

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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PA DEPT OF BANKING

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU
OF COMPLIANCE, INVESTIGATION AND
LICENSING

Docket No.: 08 0077 (CO)

v.

THE UTILITY STATION

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations has conducted an examination of The Utility Station, and its officers, employees and directors. Based on the results of the examination, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that The Utility Station operated in violation of the Check Casher Licensing Act (the "CCLA"), 63 P.S. § 2301 et seq. The parties to the above captioned matter, in lieu of litigation, hereby stipulate that the following statements are true and correct in the settlement of the above-captioned matter and, intending to be legally bound, hereby agree to the terms of this Consent Agreement and Order (the "Order").

BACKGROUND

1. The Department is the Commonwealth of Pennsylvania's administrative agency authorized and empowered to administer and enforce the CCLA.
2. The Bureau is primarily responsible for administering and enforcing the CCLA for the Department.

3. The Utility Station operates various businesses at 4121 Main Street, Homestead, PA 15120 (the "Main Street Location").

4. The Utility Station has applied for a check cashing license for the Main Street Location.

5. The Utility Station is not currently, and has never been, licensed as a check cashier.

6. On October 19, 2007, an examiner from the Department initiated an examination (the "Examination") of The Utility Station at the Main Street Location.

Unlicensed Activity

7. The Examination revealed that The Utility Station had been cashing checks for a fee at the Main Street Location when it was not licensed to do so.

8. Section 301(a) of the CCLA provides that "[n]o person or business entity shall engage in the business of cashing checks for a fee without first obtaining a license under this act for each fixed location or mobile unit." 63 P.S. § 2311(a).

Not Maintaining Books, Accounts and Records

9. The Examination revealed that The Utility Station was not maintaining books, accounts and records that would enable the Department to determine whether The Utility Station is complying with the provisions of the CCLA.

10. Section 506(a) of the CCLA provides that "[e]ach check cashier shall maintain and use such books, accounts and records as will enable the department to determine whether the check cashier is complying with the provisions of this act and the rules and regulations adopted under this act. A check cashier shall maintain records in a form prescribed by the department and shall preserve such books, accounts and records for five years." 63 P.S. § 2326(a).

11. The Examination also revealed that The Utility Station was not maintaining copies of receipts provided to consumers for each check cashing transaction completed at the Main Street Location.

12. Section 81.41(1) of the Check Casher Licensing Statement of Policy provides that “[t]he check casher should maintain a copy of the receipts provided to consumers for each check cashing transaction. The receipts should indicate the name and address of the check casher, transaction date, customer’s name, address and type of identification used, item number, date and amount of check cashed, fee charged and the employee’s initials. In lieu of placing a customer’s name, address and type of identification on the receipt, the check casher may assign an identification number to the customer, if a log is maintained by the check casher at the examination site.” 10 Pa. Code § 81.41(1).

13. Section 81.41(2) of the Check Casher Licensing Statement of Policy provides that “[t]he check casher should maintain a daily record of all checks cashed which should be reconciled to the deposit of records received from each depository used by the check casher.” 10 Pa. Code § 81.41(2).

Fine Authority of the Department

14. Section 507 of the CCLA provides that “[a]ny person who is subject to the provisions of this act who violates any of the provision of this act shall be subject to a civil penalty levied by the department of up to \$2,000 for each violation. The civil penalty shall specifically apply to licensed and unlicensed activity under this act.” 63 P.S. § 2327.

VIOLATIONS

15. The Utility Station is in violation of Section 301(a) of the CCLA by cashing checks for a fee when The Utility Station was not licensed to do so.

16. The Utility Station is in violation of Section 506(a) of the CCLA by not properly maintaining books, accounts and records.

RELIEF

17. Fine. Within thirty (30) days of the Effective Date of this Order, The Utility Station shall pay to the Department a fine of \$2,000. The fine payment shall be remitted by certified check or money order made payable to the Department of Banking.

18. Corrective Action.

a. Unlicensed Activity. The Utility Station shall immediately cease and desist from cashing checks for a fee unless and until such time as The Utility Station is licensed under the CCLA. This provision will not prohibit The Utility Station from cashing checks without charging a fee.

b. Recordkeeping. Within forty-five (45) days of the Effective Date of this Order, The Utility Station shall maintain and use books, accounts and records that will enable the Department to determine if The Utility Station is in compliance with the CCLA.

c. Receipts. Within forty-five (45) days of the Effective Date of this Order, the Utility Station shall maintain copies of all receipts provided to consumers for each check cashing transaction completed and maintain those receipts pursuant to Section 81.41 of the Check Casher Licensing Statement of Policy.

d. BSA/AML. Within forty-five (45) days of the Effective Date of this Order, The Utility Station shall be compliant with all applicable Bank Secrecy Act/Anti-Money Laundering ("BSA/AML") laws and regulations, including but not limited to:

i. establishing in writing and maintaining company policies and procedures on BSA/AML internal controls;

- ii. establishing a knowledgeable compliance officer to administer an effective BSA/AML program;
- iii. implementing a written program to train appropriate personnel in BSA/AML compliance; and
- iv. contracting for an independent review of its BSA/AML program by a person qualified to conduct such a review.

19. Pending License. Upon payment of the fine as provided in Paragraph 17, the Licensing Division will issue the pending license for The Utility Station for the Main Street Location.

FURTHER PROVISIONS

20. Consent. The Utility Station hereby knowingly, willingly, voluntarily and irrevocably consents to the entry of this Order pursuant to the Bureau's order authority under the CCLA and agrees that it understands all of the terms and conditions contained herein. The Utility Station, by voluntarily entering into this Order, waives any right to a hearing or appeal concerning the terms, conditions and/or penalties set forth in this Order.

21. Publication and Release. The Utility Station consents to the publication and release of this Order.

22. Entire Agreement. This Order contains the whole agreement between the parties. There are no other terms, obligations, covenants, representations, statements, conditions, or otherwise, of any kind whatsoever concerning this Order. This Order may be amended in writing by mutual agreement by the Bureau and The Utility Station.

23. Binding Nature. The Bureau, The Utility Station, and all officers, owners, directors, employees, heirs and assigns of The Utility Station intend to be and are legally bound by the terms of this Order.

24. Counsel. This Order is entered into by the parties upon full opportunity for legal advice from legal counsel.

25. Effectiveness. The Utility Station hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order ("Effective Date").

26. Other Enforcement Action.

a. The Department reserves all of its rights, duties, and authority to enforce all statutes, rules and regulations under its jurisdiction against The Utility Station in the future regarding all matters not resolved by this Order.

b. The Utility Station acknowledges and agrees that this Order is only binding upon the Department and not any other local, state or federal agency, department or office regarding matters within this Order.

27. Authorization. The parties below are authorized to execute this Order and legally bind their respective parties.

28. Counterparts. This Order may be executed in separate counterparts and by facsimile.

29. Titles. The titles used to identify the paragraphs of this document are for the convenience of reference only and do not control the interpretation of this document.

WHEREFORE, in consideration of the foregoing, including the recital paragraphs, the Bureau and The Utility Station intending to be legally bound do hereby execute this Consent Agreement and Order.

**FOR THE COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING, BUREAU OF
COMPLIANCE, INVESTIGATION AND LICENSING**

Brian Crossland, Chief of Compliance
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: 4-15-08

FOR THE UTILITY STATION

(Officer Signature)

Michael Thomas
(Print Officer Name)

Owner
(Title)

Date: 4-15-08