

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	FINDINGS OF FACT
Red D Cash, Inc.)	CONCLUSIONS OF LAW
5008 South 108 th Street)	AND
Omaha, Douglas 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 45-930 (Reissue 2010; Cum. Supp. 2014) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-920 (Cum. Supp. 2014), the Department has examined the books, accounts, and records of Red D Cash, Inc., 5008 South 108th Street, Omaha, Douglas County, Nebraska (“Red D Cash”). As a result of such examination, and being duly advised and informed in the matter, the Director and Red D Cash enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

FINDINGS OF FACT

1. Red D Cash holds a delayed deposit services business license under the Act. License No. 1802 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. 2014).
2. On August 26, 2015, the Department commenced an examination of Red D Cash pursuant to Neb. Rev. Stat. § 45-920 (Cum. Supp. 2014). This examination included an on-site visitation of Red D Cash’s Omaha, Douglas County, Nebraska location.

3. The August 26, 2015 Report of Examination (“Report”) was forwarded to Red D Cash on September 30, 2015. The Report noted a number of violations of the Act. Red D Cash submitted a response received by the Department on October 7, 2015.

4. The Department has reviewed the response submitted by Red D Cash and has taken it into consideration in determining the appropriate actions to be taken in this matter.

5. The previous regular examination of Red D Cash was conducted March 10, 2014 (“2014 Exam”), and revealed a number of violations of the Act. The 2014 Exam resulted in a Consent Agreement between the Department and Red D Cash with an effective date of July 30, 2014. Repeat violations of the Act will be noted below.

6. References in this Consent Agreement to customers of Red D Cash will be by way of initials, in order to protect the privacy of such customers. Red D Cash knows or should know the identity of these customers. If Red D Cash is unable to ascertain the identity of these customers, the Department will provide a list of these customers upon receipt of a written request.

7. Red D Cash failed to properly maintain accurate payment records in thirty-one instances for customers, and is a repeat violation as noted in the 2014 Examination and corresponding Consent Agreement, comprised of:

a. Four instances where incorrect dates were listed on contracts for customers MH, TJ, AK, and NO;

b. One instance where an incorrect check number was entered into an automated system for customer TJ;

c. One instance where an incorrect buy back date was stamped on a contract for customer TJ;

d. Nine instances where an incorrect due date was listed on a Collection Report for customers RG, RM, MM (2), JM, DN, LP, JP, and TT;

e. One instance where a copy of a deposit ticket was not available for customer RG;

f. Nine instances where a Collection Report did not account for No Sufficient Funds (“NSF”) fees charged for customers RG, RM, MM (2), JM, DN, LP, JP, and TT;

g. One instance where there was no stamp date on a contract for customer RM;

h. Three instances where a NSF fee was not listed on a Collection Report but was charged for customers RM (2) and MM;

i. Two instances where an incorrect deposit date was used on a Collection report for customer MM (2).

8. Red D Cash failed to obtain a correctly completed Same Day Transaction Verification Form (“SDTVF”) in one instance for customer JY, and is a repeat violation as noted in the 2014 Examination and corresponding Consent Agreement.

9. The Department and Red D Cash entered into a Findings of Fact, Conclusions of Law, and Consent Agreement effective May 11, 2016. This Consent Agreement shall replace, in its entirety, the May 11, 2016 Consent Agreement, which contained an error.

10. The Department could conclude that the actions of Red D Cash 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 (Reissue 2010).

11. The Department incurred a minimum of five hundred dollars (\$500.00) in investigation costs in this matter.

CONCLUSIONS OF LAW

1. Neb. Rev. Stat. § 45-908 (Reissue 2010) 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 (Reissue 2010) 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. § 45-915.01(1) (Reissue 2010) provides that a licensee shall keep or make available the books and records relating to transactions made under the Delayed Deposit Services Licensing Act as are necessary to enable the Department to determine whether the licensee is complying with the Act. The books and records shall be maintained in a manner consistent with accepted accounting practices.

