

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	FINDINGS OF FACT
Great Plains Specialty Finance, Inc.,)	CONCLUSIONS OF LAW
d/b/a Check 'n Go,)	AND
700 West Omaha, Suite C,)	CONSENT AGREEMENT
Norfolk, Madison County, Nebraska)	

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 2004; Cum. Supp. 2008) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-920 (Cum. Supp. 2008), the DEPARTMENT has examined the books, accounts, and records of Great Plains Specialty Finance, Inc., d/b/a Check ‘n Go, 700 West Omaha, Suite C, Norfolk, Madison 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 #1951 was originally granted August 24, 2004, to Ameri-Cash Advance Centers, Inc., d/b/a Payday USA. In October 2005, the licensee changed its name to CHECK ‘N GO. The license has been renewed annually on May 1st since that time, pursuant to Neb. Rev. Stat. § 45-910 (Cum. Supp. 2008).

2. On April 12, 2007, the DEPARTMENT commenced an examination of CHECK 'N GO pursuant to Neb. Rev. Stat. § 45-920 (Cum. Supp. 2008). This examination included an on-site visitation of CHECK 'N GO's Norfolk, Madison County, Nebraska location.

3. The April 12, 2007 Report of Examination ("Report") was forwarded to CHECK 'N GO on April 19, 2007. The Report noted a number of violations of the Act. CHECK 'N GO submitted responses received by the DEPARTMENT on May 17, 2007, September 21, 2007, and May 27, 2008.

4. 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.

5. The previous regular examination of CHECK 'N GO conducted March 7, 2006 ("2006 Exam"), also noted a number of violations of the Act. The findings of the 2006 Exam resulted in two Consent Agreements between CHECK 'N GO and the DEPARTMENT with the effective dates of September 6, 2006, and March 2, 2007. Repeat violations of the Act will be noted below.

6. The Report noted nine (9) instances where CHECK 'N GO held checks over the statutorily allowed time limit for customers FA (2), EP (2), LR, JW (2), and CY (2) in violation of Neb. Rev. Stat. § 45-919(1)(c) (Cum. Supp. 2008), in effect at the time of the transaction.

7. CHECK 'N GO's May 17, 2007 response stated:

Licensee respectfully acknowledges that the maximum amount of time it may hold a customer's check prior to its deposit is 34 days, and that Licensee must allow the bank enough time to post the deposit of the check by the thirty-fourth day. Licensee has modified its operating procedures for monthly customers to require that these checks be deposited no later than day 33, in order to ensure adequate time for posting. Licensee has retrained its personnel on this issue.

8. CHECK 'N GO's holding of customers FA (2), EP (2), JW (2), CY's (2) and LR checks in excess of the statutorily allowed time limit represents nine (9) separate repeat violations of Neb. Rev. Stat. § 45-919(1)(c) (Cum. Supp. 2008). Previous violations of Section 45-919(1)(c) are noted in the Consent Agreement effective September 6, 2006.

9. The Report noted that between July 14, 2006 and August 9, 2006, a Same Day Transaction Verification Form (SDTVF) was not in use and had not been obtained or completed for one hundred fifty-three of CHECK 'N GO's customers in violation of Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008) and Neb. Rev. Stat. § 45-919(1)(g) (Cum. Supp. 2008).

10. CHECK 'N GO's May 17, 2007 and May 27, 2008 responses state respectively:

Licensee apologizes that it was not aware of the implementation of the same day transaction [verification] form until August 10, 2006, when informed of it by a competitor. Licensee has no record of receiving a copy of the same day transaction [verification] form from the Department in July, [sic] 2006. As soon as Licensee became aware of this requirement, it ensured that its stores were using the same day transaction [verification] form, beginning on August 10, 2006..[sic] Licensee acknowledges that prior to that time, but after July 14, 2006, Licensee has executed 164 advances without same day transaction [verification] forms at the Lincoln [sic] stores, as noted in the Examiner's report.

[I]t is the Licensee's standard business practice that all of Licensee's stores in Nebraska issue receipts substantially similar to the ones we enclosed with our January 10, 2008 letter responding to the Findings of Fact, Conclusions of Law and Consent Agreement (the "Agreement"). These receipts are generated automatically by Licensee's computer system any time a customer payment is received, including whenever an advance is paid off. At the time

advances are paid off the receipts show that there is no balance due. The receipts are signed by both the customer and the store employee who accepted the payment. A copy of the receipt is maintained by the store for its records.

11. CHECK 'N GO's failure to obtain or complete a SDTVF in one hundred fifty-three (153) transactions between July 14, 2006 and August 9, 2006, represents one hundred fifty-three separate violations of Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008) and Neb. Rev. Stat. § 45-919(1)(g) (Cum. Supp. 2008).

12. 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 (Cum. Supp. 2008).

13. The DEPARTMENT incurred a minimum of five hundred dollars in investigation costs in this matter.

CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-908 (Reissue 2004) 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. To operate efficiently, a licensee must ensure that the records concerning those transactions are complete and accurately kept.

2. Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008) 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. § 45-919(1) (Cum. Supp. 2008) sets forth acts which are prohibited to a licensee. These acts include holding checks for a time period greater than thirty-one days if the transaction occurred prior to July 14, 2006, or thirty-four days if the transaction occurred after July 14, 2006.

4. Neb. Rev. Stat. § 45-919(1)(g) (Cum. Supp. 2008) provides that no licensee may 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, and retain written proof of compliance. If a licensee fails, or is unable, to provide such proof to the DEPARTMENT upon request, there shall be a rebuttable presumption that a violation of this subdivision has occurred and the DEPARTMENT may pursue any remedies or actions available to it under the Act.

5. Neb. Rev. Stat. § 45-925 (Cum. Supp. 2008) 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.

6. 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 (Cum. Supp. 2008).

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

8. 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 April 12, 2007 examination of CHECK 'N GO. 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 (10) days after the effective date of this Consent Agreement, CHECK 'N GO shall pay a fine of two thousand five hundred dollars (\$2,500.00) for failing to obtain or complete Same Day Transaction Verification Forms in one hundred fifty-three instances (153) in violation of Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008) and Neb. Rev. Stat. § 45-919(1)(g) (Cum. Supp. 2008).

2. Within ten (10) days after the effective date of this Consent Agreement, CHECK 'N GO shall pay a fine of two hundred fifty dollars (\$250.00) for each of the nine (9) instances where checks were held over the statutorily allowed time period in repeat violation of Neb. Rev. Stat. § 45-919(1)(c) (Cum. Supp. 2008).

3. Within ten (10) 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).

4. The total amount of the fine, four thousand seven hundred fifty dollars (\$4,750.00), 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 two hundred fifty dollars (\$5,250.00) to the DEPARTMENT.

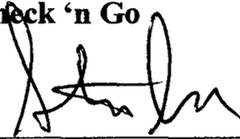
5. In the event CHECK 'N GO fails to comply with any of the provisions of this Consent Agreement, the DEPARTMENT may commence such action regarding CHECK 'N GO as it deems necessary and appropriate in the public interest.

6. 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.

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

DATED this 10th day of February, 2009.

Great Plains Specialty Finance, Inc.
d/b/a Check 'n Go

By: 

Stephen J. Schaller, General Counsel

5155 Financial Way
Mason, OH 45040
(513) 336-7735

DATED this 10th day of February, 2009.

STATE OF NEBRASKA
DEPARTMENT OF BANKING AND FINANCE

By: 

John Munn, Director

Commerce Court, Suite 400
1230 "O" Street
Lincoln, Nebraska 68508
(402) 471-2171