

ORDER NO. 2016-018

IN THE MATTER OF:	§	BEFORE:
	§	
BANNOCKBURN GLOBAL FOREX, LLC	§	THE BANKING
	§	COMMISSIONER OF TEXAS
	§	
CINCINNATI, OHIO	§	AUSTIN, TRAVIS COUNTY, TEXAS

CONSENT ORDER

On this day, in the matter of Bannockburn Global Forex, LLC, Cincinnati, Ohio (Bannockburn or Respondent) was submitted to me, Charles G. Cooper, Banking Commissioner (Commissioner) of the State of Texas, for consideration and action.

1. Bannockburn is a limited liability corporation organized under the laws of the State of Ohio and is located at 312 Walnut Street, Suite 3580, Cincinnati, Ohio 45202.
2. The Department has jurisdiction over Bannockburn 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. Bannockburn has been properly notified of its right to an administrative hearing under Chapter 151.
4. The undersigned representative of Bannockburn has full authority to enter into and bind Bannockburn 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, 151.706, and 151.707.
6. Any violation of this Order could subject Bannockburn 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, Bannockburn knowingly and voluntarily waives:
 - a. Service upon Bannockburn 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. Bannockburn and the Commissioner agree to this Order solely for the purpose of this proceeding, and without Bannockburn admitting or denying any violations of law or regulations. This Order does not constitute an admission by Bannockburn 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. Bannockburn operates in the business-to-business space of foreign currency exchange transactions by facilitating foreign security purchases, sales, and trade transactions between companies. In doing so, Bannockburn receives funds from its clients, instructs a federally-insured financial institution to perform foreign currency

- exchange and then forwards the foreign currency according to the customer's instructions.
- b. 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). In utilizing a bank to take customer funds, exchange the funds for foreign currency, and then forwarding the foreign currency to a recipient of the customer's choosing, Bannockburn is engaging in the business of money transmission.
 - c. 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.
 - d. As described above, Bannockburn is conducting money transmission in Texas. The Department has not licensed Bannockburn; Bannockburn is not an authorized delegate of a license holder; Bannockburn is not excluded from licensure under Chapter 151; and Bannockburn has not been granted an exemption under Chapter 151. Consequently, the Commissioner finds that Bannockburn is in violation of Finance Code § 151.302.

- e. As required by Finance Code § 151.707(d), the Commissioner has considered the seriousness of the violations, Bannockburn's compliance history, and Bannockburn's good faith in attempting to comply with Chapter 151. The Commissioner finds that Bannockburn's violations were serious based on the total transaction amount, and because Bannockburn has transmitted money without the protections and recordkeeping requirements in place that are required of a company that holds a money transmission license. Additionally, the Commissioner finds Bannockburn's prior compliance history unsatisfactory because it conducted money transmission since November 2014 without a license. However, the Commissioner also finds that Bannockburn acted in good faith by approaching the Department to apply for a license of its own volition.
- f. Based on these findings and based on the representations made by Bannockburn 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 \$23,608.00 is appropriate.
10. Bannockburn has agreed to comply with the terms that are set out in the Order below.
11. Nothing in this Order shall prohibit Bannockburn 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 past, current, or future violations by Bannockburn that come to the attention of the Department. However, nothing herein shall be construed to limit Bannockburn's right to contest any future finding or determination of non-compliance.

Order

It is hereby ORDERED, ADJUDGED and DECREED that:

1. Within 10 days of the Effective Date of this Order, Bannockburn will have delivered to the Department a check made payable to the Texas Department of Banking in the amount of \$23,608.00 as payment of the administrative penalty.
2. Bannockburn will fulfill all of the requirements to obtain a license to conduct money transmission in Texas as detailed in Chapter 151. In the event that Bannockburn's license application is suspended pursuant to Finance Code § 151.204, determined abandoned pursuant to 7 Texas Administrative Code § 33.13(g)(1), or denied pursuant to Finance Code § 151.205, Bannockburn will do the following:
 - a. Within 15 days of the Department's notification to Bannockburn of said suspension, abandonment or denial, notify its existing Texas customers that it will cease providing money transmission services to them. This notification must be made in writing, and a copy of the notice must be sent contemporaneously to the Department;
 - b. Within 60 days of the Department's notification to Bannockburn of said suspension, abandonment or denial, cease and desist from engaging in the unauthorized business of money transmission in Texas and have returned to its customers all customer funds held by Bannockburn; and
 - c. Within seven days of achieving full compliance with this paragraph, Bannockburn must confirm to the Department in writing that it has ceased all unlicensed activities in Texas.

Effective Dates

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

Signed on this 11th day of October, 2016.

/s/ Stephanie Newberg

Stephanie Newberg
Deputy Commissioner, Department of
Banking

AGREED AS TO FORM AND SUBSTANCE

Bannockburn Global Forex, LLC

/s/ Timothy J. Sheeran

Timothy J. Sheeran

Date: October 6, 2016

APPROVED AS TO FORM:

/s/ Chris Daniel

Chris Daniel
Paul Hastings LLP
Counsel for Bannockburn Global Forex, LLC

Date: October 5, 2016

/s/ Stephanie Lowe

Stephanie Lowe
Assistant General Counsel
Texas Department of Banking

Date: October 10, 2016