Act, or Chapter 45 Article 2 (Revolving Charge Agreements), the Department may commence such action it deems necessary and appropriate in the public interest. Such action may include administrative fines, costs of investigation, and license suspension or revocation.

3. The DEPARTMENT has determined that AMERICAN GENERAL has violated Neb. Rev. Stat. § 45-1024(5) (Cum. Supp. 2006). This statute authorizes a licensee to charge a nonrefundable loan origination fee not to exceed the lesser of five hundred dollars or an amount equal to seven percent of that part of the original principal balance of any loan not in excess of two thousand dollars and five percent on that part of the original principal balance in excess of two thousand dollars, if the licensee has not made another loan to the borrower within the previous twelve months. If the licensee has made another loan to the borrower within the previous twelve months, a nonrefundable loan origination fee may only be charged on new funds advanced on each successive loan.

4. Through the course of the DEPARTMENT's review of this matter, the DEPARTMENT and AMERICAN GENERAL have determined that AMERICAN GENERAL assessed 469 Nebraska residents charges for an origination fee that exceeded the amount that it was statutorily authorized to charge pursuant to Neb. Rev. Stat. § 45-1024(5) (Cum. Supp. 2006). AMERICAN GENERAL believes it acted in good faith in the matter and made reasonable efforts to comply with the Act.

5. AMERICAN GENERAL has refunded to its customers the loan origination fees that it collected in contravention of the Act and AMERICAN GENERAL has paid those consumers interest identical to the interest listed on their consumer loan agreements for the time AMERICAN GENERAL held the excess loan origination fee.

6. AMERICAN GENERAL asserts that it attempted to comply with the law, but through mistake or misapplication was unable to do so. AMERICAN GENERAL attempted to timely change its internal computer system regarding the calculation of loan

origination fees after being contacted by the DEPARTMENT. AMERICAN GENERAL represents that its current loan origination fee program complies with Nebraska law.

7. Neb. Rev. Stat. § 45-1024(6)(a) (Cum. Supp. 2006) requires an appraisal of the real property securing a loan when a loan origination fee is over \$500.00, the loan is over \$7,500.00 and “the sum of the principal amount of the loan and the balances of all other liens against the property do not exceed one hundred percent of the appraised value of the property.”

8. Prior to 2004, the DEPARTMENT determined that a real estate appraisal, for purposes of Section 45-1024(6)(a), meant an estimation of value for real property as determined by a Nebraska licensed real estate appraiser. In 2004, pursuant to authority granted in Section 45-1024(6)(a), the DEPARTMENT approved computer model(s) which could be used to determine a property’s value, as an alternative to an appraisal by a licensed real estate appraiser. The DEPARTMENT has approved two automated appraisal models as of the date of this Agreement. AMERICAN GENERAL was not aware of the DEPARTMENT’s interpretations in 2005 and 2006, but now recognizes the interpretations and AMERICAN GENERAL represents it is complying with them.

9. The DEPARTMENT has determined that AMERICAN GENERAL failed to obtain appropriate real estate appraisals on twenty-four separate transactions, as required by the DEPARTMENT’s interpretation of Neb. Rev. Stat. § 45-1024(6)(a) (Cum. Supp. 2006).

10. Neb. Rev. Stat. § 45-1024(4) (Cum. Supp. 2006) provides that no excess charges shall be incurred by borrowers. During the DEPARTMENT’s examinations, it was determined that eleven (11) overcharges were incurred. AMERICAN GENERAL did not make refunds to the eleven individuals for over thirty days from the date AMERICAN

GENERAL received payment from the customers. AMERICAN GENERAL represents the refunds have been made.

11. RR was charged \$300.00, but there was no record in his customer file at the time of the examination that indicated if the charge was correct. Failure to keep business records to be examined by the DEPARTMENT is a violation of Neb. Rev. Stat. § 45-1017 (Supp. 2007), which provides that the DEPARTMENT shall inspect all business records and accounts of the licensees. The absent record was produced by AMERICAN GENERAL to the DEPARTMENT after the examination.

12. The DEPARTMENT believes it could conclude that the actions of AMERICAN GENERAL warrant the commencement of administrative proceedings to determine whether to suspend or revoke AMERICAN GENERAL's installment loan licenses pursuant to Neb. Rev. Stat. § 45-1033 (Supp. 2007), or whether it should impose administrative fines in an amount up to one thousand dollars (\$1,000.00) per violation, plus investigation costs, pursuant to Neb. Rev. Stat. § 45-1017 (Supp. 2007).

13. The DEPARTMENT incurred a minimum of two thousand dollars (\$2,000.00) in investigation costs in this matter.

CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-1008 (Reissue 2004) provides that in order to issue an installment loan license, the Director must determine that the character and general fitness of the applicant and its officers and directors are such as to warrant a belief that the business will be operated honestly, fairly, and efficiently in accordance with the Act.

2. Neb. Rev. Stat. § 45-1017(1) (Supp. 2007) provides that the DEPARTMENT shall inspect the business, records, and accounts of all persons licensed under the Act.

3. Neb. Rev. Stat. § 45-1024(4) (Cum. Supp. 2006) provides that a licensee shall not charge any fees other than those fees authorized by the Act.

