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

**Before the Commissioner of the Office of Financial and Insurance Regulation**

**In the matter of:**

**Total Tobacco East, Inc.**
**dba Total Payday Advance**

**Enforcement Case No. 11-11253**

**License No.: DP-0013518**

**Respondent.**
_____/

**CONSENT ORDER REQUIRING COMPLIANCE AND PAYMENT OF FINES**

**Issued and entered**
**on** 5/3/11
**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 is reasonable and in the public interest.

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

5. Respondent violated Section 34(8) of the Act, MCL 487.2154(8).

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

A. Respondent shall pay to the State of Michigan, through OFIR, administrative and civil fines in the amount of $500.00. Respondent shall further pay the fines within 30 days of the invoice date as indicated on the OFIR invoice.

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

C. Respondent shall conduct daily checks of all deferred presentment service contracts to make certain that closed transactions are timely entered into the Veritec database, and all transactions, including repayment plans, are properly reported to the Veritec database, in compliance with the Act.

D. Respondent shall conduct a daily review of its deferred presentment service transactions to determine if the transactions have been reported to the Veritec database, by comparing its daily transactions to the transactions that have been reported to the Veritec database.

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

**Stephen R. Hilker**
**Chief Deputy Commissioner**

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

**Before the Commissioner of the Office of Financial and Insurance Regulation**

**In the matter of:**

**Total Tobacco East, Inc.**
**dba Total Payday Advance**

**Enforcement Case No. 11-11253**

**License No.: DP-0013518**

**Respondent.**
_____/

## STIPULATION TO ENTRY OF CONSENT ORDER

Total Tobacco East, Inc. dba Total Payday Advance (Respondent) and the Office of Financial and Insurance Regulation (OFIR) stipulate to the following:

1. On or about March 24, 2011, 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, specifically Section 34(8) of the Act, MCL 487.2154(8), 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 by contacting the Commissioner's Representative on April 11, 2011.

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. The Chief Deputy Commissioner of OFIR has jurisdiction and authority to adopt this Stipulation to Entry of Consent Order and issue a Consent Order, pursuant to the Michigan Administrative Procedures Act (MAPA), MCL 24.201 *et seq.*, and the Act.

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

7. The parties have reviewed this matter and desire to avoid the time and expense of formal proceedings and have determined to resolve this matter pursuant to this Stipulation to Entry of Consent Order and Consent Order.

8. Respondent agrees to conduct daily checks of all deferred presentment service contracts to make certain that closed transactions are timely entered into the Veritec database, and all transactions, including repayment plans, are properly reported to the Veritec database, in compliance with the Act.

9. Respondent agrees to conduct a daily review of its deferred presentment service transactions to determine if the transactions have been reported to the Veritec database, by comparing its daily transactions to the transactions that have been reported to the Veritec database.

10. Respondent agrees that it will pay to the State of Michigan, through OFIR, administrative and civil fines in the amount of $500.00. Respondent further agrees to pay the fine within 30 days of the invoice date as indicated on the OFIR invoice.

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

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

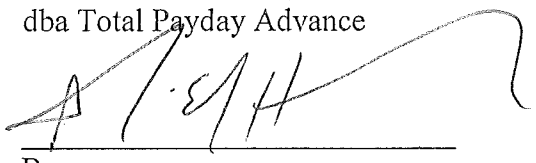
13. The Chief Deputy Commissioner may in his sole discretion, decide to accept or reject the Stipulation to Entry of Consent Order. If the Chief Deputy Commissioner accepts the Stipulation to Entry of Consent Order, Respondent waives the right to a hearing in this matter and consents to the entry of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

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

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

16. Respondent has had an opportunity to review the Stipulation to Entry of Consent Order and the proposed Consent Order and have the same reviewed by legal counsel.

**Total Tobacco East, Inc.**
dba Total Payday Advance

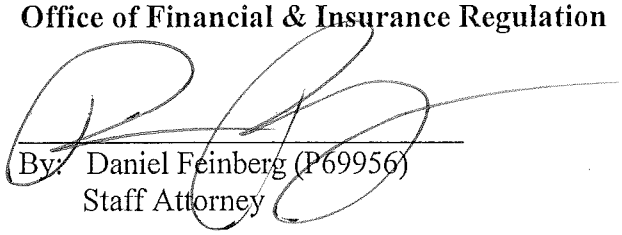


4-21-11

By:
Its:

Dated

**Office of Financial & Insurance Regulation**



5/3/11

By: Daniel Feinberg (P69956)
Staff Attorney

Dated