STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE REGULATION

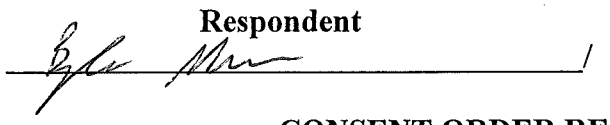
Before the Commissioner of the Office of Financial & Insurance Regulation

In the Matter of:

Benjamin Moore
d/b/a **Fair Exchange**
License No.: DP-0015657

Enforcement Case No. 09-7496

Respondent



CONSENT ORDER REQUIRING COMPLIANCE AND PAYMENT OF FINES

Issued and entered
on 5/7/10
by Stephen R. Hilker
Chief Deputy Commissioner

Based upon the Stipulation to Entry of Consent Order and the files and records of the Office of Financial and Insurance Regulation (OFIR) in this matter, the Chief Deputy Commissioner finds and concludes that:

1. The Chief Deputy Commissioner has jurisdiction and authority to adopt and issue this Consent Order in this proceeding pursuant to the Michigan Administrative Procedures Act of 1969 ("MAPA"), as amended, MCL 24.201 *et seq.*, and the Deferred Presentment Service Transactions Act, 2005 PA 244, MCL 487.2121 *et seq.* ("Act").

2. All required notices have been issued in this case, and the notices and service thereof were appropriate and lawful in all respects.

3. Acceptance of the parties' Stipulation to Entry of Consent Order (Stipulation) is reasonable and in the public interest.

4. All applicable provisions of the MAPA have been met.

5. Respondent violated Section 34 of the Act.

Now therefore, based upon the parties' Stipulation and the facts surrounding this case, **IT IS ORDERED THAT**:

1. Respondent shall pay to the State of Michigan, through OFIR, administrative fines in the amount of $1,500. Respondent shall further pay the fines within 30 days of the invoice date as indicated on the OFIR invoice.

2. Respondent shall not engage in any violations of sections of the Act identified in paragraph 5 of this Order.

3. Respondent shall conduct a daily end-of-day check of that day's deferred presentment transactions to ensure that all transactions that are closed as defined in MCL 487.2122(1)(c), or closed as otherwise advised or allowed by the Office of Financial and Insurance Regulation, are closed in compliance with MCL 487.2154(8).

4. The Chief Deputy Commissioner retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as he shall deem just, necessary and appropriate in accordance with the Act. Failure to abide by the terms and provisions of the Stipulation and this Order may result in the commencement of additional proceedings.

Stephen R. Hilker
Chief Deputy Commissioner

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Ben Moore

STIPULATION TO ENTRY OF CONSENT ORDER

Benjamin Moore d/b/a **Fair Exchange** ("Respondent") and the Office of Financial and Insurance Regulation ("OFIR") stipulate to the following:

1. On or about November 4, 2009, OFIR served Respondent with a Notice of Opportunity to Show Compliance ("NOSC") alleging that Respondent violated provisions of the Deferred Presentment Service Transactions Act, 2005 PA 244, MCL 487.2121 *et seq.* ("Act").

2. The NOSC contained allegations that Respondent violated the Act, and set forth the applicable laws and penalties which could be taken against Respondent.

3. Respondent exercised its right to an opportunity to show compliance pursuant to the Michigan Administrative Procedures Act (MAPA), MCL 24.201 *et seq.*

4. OFIR and Respondent have conferred for purposes of resolving this matter and have agreed that it is in the parties' best interest to resolve this matter pursuant to the terms set forth below.

5. At all pertinent times, Respondent was licensed with OFIR as a deferred presentment service provider pursuant to the Act.

6. Based upon the allegations set forth in the NOSC and communications with the Respondent, the following facts were established:

   a. Contrary to the Act, Respondent failed to timely close deferred presentment service transactions and notify the database provider after the customers satisfied their obligations under the deferred presentment service agreements. By failing to timely close deferred presentment service transactions and notify the database provider to close the transactions, Respondent violated Section 34(8) of the Act, MCL 487.2154(8).

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7. Respondent agrees that it will pay to the State of Michigan, through OFIR, administrative fines in the amount of $1,500. Respondent further agrees to pay the fines within 30 days of the invoice date as indicated on the OFIR invoice.

8. Respondent admits that it has violated Section 34 of the Act.

9. Respondent agrees to conduct a daily end-of-day review of that day's deferred presentment transactions to ensure that all transactions that are closed as defined in MCL 487.2122(1)(c), or closed as otherwise advised or allowed by the Office of Financial and Insurance Regulation, are closed in compliance with MCL 487.2154(8).

10. Both parties have complied with the procedural requirements of the MAPA and the Act.

11. Respondent understands and agrees that this Stipulation will be presented to the Chief Deputy Commissioner for approval.

12. The Chief Deputy Commissioner may in his sole discretion, decide to accept or reject the Stipulation to Entry of Consent Order (Stipulation) and Consent Order Requiring Compliance and Payment of Fines (Consent Order). If the Chief Deputy Commissioner accepts the Stipulation and Consent Order, Respondent waives the right to a hearing in this matter and consents to the entry of the Consent Order. If the Chief Deputy Commissioner does not accept the Stipulation and Consent Order, Respondent waives any objection to the Commissioner holding a formal administrative hearing and making his decision after such hearing.

13. The failure to abide by the terms and conditions of this Stipulation and Consent Order may, at the discretion of the Chief Deputy Commissioner, result in further administrative compliance actions.

14. The Chief Deputy Commissioner has jurisdiction and authority under the provisions of the MAPA and the Act to accept the Stipulation and to issue a Consent Order resolving these proceedings.

15. Respondent has had an opportunity to review the Stipulation and Consent Order and have the same reviewed by legal counsel.

Benjamin Moore d/b/a Fair Exchange

By: Benjamin Moore
Its: owner

5-7-10
Dated

Office of Financial & Insurance Regulation

By: Marlon F. Roberts, Staff Attorney

5-7-10
Dated