

STATE OF NEBRASKA
Department of Banking & Finance

IN THE MATTER OF:)	
)	
Wyoming Financial Lenders, Inc.)	FINDINGS OF FACT
d/b/a Payday Express)	CONCLUSIONS OF LAW
3110 L Street)	AND
Omaha, Douglas County, Nebraska)	CONSENT AGREEMENT

THIS MATTER comes before the Nebraska Department of Banking and Finance (“Department”), by and through its Deputy Director - Financial Institutions (“Deputy Director”), pursuant to its authority under the Delayed Deposit Services Licensing Act, Neb. Rev. Stat. §§ 45-901 to 45-930 (Reissue 2010; Cum. Supp. 2016; Supp. 2017) (“the Act”). Pursuant to Neb. Rev. Stat. § 45-920 (Cum. Supp. 2016), the Department has examined the books, accounts, and records of Wyoming Financial Lenders, Inc., d/b/a Payday Express, 3110 L Street, Omaha, Douglas County, Nebraska (“Payday Express”). As a result of such examination, and being duly advised and informed in the matter, the Deputy Director and Payday Express enter into the following Findings of Fact, Conclusions of Law, and Consent Agreement.

FINDINGS OF FACT

1. Payday Express holds a delayed deposit services business license under the Act. License No. 1991 was originally granted June 15, 2006, and has been renewed annually pursuant to Neb. Rev. Stat. § 45-910 (Cum. Supp. 2016).

2. The Director of the Department has declared a conflict of interest with respect to this matter. The conflict of interest is not of a nature subject to the provisions of Neb. Rev. Stat.

§ 8-103(2) (Supp. 2017). Accordingly, the decision on this matter is being made by the Deputy Director of the Department.

3. On May 30, 2017, the Department commenced an examination of Payday Express pursuant to Neb. Rev. Stat. § 45-920 (Cum. Supp. 2016). This examination included an on-site visitation of Payday Express's Omaha, Douglas County, Nebraska locations.

4. The May 30, 2017 Report of Examination ("Report") was forwarded to Payday Express on or about June 30, 2017. The Report noted a number of violations of the Act. Payday Express submitted a response received by the Department on or about August 18, 2017.

5. The Department has reviewed the response submitted by Payday Express and has taken it into consideration in determining the appropriate actions to be taken in this matter.

6. References in this Consent Agreement to customers of Payday Express will be by way of initials, in order to protect the privacy of such customers. Payday Express knows or should know the identity of these customers. If Payday Express 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. A previous regular examination of Payday Express was conducted on October 13, 2015 ("2015 Exam"), and revealed a number of violations of the Act, including repeat violations. This exam resulted in a Consent Agreement between the Department and Payday Express with an effective date of March 2, 2016 ("Consent Agreement"). Repeat violations of the Act will be noted below.

8. Payday Express failed to maintain accurate customer records in seven instances for customers SH, PM, CW, SK, RM, EB, and RR. These are third, successive violations as noted in the 2015 and 2014 Exam and corresponding Consent Agreements.

9. Payday Express failed to provide records to Department Examiners in five instances for customers SR, EP, WT, TC, and DN. These are repeat violations as noted in the 2015 Exam and corresponding Consent Agreement.

10. Payday Express failed to provide written notice as required by Neb. Rev. Stat. § 45-917(1) (Reissue 2010) to the maker or makers of the check, at the time the delayed deposit services transaction was made, in one instance for customer KW.

11. Payday Express failed to provide to Department Examiners a Same Day Transaction Verification Form (“SDTVF”) in two instances for customers HP and BH. These are repeat violations as noted in the 2015 Exam and corresponding Consent Agreement.

12. Payday Express failed to accurately complete SDTVFs in eight instances for customers BM, SR, BD, EO, GI, CI, DN, and SMS. These are third, successive violations as noted in the 2015 and 2014 Exam and corresponding Consent Agreements.

13. The Department could conclude that the actions of Payday Express 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).

14. 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(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.

3. The facts set forth in Finding of Fact No. 8 constitute seven violations of Neb. Rev. Stat. § 45-915.01 (Reissue 2010), which are third, successive violations according to the 2015 Exam and corresponding Consent Agreement.

4. Neb. Rev. Stat. § 45-915.01(2) (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.

5. The facts set forth in Finding of Fact No. 9 constitute five violations of Neb. Rev. Stat. § 45-915.01 (Reissue 2010), which are repeat violations according to the 2015 Exam and corresponding Consent Agreement.

