

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	
FNC Insurance Agency Inc.)	FINDINGS OF FACT
14700 Citicorp Dr., m/c 0003)	CONCLUSIONS OF LAW
Hagerstown, Maryland)	AND
)	RESOLUTION AGREEMENT
)	

NMLS No. 386372

THIS MATTER comes before the Nebraska Department of Banking and Finance (“Department”), by and through its Director, pursuant to its authority under the Nebraska Money Transmitters Act, Neb. Rev. Stat. §§ 8-2701 to 8-2748 (Cum. Supp. 2014) (“the Act”). Pursuant to Neb. Rev. Stat. § 8-2744 (Cum. Supp. 2014), the Department has investigated alleged violations of the Act by FNC Insurance Agency Inc., 14700 Citicorp Drive, m/c 0003, Hagerstown, Maryland (“FNC”). As a result of such investigation, and being duly advised and informed in the matter, the Director and FNC enter into the following Findings of Fact, Conclusions of Law, and Resolution Agreement.

FINDINGS OF FACT

1. On October 7, 2014, FNC submitted a new Money Transmitter License Application to the Department through the Nationwide Mortgage Licensing System (“NMLS”). FNC had not previously been licensed by the Department.
2. In response to questioning from the Department, FNC has acknowledged, and provided reports which verify, that FNC has transacted Nebraska business as a money transmitter since January 1, 2014.

3. On March 10, 2016, via electronic mail, FNC represented to the Department that from January 2014 through February 2015 FNC entered into 11,150 separate money transmitter transactions with Nebraska consumers and collected \$43,402.70 in transaction fees.

4. The Department incurred a minimum of One Thousand Dollars (\$1,000.00) in investigation costs in this matter.

CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 8-2716 (Cum. Supp. 2014) defines money transmission as the business of the sale or issuance of payment instruments or stored value or of receiving money or monetary value for transmission to a location within or outside of the United States by any and all means, including wire, facsimile, or electronic transfer. Notwithstanding any other provision of law, money transmission also includes bill payment services not limited to the right to receive payment of any claim for another but does not include bill payment services in which an agent of a payee receives money or monetary value of behalf of such payee.

2. Neb. Rev. Stat. § 8-2725 (Cum. Supp. 2014) provides that a person shall not engage in money transmission without a license issued pursuant to the Nebraska Money Transmitters Act.

3. Neb. Rev. Stat. § 8-2726 (Cum. Supp. 2014) provides that to qualify for a license under the Nebraska Money Transmitters Act, an applicant at the time of filing for a license, and a licensee at all times after a license is issued, shall satisfy the following requirements: (a) Each applicant or licensee must have a net worth of not less than fifty thousand dollars; (b) The financial condition and responsibility, financial and business experience, and character and general fitness of the applicant or licensee must reasonably warrant the belief that the applicant's or licensee's business will be conducted honestly, fairly, and in a manner commanding the

confidence and trust of the community; (c) Each corporate applicant or licensee must be in good standing in the state of its incorporation; and (d) Each applicant or licensee must be registered or qualified to do business in the state.

4. Neb. Rev. Stat. § 8-2744 (Cum. Supp. 2014) provides that if the Director finds, after notice and hearing in accordance with the Administrative Procedure Act, that any person has violated the Nebraska Money Transmitters Act or any rule, regulation, or order of the Director thereunder, the Director may order such person to pay (a) an administrative fine of not more than five thousand dollars for each separate violation and (b) the costs of investigation.

5. The facts listed in above Findings of Fact Nos. 2 and 3 constitute a sufficient basis for the Director to have determined that FNC has violated the Act by engaging in unlicensed activities. Each of FNC's individual money transmitter transactions constitute a separate violation of Neb. Rev. Stat. § 8-2725 (Cum. Supp. 2014). As a result, the Director would have cause to deny FNC's license application and/or could institute a proceeding to impose an administrative fine in an amount of not more than five thousand dollars for each separate violation, plus costs of investigation, in accordance with Neb. Rev. Stat. § 8-2744 (Cum. Supp. 2014).

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

STIPULATIONS

In connection with this Resolution Agreement, FNC and the Director stipulate to the following:

1. The Department has jurisdiction as to all matters herein.
2. For purposes of this Resolution Agreement only, FNC agrees it did not comply with the Act in that it did not apply for and obtain a Money Transmitter License prior to engaging in money transmitter transactions in Nebraska, but claims it did not willfully and intentionally violate such Act.
3. This Resolution Agreement shall resolve all matters raised by the Department's investigation of FNC in connection with its application for a license under the Act. Should future circumstances warrant, the facts from this matter may be considered in future administrative action by the Department.
4. This Resolution Agreement shall be in lieu of all other proceedings available to the Department, except as specifically referenced in this Resolution Agreement.

FNC further represents as follows:

1. FNC 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. FNC is acting free from any duress or coercion of any kind or nature.
3. This Resolution Agreement is executed to avoid further proceedings and constitutes an admission of violations of Neb. Rev. Stat. § 8-2725 (Cum. Supp. 2014) solely for the purpose of this Resolution Agreement and for no other purpose.

RESOLUTION AGREEMENT

IT IS THEREFORE AGREED as follows:

1. Within ten days after the effective date of this Resolution Agreement, FNC shall pay a fine of Ten Thousand Dollars (\$10,000.00) for its 11,150 violations of Neb. Rev. Stat. § 8-2725 (Cum. Supp. 2014).

2. Within ten days after the effective date of this Resolution Agreement, FNC shall pay the Department's investigation costs in this matter in the amount of One Thousand Dollars (\$1,000.00).

3. The total amount of the fine, Ten Thousand Dollars (\$10,000.00), plus the total amount of investigation costs, One Thousand Dollars (\$1,000.00), shall be payable in one check or money order in the amount of Eleven Thousand Dollars (\$11,000.00) to the Department.

4. In the event FNC fails to comply with the provisions of this Resolution Agreement, the Department may commence such action as it deems necessary and appropriate in the public interest.

5. If, at any time, the Department determines FNC has committed any other violations of the Act, the Department may take any action available to it under the Act.

6. Within ten business days after the Department's receipt of FNC's full payment of all fines and costs, the Department shall approve FNC's Money Transmitter License Application through the NMLS. The license will expire the last day of December 2016, unless sooner suspended, revoked, cancelled, or surrendered.

7. Within thirty (30) business days after the effective date of this Order, FNC shall update its disclosure record on the NMLS to include this Order.

8. The effective date of this Resolution Agreement will be the date of the Director's signature.

DATED this 7th day of April, 2016.

FNC Insurance Agency Inc.

By: 

Robert M. Duval, Assistant General Counsel

14700 Citicorp Dr., m/c 0003
Hagerstown, Maryland 21742

DATED this 8 day of April, 2016.

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

By: 

Mark Quandahl, Director

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