

**STATE OF TENNESSEE
DEPARTMENT OF FINANCIAL INSTITUTIONS
OFFICE OF THE COMMISSIONER**

IN THE MATTER OF:)
)
CASH N GO, LLC.) **TDFI File No.: 10-272-C**
)
Respondent.)

EMERGENCY CEASE AND DESIST ORDER

The Commissioner of the Tennessee Department of Financial Institutions (hereinafter “Commissioner”), having determined that Cash N Go, LLC (hereinafter “Respondent”) violated the Tennessee “Deferred Presentment Services Act,” TENN. CODE ANN. §§ 45-17-101, *et seq.*, and that extraordinary circumstances require immediate action in this matter, hereby issues the following EMERGENCY CEASE AND DESIST ORDER pursuant to TENN. CODE ANN. § 45-1-107(a)(4), TENN. CODE ANN. § 45-1-107(c), TENN. CODE ANN. § 45-17-103, TENN. CODE ANN. § 45-17-115(1), and TENN. CODE ANN. § 45-17-116(c).

JURISDICTION AND IDENTIFICATION OF THE PARTIES

1. TENN. CODE ANN. § 45-1-104 provides that the Tennessee Department of Financial Institutions (hereinafter “Department”) is charged with the execution of all laws relative to persons doing or engaged in a banking or other business as provided in Title 45 (Banks and Financial Institutions).

2. TENN. CODE ANN. § 45-1-107(a)(4) provides that, in addition to other powers conferred by Title 45, the Commissioner has the authority to order any person to cease violating a provision of Title 45 or lawful regulation issued under Title 45.

Pursuant to TENN. CODE ANN. § 45-1-107(c), notice and opportunity for a hearing shall be provided in advance of the Commissioner issuing such an order, except that in cases involving extraordinary circumstances requiring immediate action, the Commissioner may take such action but shall promptly afford a subsequent hearing upon application to rescind the action taken.

3. The Commissioner is responsible for the administration, enforcement, and interpretation of the Deferred Presentment Services Act, and any regulations promulgated pursuant to said Act.

4. Pursuant to TENN. CODE ANN. § 45-17-115(1) of the Deferred Presentment Services Act, if, after notice and opportunity for a hearing, the Commissioner finds that a person has violated said Act or any administrative regulation issued pursuant to said Act, the Commissioner has the authority to order the person to cease and desist violating said Act or any administrative rules issued pursuant to said Act. However, in cases involving extraordinary circumstances requiring immediate action, the Commissioner may take such action without providing the opportunity for a prior hearing pursuant to TENN. CODE ANN. § 45-17-116(c) of the Deferred Presentment Services Act. In such circumstances, the Commissioner shall promptly afford a subsequent hearing upon an application to rescind the action that is filed with the Commissioner within twenty (20) days after receipt of the notice of the Commissioner's emergency action pursuant to TENN. CODE ANN. § 45-17-116(c) of the Deferred Presentment Services Act.

5. The Respondent is a domestic limited liability company headquartered at 4589 Rhea County Highway – Suite 200, Dayton, Tennessee 37321. The registered

agent for service of process of the Respondent is Gayle Liggett, whose address is the same as the LLC's headquarters address.

6. The Commissioner initially issued the Respondent license number 3517 to lawfully engage in the business of deferred presentment services in the state of Tennessee on December 13, 2007, which was continuously renewed until it expired on its terms without renewal on September 30, 2010.

FACTUAL ALLEGATIONS

7. At all times pertinent herein, the Respondent did not possess a license from the Commissioner to lawfully engage in the business of deferred presentment services in the state of Tennessee.

8. On November 29th and 30th of 2010, Compliance Examiner-in-Charge Keith Sharp (hereinafter "Sharp") conducted an examination of the Respondent at 4589 Rhea County Highway – Suite 200, Dayton, Tennessee 37321, pursuant to the Deferred Presentment Services Act.

9. During the course of the examination referenced in numbered paragraph eight (8) above, the Department uncovered evidence that the Respondent had engaged in the business of providing deferred presentment services transactions in the state of Tennessee despite the fact that the Commissioner had not issued the Respondent a license to lawfully engage in the business of providing deferred presentment services in the state of Tennessee.

10. Specifically, pursuant to the examination referenced in numbered paragraph eight (8), the Department documented an approximate total of two-hundred ninety-six (296) deferred presentment services agreements covering the approximate time

period of October 1, 2010 (10/01/10) through the first day of the examination (November 29, 2010 (11/29/10)). Said documentation indicates that the Respondent had contracted for approximately Eight-Thousand One-Hundred Seventy-Five dollars and 75/100 Dollars (\$8,175.75) in deferred presentment services fees during said period of time (at a minimum).