6. Neb. Rev. Stat. § 45-917(1)(a) (Reissue 2010) provides that every licensee shall, at the time any delayed deposit services transaction is made, give to the maker of the check, or if there are two or more makers, to one of them, a notice written in plain English disclosing the fee to be charged for the transaction.

7. The facts set forth in Finding of Fact No. 10 constitute one violation of Neb. Rev. Stat. § 45-917(1) (Reissue 2010).

8. 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, and further provides that the licensee shall retain written proof of compliance with this subdivision. The Department has prescribed the SDTVF for this purpose.

9. The facts set forth in Finding of Fact No. 11 constitute two violations of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010), which are repeat violations according to the 2015 Exam and corresponding Consent Agreement.

10. The facts set forth in Finding of Fact No. 12 constitute eight violations of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010) as well, which are third, successive violations according to the 2015 Exam and corresponding Consent Agreement.

11. 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.

12. The facts listed in the above Findings of Fact constitute a sufficient basis for the Deputy Director to have determined that Payday Express 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).

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

14. It is in the best interest of Payday Express, and it is in the best interest of the public, for Payday Express and the Department to resolve the issues included herein.

CONSENT AGREEMENT

The Department and Payday Express agree as follows:

Stipulations: In connection with this Consent Agreement, Payday Express and the Deputy 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 May 30, 2017 examination of Payday Express's Omaha, Douglas County, Nebraska locations. 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.

Payday Express further represents as follows:

1. Payday Express 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. Payday Express 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 days after the effective date of this Consent Agreement, Payday Express shall pay a fine of Four Hundred Dollars (\$400.00) for each of the seven instances where Payday

Express failed to maintain accurate customer records in violation of Neb. Rev. Stat. § 45-915.01(1) (Reissue 2010), which are third, successive violations.

2. Within ten days after the effective date of this Consent Agreement, Payday Express shall pay a fine of Five Hundred Dollars (\$500.00) for each of the five instances where Payday Express failed to provide customer records to Department Examiners in violation of Neb. Rev. Stat. § 45-915.01 (Reissue 2010), which are repeat violations.

3. Within ten days after the effective date of this Consent Agreement, Payday Express shall pay a fine of One Hundred Dollars (\$100.00) for the one instance where Payday Express failed to provide to a customer a notice of disclosures required by the Act in violation of Neb. Rev. Stat. § 45-917(1) (Reissue 2010).

4. Within ten days after the effective date of this Consent Agreement, Payday Express shall pay a fine of Two Hundred Dollars (\$200.00) for each of the two instances where Payday Express failed to provide an SDTVF to Department Examiners in violation of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010), which are repeat violations.

5. Within ten days after the effective date of this Consent Agreement, Payday Express shall pay a fine of Two Hundred Dollars (\$200.00) for each of the eight instances where Payday Express failed to obtain correctly completed SDTVFs in violation of Neb. Rev. Stat. § 45-919(1)(g) (Reissue 2010), which are third, successive violations.

6. Within ten days after the effective date of this Consent Agreement, Payday Express shall pay the Department's investigation costs in the amount of Five Hundred Dollars (\$500.00).

7. The total amount of the fine, Seven Thousand Four Hundred Dollars (\$7,400.00), 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 Seven Thousand Nine Hundred Dollars (\$7,900.00) to the Department.

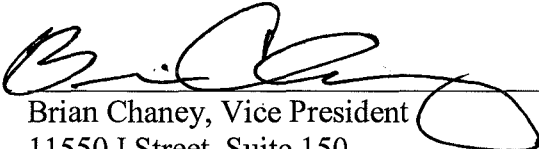
8. In the event Payday Express fails to comply with any of the provisions of this Consent Agreement, the Department may commence such action regarding Payday Express as it deems necessary and appropriate in the public interest.

9. If, at any time, the Department determines Payday Express 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 Deputy Director's signature.

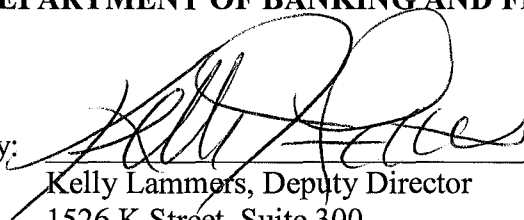
DATED this 6 day of February, 2018.

**WYOMING FINANCIAL LENDERS, INC.
D/B/A PAYDAY EXPRESS**

By: 
Brian Chaney, Vice President
11550 I Street, Suite 150
Omaha, Nebraska 68137
(402) 551-8888

DATED this 7 day of February, 2018.

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

By: 
Kelly Lammers, Deputy Director
1526 K Street, Suite 300
Lincoln, Nebraska 68508
(402) 471-2171

