

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	FINDINGS OF FACT
Hometown Cash Advance, Inc.,)	CONCLUSIONS OF LAW
d/b/a Hometown Cash Advance,)	AND
901 North Jeffers Street,)	CONSENT AGREEMENT
North Platte, Lincoln 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 Hometown Cash Advance, Inc., d/b/a Hometown Cash Advance, 901 North Jeffers Street, North Platte, Lincoln County, Nebraska (“HCA”). As a result of such examination, and being duly advised and informed in the matter, the Director and HCA enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

FINDINGS OF FACT

1. HCA holds a delayed deposit services business license under the Act. License #1953 was issued on April 5, 2005. The license has been renewed annually on May 1st since that time, pursuant to Neb. Rev. Stat. § 45-910 (Cum. Supp. 2008).

2. On July 25, 2007, the DEPARTMENT commenced an examination of HCA pursuant to Neb. Rev. Stat. § 45-920 (Cum. Supp. 2008). This examination included an on-site visitation of HCA’s North Platte, Lincoln County, Nebraska location.

3. The July 25, 2007 Report of Examination (“Report”) was forwarded to HCA on September 5, 2007. The Report noted a number of violations of the Act. HCA submitted a response received by the DEPARTMENT on September 28, 2007.

4. References in this Consent Agreement to customers of HCA will be by way of initials, in order to protect the privacy of such customers. HCA knows or should know the identity of these customers. If HCA 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 Report noted that HCA did not start copying the checks of all of its customers until July of 2007, although required to do so by Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008) since July 14, 2006.

6. HCA’s September 28, 2007 response stated:

We were not copying the checks due to an oversight by us. We were not thorough enough when that document came out believing that the meat and potatoes of the documents were for the same day transaction forms and ach (sic) deposit. It was also never stated in our last examination so we believed that we were doing things correctly. Since our exam, actually during it, copies of all checks have been and continue to be made.

7. HCA’s failure to copy all customer checks for a one-year period represents numerous violations of Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008).

8. The Report revealed six (6) instances for customers NA, TB, KF, LK, JS, and RY where HCA obtained incomplete Same Day Transaction Verification Forms (SDTVF) in violation of Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008) and Neb. Rev. Stat. § 45-919(1)(g) (Cum. Supp. 2008).

9. HCA’s September 28, 2007 response stated:

For NA (customer’s name redacted) The customer was called back in to date the document and given a new copy.

For TB (customer's name redacted) This situation came about during a rush at the end of a day. A husband and wife came in to payoff and then each re-advance. An error was made by the representative paying off the wife's transaction with the husband's money then paying off the new advance with the wife's money then the wife paid off the husband's transaction. The suggestion of one of the examiners, to correct the situation, was to get a hand written contract to the husband to ensure the correct APR.

For KF (customer's name redacted) The customer came in and initialed the same day transaction form. The customer was given a new copy.

For LK (customer's name redacted) Both of these errors were corrected when the customer came in and was given a corrected copy of each.

For JS (customer's name redacted) This customer is NSF and has not responded to our attempts to contact her. Her initials have not been gotten.

For RY (customer's name redacted) This customer came in and initialed the SDTF (sic) and was given a new copy.

10. HCA's failure to obtain completed SDTVFs in six (6) instances represents six separate violations of Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008) and Neb. Rev. Stat. § 45-919(1)(g) (Cum. Supp. 2008).

11. The DEPARTMENT could conclude that the actions of HCA 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).

12. 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.

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)(g) (Cum. Supp. 2008) sets forth acts which are prohibited to a licensee. These acts include entering 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.

4. 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.

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

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

CONSENT AGREEMENT

The DEPARTMENT and HCA agree as follows:

Stipulations: In connection with this Consent Agreement, HCA 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 25, 2007 examination of HCA. 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.

HCA further represents as follows:

1. HCA 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. HCA 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, HCA shall pay a fine of five thousand dollars (\$5,000.00) for failing to retain copies of all current checks for a one-year period in violation of Neb. Rev. Stat. §45-915.01(2) (Cum. Supp. 2008).

2. Within ten (10) days after the effective date of this Consent Agreement, HCA shall pay a fine of one hundred dollars (\$100.00) for each of the six (6) instances where HCA failed to obtain a completed SDTVF in violation of Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008) and Neb. Rev. Stat. § 45-919(1)(g) (Cum. Supp. 2008).

3. Within ten (10) days after the effective date of this Consent Agreement, HCA shall pay the DEPARTMENT's investigation costs in the amount of five hundred dollars (\$500.00).

4. The total amount of the fine, five thousand six hundred dollars (\$5,600.00), 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 six thousand one hundred dollars (\$6,100.00) to the DEPARTMENT.

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

6. If, at any time, the DEPARTMENT determines HCA 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 27th day of January, 2009.

**Hometown Cash Advance, Inc.
d/b/a Hometown Cash Advance**

By: Anthony Daley, president
Anthony Daley, President

901 North Jeffers Street
North Platte, NE 69101
(308) 534-3020

DATED this 29th day of January, 2009.

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

By: John Munn
John Munn, Director

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