

IN THE MATTER OF:

**OH S TRADING, LLC., TRADING AS
PRATT LIQUOR & CONVENIENCE**

Respondent.

**BEFORE THE MARYLAND
COMMISSIONER OF
FINANCIAL REGULATION**

Case No.: CFR-FY2015-0053

FINAL ORDER

The hearing on the above-captioned matter was held on September 14, 2015, and heard by the Commissioner of Financial Regulation, Gordon M. Cooley (“Commissioner”). This matter was scheduled for a hearing as a result of a Charge Letter and Notice of Hearing dated July 31, 2015 (“Charge Letter”) (Exhibit CFR 1) issued by the Acting Deputy Commissioner of Financial Regulation (“Deputy Commissioner”) to Oh S Trading, LLC. (“Respondent”), a check cashing service licensed at times relevant to this Final Order (“Order”) pursuant to Md. Code Ann., Fin. Inst. (“FI”) §12-101 *et seq.*

The Charge Letter alleges that Respondent violated FI §12-114(d) by failing to log a complete description of identification presented by the customer, FI §12-117 by failing to provide documentation of all anti-money laundering training to all check cashing service employees, violated FI §12-118 by failing to post the notice of fees in 48 point or larger type, violated FI §12-120(a)(1) by charging in excess of 2% of the face amount of a payment instrument issued by the federal government, or state or local government, and violated FI §12-115(b)(1) by failing to cooperate fully with the investigation. The Charge Letter states further that Respondent may be subject to sanctions by the Commissioner for the alleged

violations of the law, including suspension or revocation of Respondent's license and civil penalties pursuant to FI §§2-115 and 12-122(a).

Respondent did not appear at the hearing, but proper service of the Charge Letter being established; the hearing proceeded pursuant to COMAR 09.01.02.09. Rebecca Coleman, Assistant Attorney General, appeared as presenter of evidence on behalf of the Office of the Commissioner. Sandra G. Small, Assistant Attorney General, served as counsel to the Commissioner. The proceedings were electronically recorded.

Statement of facts

From the testimony offered by Olijah Anderson, Financial Regulation Examiner II ("Investigator"), and the exhibits presented, and with the opportunity to observe the demeanor of the witness and to assess his credibility, the Commissioner finds relevant facts to be these:

1. Respondent was licensed as a check cashing service under FI §12-101 *et seq.* during those times relevant to the investigation of Respondent's business operations described in paragraph 4 of this Order (Exhibits CFR 8).
2. Respondent's check cashing license expired on June 4, 2015 (Exhibit CFR 8).
3. Respondent was properly served with the Charge Letter, giving thirty (30) days' notice of the hearing, as evidenced by: the Charge Letter (Exhibit CFR 1), the certified receipt (Exhibit CFR 1), and the Commissioner's licensing file and AS 400 computer print-out of Respondent's licensing information showing Respondent's address (Exhibits CFR 7 and 8).

4. Pursuant to FI §12-115, the Office of the Commissioner investigated Respondent's operations, record retention, fee structure, policies and procedures addressing consumer complaints, money service business status, and federal regulatory compliance with the Bank Secrecy Act, as amended by the USA Patriot Act, and the Office of Foreign Assets Control, on January 30, 2014, and issued a report dated January 30, 2014 ("Report") (Exhibit CFR 3A).

5. Respondent did not provide the Investigator with a copy of the Anti-Money Laundering ("AML") training for all check cashing service employees required pursuant to FI §12-117. (Exhibit CFR 3).

6. Respondent's posted fees were in fine print smaller than the 48 point or larger type required pursuant to FI §12-118. (Exhibit CFR 3).

7. Respondent removed the fine print during the investigation to the satisfaction of the Investigator. (Exhibit CFR 3B).

8. The Investigator identified 12 instances between February 12, 2013 and October 12, 2013 in which Respondent charged between 2.50% and 4% of the face amount of payment instruments issued by the federal or state government. (Exhibit CFR 3A).

9. Pursuant to the Report, Respondent was required to provide an independent audit of check cashing transactions retroactive to January 1, 2012, identifying all transactions in which consumers were charged greater than the statutory maximum under FI §12-120(a). (Exhibit CFR 3A).

10. Respondent was required to sign the acceptance letter, and return the signed acceptance letter and written response to the Report within 30 days of receipt of the Report. (Exhibit CFR 3A).

11. Respondent did not sign, and return the acceptance letter as required in the Report. (Exhibit CFR 3A).

12. On April 30, 2014, Sabrina Brown, Non-Depository Examination Supervisor reviewed the Report, and identified that when Respondent cashes a check, Respondent only logs the identification number from the identification presented by a customer, and does not record the complete description of the identification as required pursuant to FI §12-114(d). (Exhibit CFR 3B).

13. On June 30, 2014, the Report was amended to include a violation of FI §12-114(d) for failing to retain a chronological register that shows a complete description of the identification presented by the customer (“Amended Report”). (Exhibit CFR 3B).

14. On July 2, 2014, the Amended Report was sent to Respondent. (Exhibit CFR 3C).

15. Respondent was required to sign the acceptance letter, and return the signed acceptance letter and written response to the Amended Report within 30 days of receipt of Respondent’s receipt of the Amended Report. (Exhibit CFR 3B).

16. On August 15, 2014, after not receiving the signed acceptance letter and written response from Respondent, the Investigator called Respondent two times. (Exhibit CFR 3C).

17. The first call was answered by a man who would not provide his name, and repeatedly told the Investigator that the owner was not there. (Exhibit CFR 3C).

18. The second call was answered by a woman who informed the Investigator that she was not the owner. (Exhibit CFR 3C).

19. The Investigator informed the woman of the Amended Report, and informed her that Respondent must respond to the Amended Report by August 20, 2014. (Exhibit CFR 3C).

