

**STATE OF NEBRASKA**  
**Department of Banking & Finance**

IN THE MATTER OF:	)	FINDINGS OF FACT
Omnex Group, Inc.,	)	CONCLUSIONS OF LAW
580 Sylvan Avenue, Suite M-A,	)	AND
Englewood Cliffs, New Jersey	)	CONSENT ORDER

THIS MATTER comes before the Nebraska Department of Banking and Finance (“DEPARTMENT”), by and through its Director, pursuant to its authority under the Nebraska Sale of Checks and Funds Transmission Act, Neb. Rev. Stat. §§ 8-1001 through 8-1017 (Reissue 1997; Cum. Supp. 2006) (“the Act”). Pursuant to Neb. Rev. Stat. §§ 8-1009 and 8-1012.01 (Cum. Supp. 2006), the DEPARTMENT has investigated the actions of Omnex Group, Inc., 580 Sylvan Avenue, Suite M-A, Englewood Cliffs, New Jersey (“OMNEX”). As a result of such investigation, and being duly advised and informed in the matter, the Director and OMNEX enter into the following Findings of Fact, Conclusions of Law, and Consent Order.

**FINDINGS OF FACT**

1. The DEPARTMENT issued a Sale of Checks and Funds Transmission License (“license”) to OMNEX on May 10, 2005. OMNEX failed to renew its license on or before July 1, 2005, as required by Neb. Rev. Stat. § 8-1009 (Cum. Supp. 2006). As such, its license expired. OMNEX submitted a new license application to the DEPARTMENT on July 25, 2005, and the DEPARTMENT issued a license to OMNEX on August 1, 2005. OMNEX renewed the license annually since 2005 as required by

Neb. Rev. Stat. § 8-1009 (Cum. Supp. 2006). The DEPARTMENT issued a provisional license to OMNEX effective July 1, 2008, pending resolution of this matter.

2. On May 25, 2007, OMNEX submitted its 2007 Application to Renew Sale of Checks and Funds Transmission License (“2007 Renewal Application”) to the DEPARTMENT. Question #7 of the 2007 Renewal Application stated as follows:

If the Applicant is licensed or registered, or has ever been licensed or registered, to transact business in any other state(s) under a similar license, has Applicant been subject to a federal or state administrative investigation or order, or law enforcement office investigation or order in any such state(s) within the last year? . . . If yes, give full details.

3. OMNEX answered “Yes” to Question #7 on its 2007 Renewal Application and disclosed a 2006 Consent Order between OMNEX and the Arizona Department of Financial Institutions in which OMNEX paid a “civil monetary penalty” of \$15,000.00.

4. OMNEX submitted its 2008 Application to Renew Sale of Checks and Funds Transmission License (“2008 Renewal Application”) on June 19, 2008. The DEPARTMENT modified the 2008 Renewal Application form, including a slight change to the wording of Question #7. OMNEX errantly submitted its 2008 Renewal Application on the 2007 Renewal Application form. OMNEX subsequently resubmitted on the correct form.

5. OMNEX answered “Yes” to Question #7 on its 2008 Renewal Application. OMNEX attached a narrative explaining its “Yes” answer to Question #7. The narrative disclosed the 2006 Consent Order from the Arizona Department of Financial Institutions previously disclosed in connection with its 2007 Renewal Application. OMNEX also disclosed an additional fine assessed in 2007 from the Arizona Department of Financial Institutions, and a fine assessed in 2007 by the Puerto Rico Office of the Commissioner of Financial Institutions.

6. During its review of the 2008 Renewal Application, the DEPARTMENT learned that the New Hampshire Department of Banking (“NH DEPARTMENT”) had taken administrative actions against OMNEX.

7. On March 26, 2007, the NH DEPARTMENT issued an Order to Show Cause to OMNEX alleging that OMNEX had engaged in the business as a money transmitter in New Hampshire prior to obtaining the required license. The Order to Show Cause specifically noted that the “Order commences an adjudicative proceeding. . . .”

8. On April 9, 2007, OMNEX and the NH DEPARTMENT entered into a Consent Agreement resolving the issues raised in the Order to Show Cause. OMNEX agreed to pay an administrative assessment of \$10,000.00 to resolve the allegations raised in the Order to Show Cause.

9. The NH DEPARTMENT’s Order to Show Cause and the Consent Order constituted state administrative investigations or orders. Therefore, OMNEX was required to disclose the NH DEPARTMENT actions in connection with Question #7 of the 2007 Renewal Application and with the list of administrative actions it supplied to the DEPARTMENT in connection with its 2008 Renewal Application. OMNEX’s failure to disclose the NH DEPARTMENT proceeding constituted the omission of material information to the DEPARTMENT. OMNEX represents that such omission was inadvertent.