4. The facts set forth in Finding of Fact No. 7 constitute thirty-one separate repeat violations of Neb. Rev. Stat. § 45-915.01 (Reissue 2010) as noted in the 2014 Exam and corresponding Consent Agreement.

5. Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) provides that no licensee shall enter 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. The Department has prescribed the SDTVF for this purpose.

6. The facts set forth in Finding of Fact No. 8 constitute one repeat violation of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) and Neb. Rev. Stat. § 45-915.01 (Reissue 2010) as noted in the 2014 Exam and corresponding Consent Agreement.

7. Neb. Rev. Stat. § 45-925 (Reissue 2010) 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.

8. The facts listed in the above Findings of Fact constitute a sufficient basis for the Director to have determined that Red D Cash 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 (Reissue 2010).

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

CONSENT AGREEMENT

The Department and Red D Cash agree as follows:

Stipulations: In connection with this Consent Agreement, Red D Cash and the Director stipulate to the following:

1. The Department has jurisdiction as to all matters herein.
2. As set forth in Finding of Fact # 9, this Consent Agreement shall replace, in its entirety, the May 11, 2016 Consent Agreement, which contained an error.

3. This Consent Agreement shall resolve all matters raised by the Department's August 26, 2015 examination of Red D Cash's Omaha, Douglas County, Nebraska location. Should future circumstances warrant, the facts from this matter may be considered in a future administrative action by the Department.

4. This Consent Agreement shall be in lieu of all other proceedings available to the Department, except as specifically referenced in this Consent Agreement.

Red D Cash further represents as follows:

1. Red D Cash 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. Red D Cash 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. Red D Cash shall pay a fine of Five Thousand Dollars (\$5,000.00) for the thirty-one instances where Red D Cash failed to properly maintain customer records in violation of Neb. Rev. Stat. § 45-915.01 (Reissue 2010).

2. Red D Cash shall pay a fine of One Hundred Dollars (\$100.00) for the one instance where Red D Cash failed to obtain a correctly completed SDTVF in repeat violation of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) and Neb. Rev. Stat. § 45-915.01 (Reissue 2010).

3. Red D Cash 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 One Hundred Dollars (\$5,100.00), plus the total amount of investigation costs, Five Hundred Dollars (\$500.00), is Six Thousand One Hundred Dollars (\$5,600.00) to the Department. This amount shall be payable to the Department in six (6) monthly payments. The first five (5) payments shall be in the amount of One Thousand Sixteen Dollars (\$1,016.00), and the final payment will be in the amount of Five Hundred Twenty Dollars (\$520.00)

5. Within ten (10) days after the effective date of this Consent Agreement, Red D Cash shall pay the first monthly installment. Payments are to be made as follows:

<u>Payment Due Date</u>	<u>Payment Amount</u>
Within ten (10) days after the effective date of this agreement	\$1,016.00
July 1, 2016	\$1,016.00
August 1, 2016	\$1,016.00
September 1, 2016	\$1,016.00
October 1, 2016	\$1,016.00
November 1, 2016	\$520.00

6. 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.

7. Late payments will not be accepted. Any past due payment will void this Consent Agreement causing the total remaining balance of the fine and costs to become immediately due. Any late payment will also be considered just cause for the Department to commence proceedings to revoke Red D Cash's license. Any check that is dishonored by the financial institution it is drawn upon will be deemed as a late payment.

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

9. If, at any time, the Department determines Red D Cash 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 5 day of July, 2016

RED D CASH, INC.

By: Judd Lindley
Judd Lindley, President

5008 South 108th Street
Omaha, Nebraska 68521

DATED this 6 day of July, 2016

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

By: Mark Quandahl
Mark Quandahl, Director

1526 K Street, Suite 300
Lincoln, Nebraska 68508
(402) 471-2171