11. In addition, said documentation included business records bearing the designation “Deferred Presentment Services Agreement.” Said business records identify the “Licensee” as “Cash N Go, LLC, 4589 Rhea County Highway Suite, Dayton, Tennessee 37321.”

12. Pursuant to the examination referenced in numbered paragraph eight (8) above, Sharp drafted an examination report that included a “Violations from Examination” section. According to said examination report, under the “Violations from Examination” section, Sharp specifically noted in pertinent part “[e]ntity is not currently licensed to engage in the Deferred Presentment Services Business. TCA § 45-17-103 provides that no person shall engage in the business of deferred presentment services without having first obtained a license. A separate license is required for each location from which the business is conducted. TCA § 45-17-115 provides that the Commissioner may take an administrative action against any person found to be in violation of the Deferred Presentment Services Act....”

13. The examination report referenced in numbered paragraph twelve (12) was signed by Sharp and Shelly Jenkins on November 30, 2010 (11/30/10). According to said examination report, Shelly Jenkins was the Respondent’s Manager at the time of the examination. Shelly Jenkins was served with a copy of the examination report, via hand-

delivery, at the conclusion of the examination.

14. The examination report referenced in numbered paragraph twelve (12) above requires the Respondent to notify the Department within fifteen (15) days of the date the examination was completed of corrective actions taken by the Respondent. As of the entry date of this EMERGENCY CEASE AND DESIST ORDER, the Department has not received a written response from the Petitioner.

15. As of the entry date of this EMERGENCY CEASE AND DESIST ORDER, the Department has not received a licensure application from the Respondent seeking licensure to lawfully engage in the businesses of providing deferred presentment services in the state of Tennessee.

16. As of the entry date of this EMERGENCY CEASE AND DESIST ORDER, the Department has not received an examination fee from the Respondent in the amount of Four-Hundred and No/100 Dollars (\$400.00).

17. The aforementioned pattern of engaging in the businesses of deferred presentment services without having first obtained a license from the Commissioner is a sufficient indicator that the Respondent will continue to unlawfully engage in said businesses in the state of Tennessee in the future.

CAUSE OF ACTION

18. The factual allegations as stated in numbered paragraphs seven (7) through seventeen (17) of this EMERGENCY CEASE AND DESIST ORDER, incorporated by reference as though specifically set forth herein, are sufficient to establish by a preponderance of the evidence that the Respondent violated and is violating TENN. CODE ANN. § 45-17-103 of the Deferred Presentment Services Act, in

that the Respondent has engaged in the business of deferred presentment services in the state of Tennessee without having first obtained a deferred presentment services license from the Commissioner.

19. The factual allegations as stated in numbered paragraphs seven (7) through seventeen (17) of this EMERGENCY CEASE AND DESIST ORDER, incorporated by reference as though specifically set forth herein, are sufficient to establish by a preponderance of the evidence that extraordinary circumstances require immediate action pursuant to TENN. CODE ANN. § 45-1-107(c) and TENN. CODE ANN. § 45-17-116(c) of the Deferred Presentment Services Act.

POLICY STATEMENT

20. TENN. CODE ANN. § 45-17-103 of the Deferred Presentment Services Act states that no person shall engage in the business of deferred presentment services without having first obtained a license from the Department. A separate license shall be required for each location from which the business is conducted.

21. In order to qualify for a deferred presentment services license, TENN. CODE ANN. § 45-17-104(a)(2) of the Deferred Presentment Services Act requires an applicant to demonstrate the financial responsibility, financial condition, business experience, character, and general fitness sufficient enough to reasonably warrant the belief that the applicant's business will be conducted lawfully and fairly.

22. TENN. CODE ANN. § 45-17-104(a)(1) of the Deferred Presentment Services Act requires an applicant seeking a deferred presentment services license to demonstrate a minimum net worth, determined in accordance with generally accepted accounting

principles, of at least twenty-five thousand dollars (\$25,000.00) available for the operation of each location.

23. The factual allegations as stated in numbered paragraphs seven (7) through seventeen (17) of this EMERGENCY CEASE AND DESIST ORDER, incorporated by reference as though specifically set forth herein, are sufficient to establish by a preponderance of the evidence that the Respondent violated and is violating TENN. CODE ANN. § 45-17-103 of the Deferred Presentment Services Act, by engaging in the business of providing deferred presentment services in the state of Tennessee without having first obtained the required license from the Commissioner. Said violations have deprived the Commissioner of the opportunity to determine whether the Respondent has the requisite financial responsibility, financial condition, business experience, character, and general fitness sufficient enough to reasonably warrant the belief that the Respondent's business will be conducted lawfully and fairly.

