

STATE OF TENNESSEE
DEPARTMENT OF FINANCIAL INSTITUTIONS
OFFICE OF THE COMMISSIONER

IN THE MATTER OF:)	
)	
STEVEN F. HATFIELD, individually)	TDFI No.: 10-290-C
and d/b/a CASH DEPOT,)	
)	
Respondent.)	

EMERGENCY CEASE AND DESIST ORDER

The Commissioner of the Tennessee Department of Financial Institutions (hereinafter "Commissioner"), having determined that Steven F. Hatfield, individually and d/b/a Cash Depot (hereinafter "Respondent") violated and is violating the Deferred Presentment Services Act, Tennessee Code Annotated Sections (hereinafter "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 natural person with a last known personal address of 311 Riverstone Boulevard, Nashville, Tennessee 37214-2552. The Commissioner has never issued the Respondent a license to lawfully engage in the business of deferred presentment services in the state of Tennessee. Commencing on or about September 22, 2010 (09/22/10), the Respondent owned and operated an unlicensed deferred presentment services business at 569 Stewarts Ferry Pike, Nashville, Tennessee 37214-3414.

FACTUAL ALLEGATIONS

6. 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.

7. On or about June 26, 1998 (06/26/1998), the Commissioner issued Malcolm C. Matthews d/b/a Cash Depot (hereinafter "Matthews") a license (license number 1584) to lawfully engage in the business of deferred presentment services in the state of Tennessee. Said license authorized Matthews to lawfully engage in the business of deferred presentment services at 569 Stewarts Ferry Pike, Nashville, Tennessee 37214-3414. Said license expired on September 30, 2010 (09/30/10) due to the fact that Matthews had failed to file a licensure renewal application and had failed to pay the licensure renewal fee on or before September 1, 2010 (09/01/10) as required by TENN. CODE ANN. § 45-17-110 of the Deferred Presentment Services Act.

8. In a letter dated September 8, 2010 (09/08/10), from Stephen Henley (hereinafter "Henley"), Director of Licensing for the Compliance Division of the Department, and addressed to William Stewart, Manager for Matthews, the Department provided written notice to Matthews that its deferred presentment services license (license number 1584) was expiring on September 30, 2010 (09/30/10) due to the fact that Matthews had failed to file a licensure renewal application and had failed to pay the licensure renewal fee on or before September 1, 2010 (09/01/10) as required by TENN. CODE ANN. § 45-17-110 of the Deferred Presentment Services Act. According to said letter, Henley stated, in pertinent part, "...[t]he Department did not receive either the license renewal application and/or the license renewal fee by the September 1 renewal deadline. Therefore, your current license(s) will expire on September 30, 2010, and before you operate after the expiration date you must first obtain a new license pursuant to TENN. CODE ANN. § 45-17-103...." (emphasis added).

9. The letter referenced in paragraph eight (8) was mailed via United States Certified Mail, Return Receipt Requested, and via United States First Class Mail, Postage Prepaid, on or about September 9, 2010 (09/09/10) and to the address of 569 Stewarts Ferry Pike, Nashville, Tennessee 37214-3414. The United States Certified Mail Return Receipt indicates that Malcolm C. Matthews received said letter on September 16, 2010 (09/16/10).

10. On September 8, 2010 (09/08/10), the Department received a licensure application on behalf of the Respondent. The Respondent submitted said licensure application with the Department in order to obtain a license to

lawfully engage in the business of deferred presentment services at 569 Stewarts Ferry Pike, Nashville, Tennessee 37214-3414. Said licensure application has not been approved and is still pending before the Commissioner as of the entry date of this EMERGENCY CEASE AND DESIST ORDER.

11. On or about September 22, 2010 (09/22/10), the Respondent purchased Matthews' deferred presentment services business located at 569 Stewarts Ferry Pike, Nashville, Tennessee 37214-3414.

12. It should be noted that TENN. CODE ANN. § 45-17-108(a) specifically states that licenses issued pursuant to the Deferred Presentment Services Act are not transferable or assignable. Thus, Matthews was statutorily prohibited from transferring or assigning its license (license number 1584) to the Respondent when the Respondent purchased the deferred presentment services business on or about September 22, 2010 (09/22/10).

13. On December 22nd and 23rd, 2010, Compliance Examiner-in-Charge Robert M. Walker (hereinafter "Walker") conducted an examination of the Respondent at 569 Stewarts Ferry Pike, Nashville, Tennessee 37214-3414, pursuant to the Deferred Presentment Services Act.

