

**ORDER NO. 2017-011a**

<b>IN THE MATTER OF:</b>	§	<b>BEFORE THE BANKING</b>
	§	
	§	
<b>R.B.T. TRADING, LLC D/B/A</b>	§	<b>COMMISSIONER OF TEXAS</b>
<b>R.B.T. DUTY FREE</b>	§	
	§	
<b>MISSION, TEXAS</b>	§	<b>AUSTIN, TRAVIS COUNTY, TEXAS</b>

**AMENDED CONSENT ORDER NUNC PRO TUNC**

On this day, the matter of R.B.T. Trading, LLC d/b/a R.B.T. Duty Free, Mission, Texas (Respondent), was submitted to me, Charles G. Cooper, Banking Commissioner of the State of Texas (Commissioner), for consideration and action. Staff of the Texas Department of Banking (Staff) states that an error was made in Consent Order No. 2017-011, which was signed on August 3, 2017. Specifically, an incorrect penalty amount of \$16,404 was inserted into the Consent Order in two places. On August 3, 2017, Respondent paid the \$16,404 penalty as stated in the Consent Order. Staff brought this error to the attention of Respondent, and Respondent has agreed that this Amended Consent Order Nunc Pro Tunc (Amended Order) may be entered to correct the error by inserting the correct penalty amount of \$11,604, the Amended Order shall be effective as of August 3, 2017, and Respondent will be issued a refund of \$4,800 before August 31, 2017. Therefore, the Amended Order shall state as follows:

1. Respondent is a limited liability company organized under the laws of the State of Texas with its principal address listed as 1309 Business Park Drive, Suite D, Mission, Texas 78572.
2. Ruben Temkin is a Member of Respondent and is duly authorized to enter into this Order on behalf of Respondent.
3. The Texas Department of Banking (Department) has jurisdiction over Respondent and the subject matter of this proceeding pursuant to Texas Finance Code Chapter 151 (Chapter

- 151). The Commissioner has the authority to issue this Consent Order (Order) and to assess administrative penalties pursuant to Texas Finance Code §§ 151.706 and 151.707.
4. Respondent has been properly notified regarding its right to an administrative hearing under Chapter 151. Respondent is represented in this matter by Contreras Gutierrez and Associates.
  5. The statutory provisions at issue in this matter include, but are not limited to, Texas Finance Code §§ 151.501 - 151.502, 151.702, and 151.706 - 151.707.
  6. Any violation of this Order could subject Respondent to additional regulatory or enforcement actions authorized by Chapter 151, Subchapter H, and other provisions of Texas law. Nothing in this Order diminishes the regulatory or enforcement powers of the Department, the Commissioner, or the Finance Commission of Texas under Chapter 151 or other applicable law.
  7. For purposes of this proceeding, Respondent knowingly and voluntarily waives:
    - a. Service upon Respondent of this Order;
    - b. The right to present defenses to the allegations stated in this Order;
    - c. Notice and hearing prior to imposition 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 Chapter 151 or a rule adopted or order issued under Chapter 151 has been violated.

9. The Commissioner has considered the matter and finds as follows:
  - a. Respondent operates seven stores in Texas selling duty free goods. From July 2015 to January 2017, Respondent also exchanged U.S. dollars and Mexican pesos at its stores. This currency exchange was not occurring in the ordinary course of business as the payment for duty free goods; it was a separate service that consisted only of exchanging one currency for another. This currency exchange service was specifically advertised at Respondent's stores with signs stating "compramos dolares" with posted exchange rates.
  - b. By letter dated May 26, 2017, Respondent certified that it ceased providing currency exchange services to people located in Texas on January 29, 2017, and that Respondent no longer solicits or advertises currency exchange services in Texas or to people located in Texas. The letter was signed by Ruben Temkin, Member.
  - c. Under Texas Finance Code § 151.501(b)(2)(A), currency exchange is defined as "receiving the currency of one government and exchanging it for the currency of another government." By receiving Mexican pesos and exchanging them for U.S. dollars, or receiving U.S. dollars and exchanging them for Mexican pesos, the Commissioner finds that Respondent engaged in currency exchange in Texas.
  - d. Under Texas Finance Code § 151.502, a person may not conduct currency exchange for persons located in Texas and receive any form of compensation for it unless the person is licensed under Chapter 151 for currency exchange or money transmission, is an authorized delegate of a money transmission license holder, is excluded from licensure under Chapter 151, or has been granted an exemption under Chapter 151.

- e. The Department has not licensed Respondent to engage in currency exchange or money transmission; Respondent is not an authorized delegate of a license holder; Respondent is not excluded from licensure under Chapter 151; and Respondent has not been granted an exemption under Chapter 151.
  - f. Consequently, the Commissioner finds that Respondent was in violation of Texas Finance Code § 151.502, and that grounds exist to initiate an administrative proceeding against Respondent for the issuance of administrative penalties pursuant to Texas Finance Code § 151.707.
  - g. The Commissioner has considered the facts as stated herein, in conjunction with Texas Finance Code § 151.707(d), and finds that the violation is serious based on the volume of transactions and because Respondent exchanged currencies without the protections and recordkeeping requirements in place that are required of a licensee, and that Respondent's prior compliance history is unsatisfactory because it conducted currency exchange business from July 2015 to January 2017 without holding a Texas currency exchange license as required.
  - h. Based on these findings and considerations, the Commissioner finds that a penalty of \$11,604 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 Respondent, or any affiliate of Respondent or any entity in which a current Member of Respondent is an owner, from submitting an application to the Department for a money transmission or currency exchange license in the future.
  - 12. This Order does not restrict the Department with respect to any enforcement action or other recourse regarding any other past, current, or future violations by Respondent that come to

the attention of the Department. However, nothing herein shall be construed to limit Respondent's right to contest any future finding or determination of non-compliance.

**ORDER**

It is hereby ORDERED, ADJUDGED and DECREED that:

1. Respondent will not conduct any currency exchange, as defined by the Chapter 151, for any customers in Texas, nor will it advertise or solicit persons in Texas for currency exchange, unless and until a currency exchange license is granted by the Department; and
2. Respondent will pay \$11,604 to the Department as an administrative penalty under Texas Finance Code § 151.707. The penalty shall be payable to the Department by August 31, 2017.

**Effective Date**

This Order against Respondent is effective on August 3, 2017, and subject to its terms, Respondent may not appeal.

Signed on this 22nd day of August, 2017.

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

**AGREED AS TO FORM AND SUBSTANCE:**

R.B.T. Trading, LLC d/b/a R.B.T. Duty Free

By: /s/ Ruben Temkin  
Ruben Temkin  
Member

Date: August 21, 2017

**APPROVED AS TO FORM:**

/s/ Cynthia Contreras Gutierrez

Cynthia Contreras Gutierrez

Contreras Gutierrez and Associates

Counsel for R.B.T. Trading, LLC d/b/a R.B.T. Duty Free

Date: August 22, 2017

/s/ Brenna McGee

Brenna McGee

Assistant General Counsel

Texas Department of Banking

Date: August 22, 2017