4. Neb. Rev. Stat. § 45-1024(5) (Cum. Supp. 2006) provides for a nonrefundable loan origination fee not to exceed the lesser of five hundred dollars or an amount equal to seven percent of that part of the original principal balance of any loan not in excess of two thousand dollars and five percent of that part of the original principal balance in excess of two thousand dollars, if the licensee has not made another loan to the borrower within the previous twelve months. If the licensee has made another loan to the borrower within the previous twelve months, a nonrefundable loan origination fee may only be charged on new funds advanced on each successive loan.

5. Neb. Rev. Stat. § 45-1024(6)(b) (Cum. Supp. 2006) provides that an origination fee on real estate loans shall be computed only on the principal amount of the loan reduced by any portion of the principal that consists of the amount required to pay off another loan made by the same licensee under the Act.

6. Neb. Rev. Stat. § 45-1033 (Supp. 2007) provides that if the Director finds, after notice and opportunity for hearing, that an installment loan licensee or any of its officers or directors has knowingly violated the Act or any other state law applicable to its business, or a fact or condition exists which, if it had existed at the time of the original application for such license, would have warranted the Director in refusing to grant the license, the Director may suspend or revoke the license.

7. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined an Agreement be issued with AMERICAN GENERAL pursuant to the Act, and that an administrative cost in an amount of not more than one

thousand dollars for each separate alleged violation plus costs of investigation should be imposed in accordance with Neb. Rev. Stat. § 45-1017(3) (Supp. 2007).

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

9. It is in the best interest of the DEPARTMENT and AMERICAN GENERAL to resolve the issues included herein.

SETTLEMENT AGREEMENT

The DEPARTMENT and AMERICAN GENERAL agree as follows:

Stipulations: In connection with this Settlement Agreement, AMERICAN GENERAL and the Director stipulate to the following:

1. The DEPARTMENT has jurisdiction as to all matters herein.
2. This Settlement Agreement shall resolve all matters raised by the DEPARTMENT's examinations of AMERICAN GENERAL set forth above, and in the DEPARTMENT's investigation of alleged violations of the Act, and other laws applicable to AMERICAN GENERAL's business. Should future circumstances warrant, the facts from this matter may be considered in future administrative action by the DEPARTMENT. The DEPARTMENT may use all of the information obtained in any examination of the Nebraska AMERICAN GENERAL offices.

3. This Settlement Agreement shall be in lieu of all other proceedings available to the DEPARTMENT, except as specifically referenced in this Settlement Agreement.

AMERICAN GENERAL further represents as follows:

1. AMERICAN GENERAL 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. AMERICAN GENERAL is acting free from any duress or coercion of any kind or nature.

3. This Settlement Agreement is executed to avoid further proceedings and constitutes a resolution of the alleged violations of the Act, Chapter 45 Article 2, and of other laws applicable to the licensee's business solely for the purpose of this Settlement Agreement and for no other purpose whatsoever.

IT IS, THEREFORE AGREED as follows:

1. Within ten (10) days after the effective date of this Settlement Agreement, AMERICAN GENERAL shall pay the total sum of twenty thousand dollars (\$20,000.00) for the four hundred and sixty-nine (469) alleged violations of Neb. Rev. Stat. § 45-1024(5) (Cum. Supp. 2006), where AMERICAN GENERAL overcharged customers on loan origination fees.

2. Within ten days (10) after the effective date of this Settlement Agreement, AMERICAN GENERAL shall pay the total sum of two thousand five hundred dollars (\$2,500.00) for the eleven (11) alleged violations of Neb. Rev. Stat. § 45-1024(4) (Cum. Supp. 2006).

3. Within ten days (10) after the effective date of this Settlement Agreement, AMERICAN GENERAL shall pay the total sum of five thousand dollars (\$5,000.00) for the twenty-four (24) alleged violations of Neb. Rev. Stat. § 45-1024(6) (Cum. Supp. 2006), where AMERICAN GENERAL allegedly failed to use an appropriate appraisal technique.

4. Within ten (10) days after the effective date of this Settlement Agreement, AMERICAN GENERAL shall pay the total sum of five hundred dollars (\$500.00) for the one (1) alleged violation of Neb. Rev. Stat. § 45-1017 (Supp. 2007), where AMERICAN GENERAL allegedly failed to keep adequate business records.

5. Within ten (10) days after the effective date of this Settlement Agreement, AMERICAN GENERAL shall pay the DEPARTMENT's investigation costs in this matter in the amount of two thousand dollars (\$2,000.00).

6. The total amount of the assessed sums and investigation costs, thirty thousand dollars (\$30,000.00), shall be payable in one check or money order to the DEPARTMENT.

7. In the event AMERICAN GENERAL fails to comply with any of the provisions of this Settlement Agreement, the DEPARTMENT may commence such action as it deems necessary and appropriate in the public interest.


8. If, at any time, the DEPARTMENT determines AMERICAN GENERAL has committed any other violation of the Act or other state or federal law applicable to AMERICAN GENERAL's business, the DEPARTMENT may take any action available to it under the Act.

9. If, at any time, the DEPARTMENT determines that AMERICAN GENERAL has failed to comply with this Settlement Agreement or committed other violations under the Act or other violations of state or federal law applicable to AMERICAN GENERAL's business, the DEPARTMENT may use the facts related to this Settlement Agreement in any subsequent action regarding AMERICAN GENERAL.

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

DATED this 16th day of July, 2008.

**AMERICAN GENERAL FINANCIAL
SERVICES, INC.**

By: 


Thomas D. Graber
Vice President and General Counsel

601 N.W. Second Street
P.O. Box 59
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DATED this 17th day of July, 2008.

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



By: 

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