20. On March 31, 2015, the Investigator spoke with Peter Hahn, who represented that he is the son of the owner. (Exhibit CFR 3C).

21. The Investigator informed Mr. Hahn of the violations and required a response by April 6, 2015. (Exhibit CFR 3C).

22. On April 3, 2015, Mr. Hahn sent an email to the Investigator stating that attached to the email was a report containing maximum fee violations entitled Transaction Information Report that was printed August 19, 2014, and a chronological software program including a description of the customer identification. (Exhibits CFR 4).

23. The Transaction Information Report included transactions dated June 1, 2014 through July 31, 2014. (Exhibit CFR 4).

24. There is no evidence that the Transaction Information Report was conducted by an independent party as required by the Report. (Exhibit CFR 4).

25. The Transaction Report is not retroactive to January 1, 2012 as required by the Report. (Exhibit CFR 4).

26. The chronological software program report includes a 2 character column title "ID Issuer" and a column titled "ID Number". (Exhibit CFR 4)

27. There is no legend on the report describing the ID Issuer codes, and no information describing the type of identification. (Exhibit CFR 4)

Conclusions of Law

Based on the Findings of Fact, the Commissioner concludes that Respondent has violated: FI §12-117 by failing to provide the Investigator with a documentation of the AML training for all check cashing employees; FI §12-120 by charging in excess of 2% of the face amount of payment instruments issued by the federal or state, or a local government; FI §12-114(d)(1)(v) by failing to maintain a chronological register of all payment instruments showing a complete description the identification presented by the consumer in a check cashing transaction; and FI §12-115(b)(1) by failing to fully cooperate with the investigation.

The Commissioner further concludes that while Respondent's fee posting violated FI §12-118, Respondent corrected the violation during the investigation to the Investigator's satisfaction. Therefore the Commissioner is not considering this violation in any sanctions.

The Commissioner further concludes that based on the totality of the evidence, and Respondent's failure to fully cooperate with the investigation, Respondent lacks sufficient character to command the confidence of the public or operate the business lawfully, honestly, fairly, and efficiently as required pursuant to FI §12-106(2).

The Commissioner has the authority to suspend or revoked Respondent's license under FI §§2-115(b) and 12-122(a), and to impose a civil penalty up to \$1,000 for the first violation, and a maximum of \$5,000 for each subsequent violation under FI §§2-115(b)(3) and 12-126(a).

An issue arises as to whether the Commissioner has the authority to revoke Respondent's license when it had already expired prior to the hearing in this case. The Commissioner concludes that the Commissioner does have the authority to revoke Respondent's license notwithstanding the fact that it had expired at the time of the hearing. The voluntary surrender or expiration prior to a hearing date does not deprive the Commissioner of the authority to revoke or suspend a license. To hold otherwise would cause the incongruous result that a licensee charged with regulatory violations could avoid sanctions, including license suspension or revocation, merely by surrendering the license or allowing it to lapse. *See Nicoletti v. State Board of Vehicle Mfrs., Dealers and Salespersons*, 706 A.2d 891 (Pa. Cmwlth. 1999) (holding the respondent had a right to renew license which the board could revoke); *see also Wise v. Ohio Motor Vehicle Dealer Bd.*, 106 Ohio App. 3d 562 (1995) (holding that voluntary surrender of license prior to hearing date does not deprive licensing agency of authority to revoke or suspend license).

Final Order

In consideration of the foregoing Findings of Fact and Conclusions of Law, it is **ORDERED** by the Commissioner that Respondent's Check Cashing Services License is **REVOKED**; and it is further:

ORDERED that, pursuant to FI §2-115(b) and CL § 12-126(a) and upon careful consideration of (i) the seriousness of the Respondent’s violations; (ii) the lack of good faith of the Respondent, (iii) the history and nature of Respondent’s violations; and (iv) the deleterious effect of Respondent’s violations on the public and on the check cashing business, and the assets of the Respondent, Respondent shall pay to the Commissioner a total civil penalty in the amount of **\$15,000**, which consists of the following:

<i>Prohibited Activity and Violation</i>	Penalty per Violation	Number of Violations	Penalty
<i>Violation of Maximum Fees (FI §12-120(a)(1))</i>	\$1,000	12	\$12,000
<i>Violation of BSA Compliance Requirement (FI §12-117)</i>	\$1,000	1	\$1,000
<i>Violation of Chronological Register Requirement (FI §12-114(d))</i>	\$1,000	1	\$1,000
<i>Violation Investigation Cooperation Requirement (FI §12-115(b)(1))</i>	\$1,000	1	\$1,000

ORDERED that Respondent shall pay to the Commissioner, by cashier’s or certified check made payable to the “Commissioner of Financial Regulation,” the amount of \$15,000 within fifteen (15) days from the date of this Final Order; and it is further

ORDERED that Respondent shall send all correspondence, notices, civil penalties and other required submissions to the Commissioner at the following address:


Commissioner of Financial Regulation, 500 North Calvert Street, Suite 402, Baltimore,
Maryland 21202, Attn: Proceedings Administrator.

RESPONDENT IS ADVISED: pursuant to Md. Code Ann., State Gov't §10-222
(check), any party who is aggrieved by the Commissioner's decision may file a petition for
judicial review with the Circuit Court for the county where any party resides or has a
principal place of business. Such petition must be filed within 30-days after the applicant's
receipt of this Order (Md. Rule 7-203). The filing of a petition for judicial review does not
automatically stay the enforcement of this Order.

COMMISSIONER OF FINANCIAL REGULATION

8/17/2016

Date

Gordon M. Cooley 

Gordon M. Cooley, Commissioner