

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

IN THE MATTER OF:	)	
	)	FINDINGS OF FACT
Shoemaker, Inc.,	)	CONCLUSIONS OF LAW
d/b/a Maximum Check Cashing,	)	AND
6102 Northwest Radial Highway,	)	CONSENT AGREEMENT
Omaha, Douglas 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 Shoemaker, Inc., d/b/a Maximum Check Cashing, 6102 Northwest Radial Highway, Omaha, Douglas County, Nebraska (“MCC”). As a result of such examination, and being duly advised and informed in the matter, the Director and MCC enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

**FINDINGS OF FACT**

1. MCC holds a delayed deposit services business license under the Act. License #1955 was issued on April 16, 2005. The license has been renewed annually on May 1<sup>st</sup> since that time, pursuant to Neb. Rev. Stat. § 45-910 (Cum. Supp. 2008). MCC surrendered its license on November 8, 2008.

2. On June 19, 2007, the DEPARTMENT commenced an examination of MCC pursuant to Neb. Rev. Stat. § 45-920 (Cum. Supp. 2008). This examination included an on-site visitation of MCC’s Omaha, Douglas County, Nebraska location.

3. The June 19, 2007 Report of Examination (“Report”) was forwarded to MCC on August 9, 2007. The Report noted a number of violations of the Act. MCC submitted responses received by the DEPARTMENT on November 13, 2007 and January 9, 2009.

4. The Report noted that MCC did not start copying the checks of all of its customers until June 2007, although required to do so pursuant to Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008), since July 14, 2006.

5. MCC’s November 13, 2007 response stated:

We have had two audits since the company started and we were never informed about making copies of the checks that are picked up at our location. The checks we deposit are copied and retained in our records. We have modified our procedures to make sure that copies are attached to the transaction documents for future reference.

6. MCC’s failure to copy all customer checks for approximately eleven (11) months represents numerous violations of Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008).

7. The Report revealed fifty-nine (59) instances where MCC failed to obtain a Same Day Transaction Verification Form (SDTVF) in violation of Neb. Rev. Stat. § 45-919(1)(g) (Cum. Supp. 2008) and Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008).

8. MCC’s November 13, 2007 response stated:

We were not aware of the change of SDTV’s [sic] until mid August.

....

There were 59 transactions involving 26 different clients. Only 2 clients were first time writers. The other 24 clients were existing customers who did business with us before 7/14/06. In no instance did we “roll over” the contract just collecting the interest fee. All checks were paid in full and then a new contract with a new check was created.

9. MCC’s failure to obtain the SDTVFs in fifty-nine (59) instances represents 59 separate violations of Neb. Rev. Stat. § 45-919(1)(g) (Cum. Supp. 2008) and Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008).

10. The DEPARTMENT could conclude that the actions of MCC 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).

11. MCC requested in a letter received by the DEPARTMENT on January 9, 2009 that the total amount of the fines and costs be placed on a payment schedule.

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

### **CONSENT AGREEMENT**

The DEPARTMENT and MCC agree as follows:

Stipulations: In connection with this Consent Agreement, MCC 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 June 19, 2007 examination of MCC. 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.

MCC further represents as follows:

1. MCC 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. MCC 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. MCC shall pay a fine of five thousand dollars (\$5,000.00) for failing to retain copies of all current checks for a period of eleven (11) months in violation of Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008).

2. MCC shall pay a fine of five thousand dollars (\$5,000.00) for failing to obtain a SDTVF in fifty-nine (59) separate instances in violation of Neb. Rev. Stat. § 45-919(1)(g) (Cum. Supp. 2008) and Neb. Rev. Stat. § 45-915.01(2) (Cum. Supp. 2008).

3. MCC shall pay the DEPARTMENT's investigation costs in the amount of five hundred dollars (\$500.00).

4. The total amount of the fines, ten thousand dollars (\$10,000.00), plus the total amount of investigation costs, five hundred dollars (\$500.00), shall be payable to the DEPARTMENT in six (6) payments. The first payment will be five thousand five hundred dollars (\$5,500.00) to be paid upon signing of this Agreement. The remaining five

payments will be paid in equal monthly installments of one thousand dollars (\$1,000.00).

Payments are to be made according to this Installment Payment Schedule:

<u>Payment Due Date</u>	<u>Payment Amount</u>
March 11, 2009	\$1,000.00
April 8, 2009	\$1,000.00
May 6, 2009	\$1,000.00
June 3, 2009	\$1,000.00
July 1, 2009	\$1,000.00

5. Payments shall be received by the DEPARTMENT on or before the due date and shall be payable in one check or money order for the entire installment amount due.

Partial payments of any installment will not be accepted.

6. Late payments will not be accepted without prior written approval from the DEPARTMENT. Any unapproved payment past due will void this Installment Payment Schedule causing the total remaining balance of the fines and costs to become immediately due and payable. Any check that is dishonored by the financial institution upon which it is drawn will be deemed as a late payment.

7. MCC may pay in full the remaining balance of the fines and costs before the last payment becomes due on July 1, 2009.


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

9. If, at any time, the DEPARTMENT determines MCC has committed any other violations of the Act, the DEPARTMENT may take any action available to it under the Act.

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

DATED this 9<sup>th</sup> day of Feb, 2009.

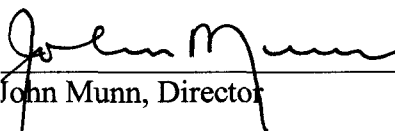
**Shoemaker, Inc.,  
d/b/a Maximum Check Cashing**

By:   
Steven Shoemaker, President

6102 Northwest Radial Highway  
Omaha, NE 68104  
(402) 614-6800

DATED this 11<sup>th</sup> day of February, 2009.

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

By:   
John Munn, Director

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