

ORDER NO. 2020-044

IN THE MATTER OF:

DCS HOLDINGS GROUP, LLC

ST. CHARLES, MISSOURI

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BEFORE:

**THE BANKING
COMMISSIONER OF TEXAS**

AUSTIN, TRAVIS COUNTY, TEXAS

CONSENT ORDER

On this day, in the matter of DCS Holdings Group, LLC (Respondent) was submitted to me, Charles G. Cooper, Banking Commissioner (Commissioner) of the State of Texas, for consideration and action.

1. Respondent is a St. Charles, Missouri based entity that offers ACH origination services to merchant clients.
2. The Texas Department of Banking (Department) has jurisdiction over Respondent and the subject matter of this proceeding pursuant to *Texas Finance Code* (Finance Code) Chapter 151 (Chapter 151). The Commissioner has the authority to issue this Consent Order (Order) and to assess administrative penalties pursuant to Finance Code §§ 151.706 and 151.707.
3. Respondent has been properly notified of its right to an administrative hearing under Chapter 151.
4. The undersigned representative of Respondent has full authority to enter into and bind Respondent to the terms and conditions of this Consent Order.
5. The statutory provisions at issue in this matter include, but are not limited to, Finance Code §§ 151.301, 151.302, 151.702, 151.706, and 151.707.
6. Any violation of this Order could subject Respondent to additional regulatory or enforcement actions authorized by Chapter 151 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 in this proceeding;
 - 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 of any wrongful action or violation of any federal, state, or local statutes, regulations or common law rights. More specifically, but not limited to, 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 this matter and finds as follows:
 - a. Respondent connects its merchant clients to the ACH network, allowing those merchants to accept payment from customers in the form of checking account debits, issue refunds to customers, or facilitate credits to vendors. In doing so, Respondent

- itself participates in the flow of funds between the merchant's customer to the merchant.
- b. By letter dated February 18, 2020, Respondent contacted the Department requesting a determination as to whether Respondent is required to be licensed under Chapter 151 of the Texas Finance Code. On May 21, 2020, the Department informed Respondent that it was engaged in the business of money transmission. Subsequent to the Department's determination, Respondent effectively altered its business agreements and no longer requires a money transmission license.
 - c. Under Finance Code § 151.301(b)(4), money transmission means "the receipt of money or monetary value by any means in exchange for a promise to make the money or monetary value available at a later time or different location." The Finance Code defines engaging in the business of money transmission as receiving compensation or expecting to receive compensation, directly or indirectly, for conducting money transmission. Finance Code § 151.302(b). The Department has concluded that by receiving funds in exchange for a promise to distribute those funds at a later time or different location, Respondent was conducting money transmission prior to the Department's May 21, 2020 determination.
 - d. Finance Code § 151.302(a) provides that "a person may not engage in the business of money transmission or advertise, solicit, or hold itself out as a person that engages in the business of money transmission" without a license unless it is an authorized delegate of a license holder, is excluded from licensure under Chapter 151, or has been granted an exemption under Chapter 151.
 - e. As described above, the Department has concluded that: prior to altering its business model following the Department's May 21, 2020 determination, (i) Respondent was

- conducting money transmission in Texas; (ii) the Department had not licensed Respondent; (iii) Respondent was not an authorized delegate of a license holder; (iv) Respondent was not excluded from licensure under Chapter 151; and (v) Respondent had not been granted an exemption under Chapter 151. Consequently, the Commissioner finds that Respondent has violated Finance Code § 151.302.
- f. As required by 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 Chapter 151.
- g. Based on these findings and based on the representations made by Respondent as to the volume of transactions and length of time it has been conducting an unlicensed money transmission business in Texas, the Commissioner finds that a penalty of \$25,648.21 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 from obtaining a money transmission license from the Department in the future.
12. This Order does not restrict the Department with respect to any enforcement action or other recourse regarding any other violations by Respondent not now known to the Department that come to the attention of the Department. 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 within 10 days of the effective date of this Order, Respondent will pay \$25,648.21 to the Department as an administrative penalty under Texas Finance Code § 151.707.

Effective Date

This Order against Respondent is effective on the date signed by the Commissioner and is final and non-appealable as of that date.

Signed on this 4th day of November, 2020.

/s/ Charles G. Cooper
Charles G. Cooper
Commissioner, Department of Banking

AGREED AS TO FORM AND SUBSTANCE

DCS Holdings Group, LLC

/s/ O. Sam Ackley

By: O. Sam Ackley

Date: November 3, 2020

APPROVED AS TO FORM:

/s/ Marcus Adams

Marcus Adams

Assistant General Counsel

Texas Department of Banking

Date: November 3, 2020