10. The DEPARTMENT has incurred a minimum of one thousand dollars (\$1,000.00) in investigation costs in this matter.

#### **CONCLUSIONS OF LAW**

1. Neb. Rev. Stat. § 8-1002 (Cum. Supp. 2006) provides that no person shall engage in the business of selling checks, as a service or for a fee or other consideration,

without having first obtained a license under the Nebraska Sale of Checks and Funds Transmission Act.

2. Neb. Rev. Stat. § 8-1004(2) (Cum. Supp. 2006) provides that in order to grant a license, the DEPARTMENT must determine that the financing responsibility, financial condition, business experience, character, and general fitness of the applicant shall be such as reasonably to warrant the belief that an applicant's business will be conducted honestly, carefully, and efficiently.

3. Neb. Rev. Stat § 8-1109 (Cum. Supp. 2006) provides that each licensee shall, annually on or before July 1 of each year, file a license renewal application and pay to the Director a license fee of two hundred fifty dollars.

4. Neb. Rev. Stat. § 8-1007 (Cum. Supp. 2006) provides that upon receipt of an application, filing fee, and surety bond, the Director shall investigate to ascertain whether the qualifications prescribed by Section 8-1004 have been met.

5. Neb. Rev. Stat. § 8-1012(1) (Cum. Supp. 2006) provides in part that the Director may, following a hearing under the Administrative Procedure Act, suspend or revoke a license issued under the Nebraska Sale of Checks and Funds Transmission Act on any ground on which he or she may refuse to grant a license or for violation of the Act, for failure to pay an annual fee, or for the failure or refusal of a licensee to comply with any order, decision, or finding of the Director made pursuant to the Act.

6. Neb. Rev. Stat. § 8-1,134(2) (Reissue 1997) provides, in part, that the Director may impose a fine, in addition to the costs of the investigation, upon a person found to have violated any provision of the Act. The fine shall not exceed ten thousand dollars per

violation for the first offense and twenty-five thousand dollars per violation for a second or subsequent offense involving a violation of the same provision of the Act.

7. The above Findings of Fact contain information which indicates that OMNEX omitted material information in connection with its 2007 Renewal Application and 2008 Renewal Application. Omitting material information on an Application is a violation of the Act. As such, grounds exist which if they had existed at the time of OMNEX's initial application for a license, would have warranted denial of such license application.

8. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined that OMNEX has violated the Act and that proceedings to revoke OMNEX's license could be initiated and/or that an administrative fine could be imposed in accordance with Neb. Rev. Stat. § 8-1,134(2) (Reissue 1997).

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

10. It is in the best interest of OMNEX and in the best interest of the public for OMNEX and the DEPARTMENT to resolve the issues included herein.

### **CONSENT ORDER**

The DEPARTMENT and OMNEX agree as follows:

Stipulations: In connection with this Consent Order, OMNEX and the DEPARTMENT stipulate to the following:

1. The DEPARTMENT has jurisdiction as to all matters herein.
2. This Consent Order shall resolve all matters between the DEPARTMENT and OMNEX in connection with the Findings of Fact listed above. Should future

circumstances warrant, the facts from this matter may be considered in a future administrative action by the DEPARTMENT.

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

OMNEX further represents as follows:

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

3. This Consent Order is executed to avoid further proceedings and constitutes an admission of violations of the Act solely for the purpose of this Consent Order and for no other purpose.

IT IS THEREFORE AGREED as follows:

1. Within ten (10) days after the effective date of this Consent Order, OMNEX shall pay an assessment of five thousand dollars (\$5,000.00) for omitting material information to the DEPARTMENT on its 2007 Renewal Application and 2008 Renewal Application by omitting the action by the NH DEPARTMENT in response to Question #7 of such Renewal Applications.

2. Within ten (10) days after the effective date of this Consent Order, OMNEX shall pay the DEPARTMENT's investigation costs in the amount of one thousand dollars (\$1,000.00).

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

4. Within five (5) business days after OMNEX pays the assessment and investigation costs, the DEPARTMENT shall replace OMNEX's Provisional License with a Non-Provisional License for the remainder of the current licensing term.

5. The effective date of this Consent Order shall be the date of the Director's signature.

DATED this 13<sup>th</sup> day of November, 2008.

**Omnex Group, Inc.**

By: \_\_\_\_\_

Darrén Manelski, President and CEO

580 Sylvan Avenue, Suite M-A  
Englewood Cliffs, NJ 07632  
(201) 568-5209

DATED this 19<sup>th</sup> day of November, 2008.

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



By: \_\_\_\_\_

John Munn, Director

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