

**ORDER NO. 2015-028a**

**IN THE MATTER OF:**

**AUTOMATIC FUNDS TRANSFER  
SERVICES, INC.**

**SEATTLE, WASHINGTON**

**§ BEFORE:**

**§**

**§ THE BANKING  
§ COMMISSIONER OF TEXAS**

**§**

**§ AUSTIN, TRAVIS COUNTY, TEXAS**

**CONSENT ORDER**

On this day, the matter of Automatic Funds Transfer Services, Inc., of Seattle, Washington (Respondent), was submitted to me, Charles G. Cooper, Texas Banking Commissioner (Commissioner), for consideration and action.

1. Automatic Funds Transfer Services, Inc. is a Washington corporation with its principle place of business located at 151 South Lander Street, Suite C, Seattle, Washington.
2. Eric Johnson is the Founder and President.
3. The Texas Department of Banking (DOB) has jurisdiction over Respondent and the subject matter of this proceeding pursuant to The Texas Money Services Act, *Texas Finance Code* Chapter 151 (the Act). The Commissioner has authority to issue this Consent Order pursuant to *Texas Finance Code* §§ 151.702, 151.705, 151.706, and 151.707.
4. Respondent has been properly notified regarding its right to an administrative hearing under the Act.
5. The statutory provisions at issue in this matter include *Texas Finance Code* §§ 151.302, 151.702, and 151.705-151.707.
6. Any violation of this Order could subject Respondent to additional regulatory or enforcement actions authorized by the Act and other provisions of Texas law. Nothing in this Order diminishes the regulatory or enforcement powers of the DOB, the Commissioner, or the Texas Finance Commission under the Act or other applicable law.
7. For purposes of this proceeding, Respondent knowingly, intelligently, and voluntarily waives:
  - a. Service upon Respondent of this Order;
  - b. the right to present defenses to the allegations in this proceeding;
  - c. notice and hearing prior to issuance or effectiveness of this Order;
  - d. the filing of proposed findings of fact and conclusions of law;
  - e. the issuance of a proposal for decision by an administrative law judge;
  - f. the filing of exceptions and briefs with respect to such proposal for decision;

- g. any review of this Order by the Texas Finance Commission; and
  - h. judicial review of this Order as provided by *Texas Government Code* § 2001.171 et seq., and any other challenge to the validity of this Order.
- 8. Respondent and the Commissioner agree to this Order solely for the purpose of this proceeding, and without Respondent admitting or denying any violations of law or regulations. This Order does not constitute an admission by Respondent that the Act or a rule adopted or order issued under the Act has been violated.
- 9. The Commissioner has considered the matter and finds as follows:
  - a. The DOB regulates money transmission under the authority of the Act.
  - b. The DOB has not licensed Respondent to engage in the business of money transmission in Texas.
  - c. Respondent performs payment processing services in connection with loan acceleration programs that typically involve debiting borrowers' bank accounts on a biweekly basis and making payments to lenders in an effort to assist the borrowers in paying off their loans on an accelerated schedule. Pursuant to a written agreement, Respondent debits a customer's bank account and subsequently pays the customer's creditor, and charges a fee for these services. Respondent conducts these services for persons located in Texas.
  - d. Under *Texas Finance Code* § 151.301(b)(4)(A)(iii) third party bill payment services like those described above constitute money transmission.
  - e. Under *Texas Finance Code* § 151.302, a person may not conduct money transmission for persons located in Texas and receive any form of compensation for it unless the person is licensed under the Act, is an authorized delegate of a license holder, is excluded from licensure under the Act, or has been granted an exemption under the Act.
  - f. The DOB has not licensed Respondent; Respondent is not an authorized delegate of a license holder; Respondent is not excluded from licensure under the Act; and Respondent has not been granted an exemption under the Act. Consequently, the Commissioner finds that Respondent has violated the Act.
  - g. As required by *Texas Finance Code* § 151.707(d), the Commissioner has considered the seriousness of the violations, Respondent's compliance history, and Respondent's good faith in attempting to comply with the Act.

h. Based on these findings and considerations, the Commissioner finds that a penalty of \$6,000 is appropriate.

10. Respondent has agreed to comply with the terms that are set out in the Order below.
11. Nothing in this Order shall prohibit the Respondent from submitting an application to the DOB for a money transmission license or temporary money transmission license.

#### ORDER

It is hereby ORDERED, ADJUDGED, and DECREED that Respondent will do the following:

12. Within ten days of the effective date of this Order, Respondent will cease and desist any and all money transmission activity in Texas, unless and until a money transmission license is granted by the DOB. This includes advertising and soliciting persons in Texas.
13. Within seven days of achieving full compliance with the preceding paragraph, confirm to the DOB in writing that it has ceased all unlicensed activities in Texas.
14. Within seven days of the effective date of this Order, Respondent must make payment of \$6,000 to the DOB.

#### EFFECTIVE DATE

This Order is effective on February 1, 2016, and subject to its terms Respondent may not appeal.

/s/ Stephanie Newberg for  
Charles G. Cooper  
Texas Banking Commissioner

AGREED AS TO FORM AND SUBSTANCE:

/s/ Eric Johnson  
Eric Johnson  
Automatic Funds Transfer Services, Inc.  
Date: February 1, 2016

APPROVED AS TO FORM:

/s/ Daniel Wood  
Daniel Wood  
Assistant General Counsel  
Texas Department of Banking  
Date: February 1, 2016

/s/ Jason Feldman  
Jason Feldman  
Counsel for Respondent  
Date: February 1, 2016