14. During the course of the examination referenced in paragraph thirteen (13), the Department uncovered evidence that the Respondent had engaged in the business of deferred presentment services in the state of Tennessee despite the fact that the Commissioner had never issued the Respondent a license to lawfully engage in the business of deferred presentment services in the state of Tennessee.

15. Specifically, pursuant to the examination referenced in paragraph thirteen (13), the Department documented an approximate total of two hundred seventy-five (275) deferred presentment services agreements commencing September 22, 2010 (09/22/10) (the approximate date the Respondent purchased the deferred presentment services business from Matthews) through December 22, 2010 (12/22/10). Said documentation indicates that the Respondent contracted for approximately seven thousand three hundred five dollars and zero cents (\$7,305.00) in deferred presentment services fees during said period of time.

16. In addition, said documentation included business records bearing the designation "Tennessee Deferred Presentment Agreement." Said business records identify the "Licensee" as "Cash Depot, 569 Stewarts Ferry Pike, Nashville, Tennessee 37214, (615) 884-2747." Said business records include the following language in pertinent part: "[i]n this Deferred Presentment Services Agreement...[t]he words 'us' and 'ours' mean Cash Depot..." Furthermore, said business records include the following language in pertinent part located below the "Federal Truth-In-Lending Disclosure" section: "[t]he amount shown above in the Finance Charge box is deemed in [sic] Service Fee by Tennessee law and not interest. TCA Sec. 45-17-112(b)."

17. Pursuant to the examination referenced in paragraph thirteen (13), Walker drafted an examination report that included a “Violations from Examination” section. According to said examination report, under the “Violations from Examination” section, Walker 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....”

18. The examination report referenced in paragraph seventeen (17) was signed by Walker and the Respondent’s representative on December 23, 2010 (12/23/10). The Respondent’s representative was served with a copy of the examination report, via hand-delivery, at the conclusion of the examination.

19. The aforementioned pattern of engaging in the business 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 business in the state of Tennessee in the future.

CAUSES OF ACTION

20. The factual allegations as stated in paragraphs six (6) through nineteen (19) 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.

21. The factual allegations as stated in paragraphs six (6) through nineteen (19) 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

22. 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.

23. 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.

24. 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.

25. TENN. CODE ANN. § 45-17-108(a) specifically states that licenses issued pursuant to the Deferred Presentment Services Act are not transferable or assignable.

26. The factual allegations as stated in paragraphs six (6) through nineteen (19) 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 deferred presentment services in the state of Tennessee without having first obtained a deferred presentment services license from the Commissioner. Said violation has 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, as well as the opportunity to determine whether the Respondent has satisfied the statutorily mandated minimum net worth requirement. Consequently, the Commissioner has been deprived of the opportunity to make an informed determination of whether to grant the Respondent a license under the Deferred Presentment Services Act prior to doing business with Tennessee consumers.

EMERGENCY RELIEF

27. 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. That 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. That 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

28. 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 of his own choice and at his own expense.

29. 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.

30. 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.

31. 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).

32. 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.

33. 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.

34. 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 14TH day of January 2011.

On behalf of the Department:



Greg Gonzales, Commissioner
Tennessee Department of Financial Institutions

CERTIFICATE OF SERVICE

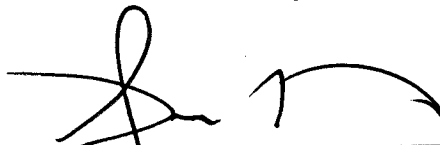
I hereby certify that true and correct copies of the foregoing Order have been forwarded to the following:

Steven F. Hatfield
Steven F. Hatfield d/b/a Cash Depot
569 Stewarts Ferry Pike
Nashville, Tennessee 37214-3414

Steven F. Hatfield
311 Riverstone Boulevard
Nashville, Tennessee 37214-2552

Via Federal Express Next Day Air, Tracking Numbers 8731 1893 4152, 8731 1893 4163, this 14th day of January 2011.

Via United States First Class Mail, Postage Prepaid, and via United States Certified Mail, Return Receipts Requested, Certified Mail Numbers 7009 0080 0000 1124 2945, 7009 0080 0000 1124 2952, this 18th day of January 2011.



Joseph A. Schmidt, Attorney
Tennessee Department of Financial Institutions