EMERGENCY RELIEF

24. Having considered the factual allegations contained herein, the Commissioner has determined that the Respondent violated and is violating the Deferred Presentment Services Act and that extraordinary circumstances warrant immediate action in this matter.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

a. The Respondent shall cease and desist IMMEDIATELY from engaging in the business of deferred presentment services in the state of Tennessee without a deferred presentment services license pursuant to TENN. CODE ANN. § 45-1-107(a)(4), TENN. CODE

ANN. § 45-1-107(c), TENN. CODE ANN. § 45-17-103, TENN. CODE ANN. § 45-17-115(1), and TENN. CODE ANN. § 45-17-116(c); and

b. The provisions of this EMERGENCY CEASE AND DESIST ORDER shall remain in full force and effect unless and until such time as any provision is modified, terminated, suspended or set aside by the Commissioner, an administrative judge, or any court having jurisdiction over the matters addressed herein.

NOTICE

25. The Respondent has the right to a prompt hearing for the purpose of contesting and obtaining rescission of this EMERGENCY CEASE AND DESIST ORDER. If a prompt hearing is timely requested by the Respondent, the hearing shall be conducted in accordance with the Uniform Administrative Procedures Act, TENN. CODE ANN. §§ 4-5-101, *et seq.*, and pursuant to the Official Compilation Rules & Regulations of the State of Tennessee 1360-04-01. The Respondent has the right to be represented by counsel.

26. The sole issue to be considered at the prompt hearing is whether extraordinary circumstances required immediate action in this matter. This EMERGENCY CEASE AND DESIST ORDER does not constitute a final adjudication upon the merits, but merely constitutes a temporary, emergency order until such time that a contested case may be promptly instituted by the filing of a Notice of Charges and Opportunity for Hearing.

27. In order to request a prompt hearing, the Respondent must file a written request with the Commissioner within twenty (20) days from receipt of this EMERGENCY CEASE AND DESIST ORDER. Any written request for a hearing must

be filed with the Commissioner, Tennessee Department of Financial Institutions, 414 Union Street, Suite 1000, Nashville, Tennessee 37219. If no such written request is timely filed with the Commissioner, this EMERGENCY CEASE AND DESIST ORDER shall be deemed a Final Order without further legal process.

28. The Respondent may file a Petition for Appeal with the Commissioner within fifteen (15) days of entry of this EMERGENCY CEASE AND DESIST ORDER pursuant to TENN. CODE ANN. § 4-5-315(b).

29. The Respondent may submit to the Commissioner a petition for stay of effectiveness of this EMERGENCY CEASE AND DESIST ORDER or the Final Order within seven (7) days of entry pursuant to TENN. CODE ANN. § 4-5-316.

30. The Respondent may file a Petition for Reconsideration with the Commissioner, stating the specific grounds upon which the relief is requested, within fifteen (15) days of entry of this EMERGENCY CEASE AND DESIST ORDER or the Final Order pursuant to TENN. CODE ANN. § 4-5-317.

31. The Respondent may seek judicial review of this EMERGENCY CEASE AND DESIST ORDER by filing a Petition for Judicial Review in the chancery court of Davidson County, Tennessee, within sixty (60) days of the date this Order becomes a Final Order pursuant to TENN. CODE ANN. § 4-5-322. A Petition for Reconsideration does not act to extend the sixty (60) day period; however, if the Petition is granted, then the sixty (60) day period is tolled and a new sixty (60) day period commences from the effective date of the Final Order disposing of the Petition.

ENTERED AND EFFECTIVE this 10th day of December 2010.

On behalf of the Department:



Greg Gonzales, Commissioner
Tennessee Department of Financial Institutions

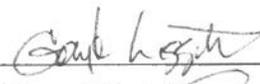
CERTIFICATE OF SERVICE

I hereby certify that, on this, the _____ day of December, 2010, a true and correct copy of the foregoing Emergency Cease and Desist Order was hand-served on the following person at the Respondent's business address of 4589 Rhea County Hwy – Suite 200, Dayton, Tennessee 37321, by personal delivery at the following time:

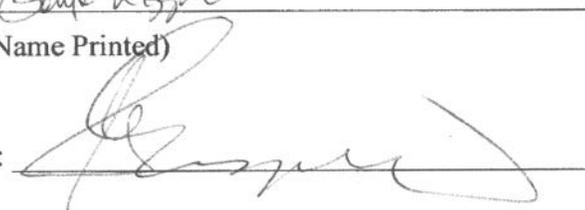
Date: 12/14/10

Time: 10:44 AM / PM

Name of Person Accepting Service: _____


(Name Printed)

Signature of Person Accepting Service: _____



JACK T LAY
Department Representative Making Service (Name Printed)


Signature of Department Representative Making Service:

Regional Supervisor
Position/Title of Department Representative Making Service