

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
N.I.S., Inc.,)	FINDINGS OF FACT
d/b/a Paycheck Advance,)	CONCLUSIONS OF LAW
233 North 48 th Street, Suite M,)	AND
Lincoln, Lancaster 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 2004; Cum. Supp. 2006) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-920 (Reissue 2004), the DEPARTMENT has examined the books, accounts, and records of N.I.S., Inc., d/b/a Paycheck Advance, 233 North 48th Street, Suite M, Lincoln, Lancaster County, Nebraska (“NIS”). As a result of such examination, and being duly advised and informed in the matter, the Director and NIS enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

FINDINGS OF FACT

1. NIS holds a delayed deposit services business license under the Act. License #1801 was originally granted September 28, 1994, and has been renewed annually on May 1st since that time pursuant to Neb. Rev. Stat. § 45-910 (Cum. Supp. 2006). NIS is currently authorized by the DEPARTMENT to operate six branches in Lincoln, Lancaster County, Nebraska, in addition to the main office location.

2. On July 26, 2006, the DEPARTMENT commenced an examination of NIS pursuant to Neb. Rev. Stat. § 45-920 (Reissue 2004). This examination included an on-

site inspection of NIS' main business office and six branch offices located in Lincoln, Lancaster County, Nebraska.

3. The July 26, 2006 Report of Examination ("Report") was forwarded to NIS on November 3, 2006. The Report noted a number of violations of the Act. NIS submitted responses to the Report received by the DEPARTMENT on November 27, 2006 and January 5, 2007.

4. The two previous regular examinations of NIS conducted December 17, 2003 ("2003 Exam") and December 6, 2004 ("2004 Exam") also revealed a number of violations of the Act. The findings of the 2003 Exam resulted in a Consent Agreement between NIS and the DEPARTMENT, effective April 26, 2004. The findings of the 2004 Exam resulted in a Consent Agreement between NIS and the DEPARTMENT, effective April 6, 2005. Repeat violations of the Act will be noted below.

5. References in this Consent Agreement to customers of NIS will be by way of initials, in order to protect the privacy of such customers. NIS knows or should know the identity of these customers. If NIS 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. The Report showed that a number of accounts for customers were not properly kept and maintained in that customer check numbers were not properly recorded, customer checks paid in full were not returned to the customers or shredded at the customer's request, customer checks were recorded or held at different store locations, and the remaining balances listed on the inventory report did not match the balances recorded in the customer's files.

7. NIS' November 27, 2006 response addressed this issue by stating that:

We continuously train the CSR' to be vigilant about maintaining accurate collection records.

8. NIS' failure to properly keep and maintain customer records suggests that NIS could not meet the conditions of Neb. Rev. Stat. § 45-908 (Reissue 2004).

9. The Report revealed that NIS re-deposited customer DC's \$250.00 check even though NIS had already collected partial payments totaling \$150.00. NIS deposited \$150.00 into DC's account on the same day NIS deposited the check.

10. In NIS' November 27, 2006 response, NIS provided a copy of a deposit slip verifying that NIS had deposited funds back into DC's account.

11. NIS' collection of more than the face amount of customer DC's check resulted in NIS collecting a fee from that customer in excess of the fifteen dollars per one hundred dollars for services provided by the licensee is in violation of Neb. Rev. Stat. § 45-918 (Reissue 2004).

12. The Report revealed that NIS held more than two checks on eight separate occasions from customer KH, which were written in an aggregate face amount of more than five hundred dollars on seven occasions.

13. In its November 27, 2006 response to the Report, NIS addressed the holding of the checks referenced in Finding of Fact #12. NIS stated in part that:

KH, checks #106, 107 & 178. Check # 178 was paid in full on 2-28-06. When [KH] came in and paid off his checks, the CSR should have given him his checks back or shredded them at his request. It is our policy that this is done with all paid in full DD checks. We have since implemented a verification process for the bookkeepers so this does not happen in the future. I do not feel that we are in violation of the act since the checks were paid in full. The CSR who helped [KH] made the mistake of not pulling [KH's] file to give his checks back to him.

14. NIS' holding of more than two checks from customer KH on eight separate occasions represents eight separate violations of Neb. Rev. Stat. § 45-919(1)(a) (Cum. Supp. 2006). Violations of this nature were also noted in the 2004 Exam.

15. NIS' holding of checks in an aggregate face amount of more than five hundred dollars from customer KH on seven separate occasions represents seven separate violations of Neb. Rev. Stat. § 45-919(1)(b) (Cum. Supp. 2006).

16. The Report revealed fourteen instances where a check was held for more than thirty-one days for customers JB, DC, DC, BR, ML, and JH (each with two separate instances), and JL and JK (with one instance each.).

17. NIS' January 5, 2007 response addressed this issue by stating that:

The checks that were held for more than 31 days were simple teller errors. We consistently train our employees to watch for checks collection dates and not to hold checks longer than the statute allows.

18. NIS' holding of a check from customers JB, DC, DC, BR, ML, JH, JL and JK in excess of thirty-one days represents fourteen separate violations of Neb. Rev. Stat. § 45-919(1)(c) (Reissue 2004), as in effect at the date of the July 2006 Report. The 2003 Exam also noted violations of NIS holding checks for more than thirty-one days.

19. The Report noted one instance where NIS had accepted a personal check as repayment of a check held in collection.

20. NIS' November 27, 2006 response addressed this issue by stating that:

[BG.], check #1061 for \$293.75. "Records not available for review." Enclosed is the reg z form, into collections receipt and the receipts for payments received from PCR, our collection agency. We do not have copies of the front and back of the checks. He made payments to PCR, which in turn paid his account in full. After we received the payments and shredded his checks, one of his \$50 payments was returned to PCR.

