

ORDER NO. 2015-001a

IN THE MATTER OF:	§	BEFORE THE BANKING
	§	
OTTI MONEY EXCHANGE, INC.	§	
(CURRENCY EXCHANGE	§	COMMISSIONER OF TEXAS
LICENSE NO. 128);	§	
	§	
BROWNSVILLE, TEXAS	§	AUSTIN, TRAVIS COUNTY, TEXAS

CONSENT ORDER

On this day, the matter of Otte Money Exchange, Inc., Brownsville, Texas (Respondent or Otte) was submitted to me, Charles G. Cooper, Banking Commissioner of the State of Texas (Commissioner), for consideration and action.

JURISDICTION AND WAIVER

1. Otte, a Texas corporation, the principal office of which is located at 7098 Chestnut Oak Lane, Brownsville, Texas 78526 is licensed by the Texas Department of Banking (Department) to conduct currency exchange under Currency Exchange License Number 128.
2. The Department has jurisdiction over Respondent and the subject matter of this proceeding pursuant to Texas Finance Code Chapter 151. The Commissioner has the authority to issue this Consent Order (Order) pursuant to Texas Finance Code §§ 151.103 and 151.706.
3. Respondent has been properly notified regarding its right to an administrative hearing under Texas Finance Code Chapter 151 (Chapter 151).
4. The statutory provisions at issue in this matter include Texas Finance Code §§ 151.207, 151.703 and 151.705 - 151.706. The regulations at issue in this matter include 7 Texas Administrative Code §§ 33.27(e) and 33.27(i).
5. Any violation of this Order could subject Respondent to additional regulatory or enforcement actions authorized by Texas Finance Code § 151.701, 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.
6. 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.
7. Respondent agrees to this Order solely for the purpose of this proceeding, and without 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.

FINDINGS OF FACT

8. The Commissioner has considered the matter and finds as follows:
- a. Respondent holds License No. 128 issued by the Department pursuant to Chapter 151 and operates a currency exchange business with headquarters in Brownsville, Texas.
 - b. On September 9, 2014, the Department mailed Respondent a notice advising that payment of the first assessment fee for fiscal year 2015 was due on September 26, 2014. The notice also included instructions for paying the assessment fee via check, as Respondent does not have a bank account set up to pay its fees by ACH debit. Respondent's first assessment fee for fiscal year 2015 is \$2,823.00.
 - c. Respondent's payment was not received by September 26, 2014.
 - d. When Respondent's fee was not received by the deadline, the Department contacted Respondent via telephone. Respondent told the Department that the payment had been mailed.
 - e. When no payment was received thereafter, the Department mailed a second notice to Respondent via certified and regular mail on October 24, 2014. The notice stated that the assessment fee was due immediately and that if payment was not received by November 5, 2014, the Department would pursue legal remedies available under the Finance Code, including injunctive relief, cease and desist orders, and civil penalties. Moreover, the Department stated that pursuant to Finance Code § 151.703, the Department could institute quo warranto

proceedings for forfeiture of Respondent's license if the violation was not corrected within 30 days of receipt of the second notice.

- f. Subsequent to the second notice, on or about November 26, 2014, Maria O. Espinosa, owner of Otti Money Exchange, called the Department and stated that she had been ill and that her instructions to remit the assessment fee to the Department were not followed by other members of her staff. Ms. Espinosa stated that the assessment fee would be remitted immediately. The fee was not received by the Department as of January 21, 2015.
- g. Texas Finance Code § 151.207(b)(1) provides that a license holder must annually "pay a license fee in an amount established by commission rule." Texas Administrative Code § 33.27(e) states that to maintain a license, a license holder must pay its annual assessment. Texas Administrative Code § 33.27(e)(1) requires a holder of currency exchange license to pay an annual assessment as specified in the rule. Because Otti did not pay its specified annual assessment when it was due to the Department, Otti violated Texas Finance Code § 151.207(b)(1) and Texas Administrative Code § 33.27(e)(1).
- h. As a result of this violation, the Commissioner issued an Order to Cease and Desist Activity and Revoke License, Order Number 2015-001, on January 21, 2015. Order No. 2015-001 ordered Respondent to immediately surrender its currency exchange license to the Department and cease all activities in the State of Texas which require a currency exchange license pursuant to Chapter 151.
- i. On February 2, 2015, the Department received the \$2,823.00 assessment fee from Respondent.

ORDER

It is hereby ORDERED, ADJUDGED and DECREED that for all future assessment fees due under Chapter 151 and the Texas Administrative Code, Respondent will pay in a timely manner or the Department will immediately seek to have Respondent's currency exchange license revoked.

EFFECTIVE DATE

This Order against Respondent is effective on the date signed by the Commissioner, and subject to its terms, Respondent may not appeal.

Signed on this 27th day of February, 2015.

//s// Stephanie Newberg
Stephanie Newberg
Deputy Commissioner, Texas Department of Banking

AGREED AS TO FORM AND SUBSTANCE:

By: //s// Maria O. Espinosa
Maria O. Espinosa, Owner
Otti Money Exchange, Inc.

Date: 23-FEB-2015

APPROVED AS TO FORM:

//s// Brenna McGee
Brenna McGee
Assistant General Counsel
Texas Department of Banking