

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF BANKING

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2010 OCT -7 PM 3:22

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

PA DEPT OF BANKING

Docket No.: 10 0250 (ENF-CO)

V.

MACLAY STREET MARKET

CONSENT AGREEMENT AND ORDER

The Commonwealth of Pennsylvania, acting through the Department of Banking (the "Department"), Bureau of Examinations has conducted an investigation of the Maclay Street Market ("MSM"), and its officers, employees and directors. Based on the results of the investigation, the Bureau of Compliance, Investigation and Licensing (the "Bureau") believes that MSM 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, and the Pennsylvania Department of Banking Code ("PA DOBC"), 71 P.S. § 733-1 et seq.
2. The Bureau is primarily responsible for administering and enforcing the CCLA and the PA DOBC for the Department.
3. MSM operates at 234 Maclay Street, Harrisburg, Pennsylvania.
4. MSM is not currently, and has never been, licensed as a check casher.

5. MSM is currently an agent for a money transmitter and as such provides money orders in exchange for cash for a fee.

6. On February 18, 2010, examiners from the Department initiated an investigation of MSM prompted by consumer complaint.

7. The PA DOBC provides that “[a]ll the expenses of the department, including those enumerated in this act or otherwise authorized by law, shall be charged to and paid by all institutions, including licenses, in such equitable amounts, at such times, and in such manner as the department shall, by general rule or regulations, prescribe. The expenses incurred by the department in connection with any examination or investigation, whether regular or special, including a proportionate part of the salary of any examiner or other employee of the department or third-party expenses, including attorneys retained by the department, may be assessed by the department upon the particular institution examined or investigated.” 71 P.S. § 733-204.A.

8. The CCLA defines a licensee as a “[a] check casher licensed by the Department of Banking to engage in the business of cashing checks at a fixed location or by means of a mobile unit.” 63 P.S. § 2303.

UNLICENSED ACTIVITY

9. The Investigation revealed that MSM had been cashing checks for a fee when it was not licensed to do so.

10. 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

11. The Investigation revealed that MSM was not maintaining books, accounts and records in a form prescribed by the Department that would enable the Department to determine whether MSM is complying with the provisions of the CCLA.

12. The CCLA provides that “[e]ach check casher shall maintain and use such

books, accounts and records as will enable the department to determine whether the check casher is complying with the provisions of this act and the rules and regulations adopted under this act. A check casher 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).

13. The Investigation also revealed that MSM was not maintaining copies of receipts provided to consumers for each check cashing transaction.

MONEY SERVICES BUSINESS

14. Any business that provides money orders in excess of \$1,000 for any person on any day in one or more transactions is a “money services business” as that term is defined by federal regulations issued pursuant to the Bank Secrecy Act. 31 CFR § 103.11(uu).

15. Any business that cashes checks, with or without a fee, in excess of \$1,000 for any person on any day in one or more transactions is a “money services business as that term is defined by federal regulations issued pursuant to the Bank Secrecy Act. 31 CFR § 103.11(uu).

16. Money services businesses must comply with the registration, reporting, recordkeeping and anti-money laundering program requirements of the Bank Secrecy Act. 31 CFR § 103.11(uu).

17. MSM did not maintain any records that would make it possible to determine if it was engaging in the money services business as defined by federal regulation.

FINE AUTHORITY OF THE DEPARTMENT

18. 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

19. MSM violated the CCLA when it cashed checks for a fee when it was not licensed to do so. 63 P.S. § 2311(a).

20. MSM violated the CCLA by not properly maintaining books, accounts, and records. 63 P.S. § 2326(a).

RELIEF

21. Fine. MSM shall pay to the Department a fine of \$2,000 payable in ten (10) monthly installments of \$200. The first installment is due within thirty (30) days of the effective date of this Order, as defined in paragraph 24 below, with subsequent payments due every thirty (30) days thereafter until paid in full. The fine payment shall be remitted by certified check or money order payable to the Department of Banking and shall be sent to the attention of the Department of Banking, Bureau of Compliance, Investigation and Licensing located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

22. Investigation Costs. MSM shall pay to the Department investigation costs of \$318.81 immediately after the final fine payment, but no later than thirty (30) days thereafter. Payment shall be remitted by certified check or money order payable to the Department of Banking and shall be sent to the attention of the Department of Banking, Bureau of Compliance, Investigation and Licensing located at 17 North Second Street, Suite 1300, Harrisburg, Pennsylvania 17101.

23. Corrective Action. MSM shall immediately cease and desist from cashing checks for a fee unless and until such time as MSM is licensed under the CCLA.

24. MSM shall immediately cease and desist from cashing checks in excess of \$1,000 for any person on any day in one or more transactions until such time as MSM is licensed under the CCLA, complies with the registration, reporting, recordkeeping and anti-money laundering program requirements of the Bank Secrecy Act.

25. MSM shall immediately cease and desist from issuing money orders as an agent for any money transmitter in excess of \$1,000 for any person on any day in one or more transactions until such time as MSM complies with the registration, reporting, recordkeeping and anti-money laundering program requirements of the Bank Secrecy Act.

FURTHER PROVISIONS

26. Consent. MSM 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. MSM, 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.

27. Publication and Release. MSM consents to the publication and release of this Order.

28. 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 MSM.

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

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

31. Effectiveness. MSM hereby stipulates and agrees that the Order shall become effective on the date that the Bureau executes the Order.

32. 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 MSM in the future regarding all matters not resolved by this Order.

b. MSM 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.

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

34. Counterparts. This Order may be executed in separate counterparts, by facsimile and by PDF.

35. 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 MSM 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

Ryan Walsh, Administrator
Bureau of Compliance, Investigation and Licensing
Department of Banking

Date: October 6, 2010

FOR MACLAY ST. MARKET

(Officer Signature)

(Print Officer Name)

(Title)

Date: 9/30/10