21. The transmittal letter from the DEPARTMENT dated December 27, 2006, asked for a further explanation as to why a personal check was accepted as a partial payment. NIS' January 5, 2007 response addressed this issue by stating that:

[BG] was sent to our collection agency. From our understanding once it goes to a 3rd party collection agency the rules change. When a check is in our in-house collections we do not accept a personal check to pay off a delayed deposit check.

22. NIS' accepting a personal check from BG as repayment represents a violation of Neb. Rev. Stat. § 45-919(1)(e) (Cum. Supp. 2006).

23. The Report revealed several instances where NIS allowed customer DC to use the same check for more than one transaction.

24. NIS' November 27, 2006 response addressed this issue by stating that:

DC - check #2188 & #2189 for \$500. "Same checks used on different occasions." We constantly train our employees to be diligent about catching anything that may be a violation of the law. Since this one customer was able to pass the same checks multiple times we have implemented stamping every check with "paid" when any customer comes in and pays off their Delayed Deposit transaction. Enclosed is the customer history for [DC] that was requested.

25. NIS' allowing a customer to use the same check on more than one occasion represents a violation of Neb. Rev. Stat. § 45-919(1)(f) (Cum. Supp. 2006).

26. The DEPARTMENT could conclude that the actions of NIS 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. 2006).

27. The DEPARTMENT incurred a minimum of two hundred fifty 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 transactions with customers are conducted accurately and that the records concerning those transactions are accurately kept.

2. Neb. Rev. Stat. § 45-918 (Reissue 2004) provides that no licensee shall charge as a fee a total amount in excess of fifteen dollars per one hundred dollars advanced.

3. Neb. Rev. Stat. § 45-919 (Cum. Supp. 2006) sets forth prohibited acts for a licensee. These acts include holding, at one time, more than two checks from any one maker pursuant to Section 45-919(1)(a), holding from any one maker a check or checks in an aggregate face amount of more than five hundred dollars pursuant to Section 45-919(1)(b), holding a check for more than thirty-four days pursuant to Section 45-919(1)(c), accepting a personal check as repayment pursuant to Section 45-919(1)(e), and allowing a customer to use the same check on more than one occasion pursuant to Section 45-919(1)(f). At the time the violations at issue occurred, Section 45-919(1)(c) (Reissue 2004) prohibited holding a check for more than thirty-one days.

4. Neb. Rev. Stat. § 45-925 (Cum. Supp. 2006) 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.

5. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined that NIS 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. 2006).

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

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

CONSENT AGREEMENT

The DEPARTMENT and NIS agree as follows:

Stipulations: In connection with this Consent Agreement, NIS 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 26, 2006 examination of NIS. Should future circumstances warrant, the facts from this matter may be considered in 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.

NIS further represents as follows:

1. NIS 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. NIS 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, NIS shall pay a fine of one hundred dollars (\$100.00) for the violation of Neb. Rev. Stat. § 45-908, where customer accounts were not accurately maintained.
2. Within ten (10) days after the effective date of this Consent Agreement, NIS shall pay a fine of five hundred dollars (\$500.00) for the violation of Neb. Rev. Stat. § 45-918, where NIS collected more than the face amount of a customer's check, resulting in NIS collecting a fee from that customer in excess of the fifteen dollars per one hundred dollars for services provided by the licensee.
3. Within ten (10) days after the effective date of this Consent Agreement, NIS shall pay a fine of two hundred fifty dollars (\$250.00) for each of the eight repeat violations of Neb. Rev. Stat. § 45-919(1)(a), where more than two checks were held from one maker.
4. Within ten (10) days after the effective date of this Consent Agreement, NIS shall pay a fine of two hundred fifty dollars (\$250.00) for each of the seven repeat violations of Neb. Rev. Stat. § 45-919(1)(b), where checks were held in an aggregate face amount of more than five hundred dollars from one maker.
5. Within ten (10) days after the effective date of this Consent Agreement, NIS shall pay a fine of two hundred fifty dollars (\$250.00) for each of the fourteen repeat

violations of Neb. Rev. Stat. § 45-919(1)(c), where checks were held more than thirty-one days.

6. Within ten (10) days after the effective date of this Consent Agreement, NIS shall pay a fine of one hundred dollars (\$100.00) for the violation of Neb. Rev. Stat. § 45-919(1)(e), where a personal check was accepted as repayment.

7. Within ten (10) days after the effective date of this Consent Agreement, NIS shall pay a fine of one hundred dollars (\$100.00) for the violation of Neb. Rev. Stat. § 45-919(1)(f), where a customer was allowed to use the same check on more than one occasion.

8. Within ten (10) days after the effective date of this Consent Agreement, NIS shall pay the DEPARTMENT's investigation costs in this matter in the amount of two hundred fifty dollars (\$250.00).

9. The total amount of the fine, eight thousand fifty dollars (\$8,050.00), plus the total amount of investigation costs, two hundred fifty dollars (\$250.00), shall be payable in one check or money order in the amount of eight thousand three hundred dollars (\$8,300.00) to the DEPARTMENT.

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

11. If, at any time, the DEPARTMENT determines NIS 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 21 day of June, 2007.

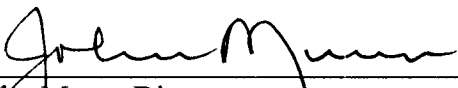
**N.I.S., INC.,
D/B/A PAYCHECK ADVANCE**

By:  President
Trina Thomas, President

233 North 48th Street, Suite M
Lincoln, Nebraska 68504
(402) 464-7446

DATED this 9th day of July, 2007.

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

By: 
John Munn, Director
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