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STATE OF ALABAMA
STATE BANKING DEPARTMENT
BUREAU OF LOANS

STATE OF ALABAMA)	
STATE BANKING DEPARTMENT)	
)	
Complainant,)	
)	
v.)	License No. DP-10371
)	
BYRD'S CHECK CASHING, INC.)	
)	
Respondent.)	

FINAL ORDER

Having reviewed the entire record of the above-named proceeding, and the documents filed with the Alabama Banking Department regarding this matter (including the Recommended Order), the Supervisor, Bureau of Loans, makes the following rulings, findings, conclusions, determinations, and dispositions:

PROCEDURAL BACKGROUND

On or about July 1, 2016, the Alabama Banking Department ("the Department") conducted a routine examination of Byrd's Check Cashing, Inc. and discovered 11 deferred presentment loans had been completed without first verifying customer eligibility with the statewide deferred presentment database. The Department sent a Notice of Intent to Revoke License to Byrd's Check Cashing, Inc. and its President, James L. Byrd ("Byrd") on July 13, 2016.

On August 25, 2016, Administrative Law Judge Randy C. Sallé held an administrative hearing on behalf of the Department on its intent to revoke the license of Byrd's Check Cashing, Inc. The Department was represented by Anne W. Gunter, Esq., Associate

Counsel for the Department. Examiner Ashley Hanback testified on behalf of the Department. Carla Bates, an employee of Byrd's Check Cashing, appeared *pro se* and testified on behalf of Byrd's Check Cashing.

The ALJ entered a Recommended Order on Findings of Fact and Conclusions of Law on September 12, 2016. The Order held that the Respondents failed to adhere to the Deferred Presentment Services Act and recommended the revocation of Byrd's Check Cashing, Inc.'s Deferred Presentment Services license.

FINDINGS OF FACT

The Findings of Fact as set forth in ALJ Sallé's September 12, 2016 Recommended Order are approved, adopted, and incorporated herein by reference.

CONCLUSIONS OF LAW

The Conclusions of Law as set forth in ALJ Sallé's September 12, 2016 Recommended Order are approved, adopted, and incorporated herein by reference.

DISPOSITION

Accordingly, the Supervisor, Bureau of Loans accepts the recommendation of ALJ Sallé and hereby revokes the license of Byrd's Check Cashing, Inc. (License No. DP-10371)

THEREFORE, the Department having determined that this Order is necessary and appropriate, The Supervisor of the Bureau of Loans, hereby REVOKES Byrd's Check Cashing, Inc.'s Deferred Presentment Services license.

Upon the effective date of this Order, Byrd's Check Cashing, Inc.'s status in the Veritec Statewide Database shall be changed to Restricted Status for 90 days. After 90 days Byrd's Check Cashing, Inc.'s access to the Veritec Statewide Database will be terminated. Any

remaining open loans will be administratively closed by the Department at the end of the 90 days.

The provisions of this Order shall be binding upon Byrd's Check Cashing, Inc., any affiliated parties, and any successors and assigns thereof, effective immediately.

DONE and ORDERED by the Supervisor of the Bureau of Loans on the 16th day of September, 2016.

/s/ Scott Corscadden
Scott Corscadden
Supervisor, Bureau of Loans

BEFORE THE STATE OF ALABAMA
STATE BANKING DEPARTMENT
BUREAU OF LOANS

STATE OF ALABAMA)
STATE BANKING DEPARTMENT,)
)
Complainant,)
)
v.)
)
BYRD'S CHECK CASHING, INC.,)
)
)
Respondent.)

**RECOMMENDED ORDER ON FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Procedural History

On or about July 1, 2016, Alabama State Banking Department (“Department”) Examiner Ashley Hanback (“Hanback”) conducted a compliance examination of Byrd’s Check Cashing, Inc. (“Byrd’s Check Cashing” or “Respondent”). During her examination, Hanback discovered Byrd’s Check Cashing completed eleven deferred presentment loans without verifying borrower eligibility on the statewide database.¹

¹ Department Exhibit I.

On July 13, 2016, the Department sent a letter to James L. Byrd (“Byrd”), owner of Byrd’s Check Cashing, indicating the Department’s intent to revoke the Deferred Presentment license for Byrd’s Check Cashing based upon multiple violations.² Byrd requested a hearing on the matter.

On August 25, 2016, the undersigned hearing officer, on behalf of the Department, held an administrative hearing for the purpose of hearing the Department’s evidence and allowing Byrd to present such evidence and any response he might have concerning the Department’s intent to revoke Byrd’s Check Cashing’s Deferred Presentment license.

Carla Bates (“Bates”), an employee of Byrd’s Check Cashing, appeared and testified on behalf of Respondent. The Department was represented by Anne W. Gunter, Esq., Associate Counsel.

The Department offered seventeen exhibits which were admitted into the record.

Findings of Fact

Having reviewed the documentary evidence, having heard the witnesses’ testimony, having observed the witnesses’ demeanor and assessed their credibility,

² Department Exhibit 17.

the undersigned finds the greater weight of the evidence supports the following findings of fact:

1. The Department has jurisdiction under the Alabama Deferred Presentment Services Act, ALA. CODE § 5-18A-1, *et seq.* The Department acted within that jurisdiction and its authority in the July 1, 2016 examination and subsequent issuance of the Notice of Intent to assess civil money penalties.

2. Byrd is the owner of Byrd's Check Cashing in Scottsboro, Alabama.

3. During a routine examination of Byrd's Check Cashing on July 1, 2016, Hanback, a Loan Examiner, found eleven deferred presentment loans executed by Byrd's Check Cashing without verifying the borrower's eligibility *via* the Veritec database.³

4. Byrd's Check Cashing was properly registered to use the Veritec database.

5. A loan was made to customer Billy Baker on August 8, 2015. The loan was historically entered into the Veritec database on August 10, 2015, and the date on the agreement was altered to August 10, 2015.⁴

³ Testimony of Hanback and Department Exhibits 1-15.

⁴ Department Exhibit 4. Compare Department Exhibit 4 with Department Exhibit 3.

6. A loan was made to customer Lois Holt on September 9, 2015. The loan was historically entered into the Veritec database on September 10, 2015.⁵

7. A loan was made to customer Carolyn Martin on September 9, 2015. The loan was historically entered into the Veritec database on September 10, 2015.⁶

8. A loan was made to customer Terry Phillips on October 10, 2015. The loan was historically entered into the Veritec database on October 12, 2015.⁷

9. A loan was made to customer Karen Wilhelm on November 2, 2015. The loan was historically entered into the Veritec database on November 3, 2015.⁸

10. A loan was made to customer Lora Haswell on February 1, 2016. The loan was never entered into the Veritec database.⁹

11. A loan was made to customer Kevin Schuelke on February 17, 2016. The loan was never entered into the Veritec database.¹⁰

12. A loan was made to customer Melissa Hall on May 2, 2015. The loan was historically entered into the Veritec database on May 3, 2015.¹¹

⁵ Department Exhibit 5. Compare Department Exhibit 5 with Department Exhibit 3.

⁶ Department Exhibit 6. Compare Department Exhibit 6 with Department Exhibit 3.

⁷ Department Exhibit 7. Compare Department Exhibit 7 with Department Exhibit 3.

⁸ Department Exhibit 8. Compare Department Exhibit 8 with Department Exhibit 3.

⁹ Department Exhibit 9. Compare Department Exhibit 9 with Department Exhibit 3.

¹⁰ Department Exhibit 10. Compare Department Exhibit 10 with Department Exhibit 3.

¹¹ Department Exhibit 11. Compare Department Exhibit 11 with Department Exhibit 3.

13. A loan was made to customer Heather Hughes on May 14, 2016. The loan was never entered into the Veritec database.¹²

14. A loan was made to customer Darlene Jacobs on June 1, 2016. The loan was historically entered into the Veritec database on June 2, 2016.¹³

15. A loan was made to customer Jay Shores on June 1, 2016. The loan was historically entered into the Veritec database on June 2, 2016.¹⁴

16. Bates admitted during her testimony that she and one other employee knew how to use the Veritec database. Bates attended training for Veritec and understood how to use the system. Bates testified Byrd did not know how to use the Veritec system and was not familiar with computers. Bates testified she had a loyal customer base and made thirty or less loans per month. Bates testified she had taken remedial measures to make sure Byrd's Check Cashing was compliant with the Department's rules going forward.

Conclusions of Law

The State Banking Department Bureau of Loans, Regulation 155-2-4-.09 states, in pertinent part:

(1) In order to comply with the intent of the Act regarding the maximum loan amount for a single customer, the State Banking Department shall implement

¹² Department Exhibit 12. Compare Department Exhibit 12 with Department Exhibit 3.

¹³ Department Exhibit 13. Compare Department Exhibit 13 with Department Exhibit 3.

¹⁴ Department Exhibit 14. Compare Department Exhibit 14 with Department Exhibit 3.

a common approved database with real-time access through an internet connection. Each licensee shall use the same approved third-party database service provider as determined by the State Banking Department.

...

(4) Licensees must submit accurate and timely information to the database service provider. Failure to do so may result in the assessment of civil money penalties and/or license revocation.

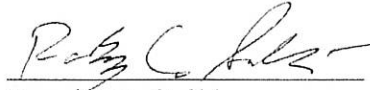
Byrd's Check Cashing executed multiple transactions without checking the Veritec database. This constitutes significant violations of Regulation 155-2-4-.09. Furthermore, the Deferred Presentment Services Act permits revocation of license for violations under the chapter.¹⁵

Recommendation

The undersigned has carefully considered all the evidence in this case. Respondent failed to use the Veritec database on multiple transactions over ten months. Failure of a business to adhere to the laws of the Department jeopardizes the interests and welfare of the State's consumers. Based upon Respondent's failure to adhere to the laws and rules of the Department, revocation of Byrd's Check Cashing's Deferred Presentment license is appropriate. Pursuant to the rules of the Department, the administrative staff's decision to **REVOKE** Respondent's license is appropriate and should be upheld.

¹⁵ ALA. CODE § 5-18A-15.

Done this 12th day of September, 2016.



Randy C. Sallé
Administrative Law Judge
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