

COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS
AGENCY CASE NO. 2016-AH-00033



COMMONWEALTH OF KENTUCKY
PUBLIC PROTECTION CABINET
DEPARTMENT OF FINANCIAL INSTITUTIONS

COMPLAINANT

v. **FINAL ORDER SUSPENDING LICENSE**

ISENBERG, LLC

RESPONDENT

This matter is before the Commissioner of the Department of Financial Institutions (“Department”), pursuant to KRS 286.9-120, KRS 286.9-110 and 808 KAR 9:030. The Commissioner hereby enters this **FINAL ORDER** suspending the deferred deposit license of the Respondent, Isenberg, LLC (“Respondent”). In support thereof, the Commissioner sets forth the findings, authority and conclusions for the action as follows:

FINDINGS OF FACT

1. The Department is the agency of Kentucky state government charged with the administration of the provisions of KRS Chapter 286.9 *et seq.*, and the rules and regulations promulgated thereunder.

2. The Respondent is a Kentucky corporation registered with the Kentucky Secretary of State to do business in Kentucky under the name of Isenberg, LLC. Isenberg, LLC has a registered agent for service and principal corporate place of business listed as 5180 Mount Olivet Road, Bowling Green, KY 42101.

3. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, by license number CC15778, as defined under KRS 286.9-010(18).

4. On September 30, 2015, Jonathan Bright, examiner with the Department's Nondepository Division's Licensing Branch, received an email message from Respondent's owner, Paul Isenberg, inquiring as to whether the Department had received the "new address form" that Respondent allegedly sent six weeks prior to the date of the email with a purported new business address for Isenberg, LLC. (See Exhibit A)

5. Mr. Bright responded, via email, on September 30, 2015 stating, "In order to change your address, you must submit a notice with the original license as well as a surety bond rider reflecting the new address." In addition, Mr. Bright instructed Respondent to update his business information with the Kentucky Secretary of State.

6. On October 14, 2015, Mr. Bright received an email reply from Respondent stating "Trying to find the change of address form so that I can re send can u email it please".

7. Mr. Bright replied, via email, that there was no change of address form and copied the instructions from the September 30, 2015 email to Respondent, again instructing him as to the requirements for the address change and to update the bond.

8. Respondent replied on October 14, 2015 stating "Thank you Hartford is forwarding you updated bond information as well".

9. Thereafter, Respondent failed to submit to the Department the required documents for the address change pursuant to KRS 286.9-070(4).

10. On November 18, 2015 and on December 11, 2015, notice of the violation of KRS 286.9-070(4) was sent to Isenberg, LLC at the business location of record, by counsel for the Department. Both letters were returned to the Department with US Postal Service notations of "unclaimed" and "unable to forward". (See Exhibit B)

11. Moreover, Respondent failed to submit the required 2015 Annual Report to the Department by March 1, 2016 in violation of KRS 286.9-104(1).

12. On March 28, 2016, the Department, by counsel, filed an Administrative Complaint seeking a civil penalty and a suspension of Respondent's deferred deposit license for the above referenced violations. The Administrative Complaint was sent via certified mail to the last known principle business address for Isenberg, LLC, which is also the address for service of process.

13. On May 2, 2016, the Department, by counsel, mailed the Administrative Complaint seeking a civil penalty and a suspension of Respondent's deferred deposit license for the above referenced violations to the purported new business address provided in the emails sent to the Department. The Administrative Complaint was sent via certified mail to the address of 327 West 6th Avenue, Bowling Green, KY 42101, the new alternative address for Isenberg, LLC.

14. The Administrative Complaint stated the Respondent must file an Answer and request a hearing within twenty (20) days of receipt of the Complaint. The Administrative Complaint stated that if the Respondent did not file an Answer and request a hearing in a timely manner, the Commissioner may issue a Final Order.

15. The Administrative Complaint, mailed to the address of record for Isenberg, LLC, was returned to the Department on April 26, 2016 with a postal notation of "unclaimed" and "unable to forward". The Administrative Complaint that was mailed to the alternative business address of 327 West 6th Avenue, Bowling Green, KY 42101, provided by Respondent via the above referenced email string from Paul Isenberg, was returned on May 12, 2016 with a postal notation of "not deliverable as addressed" "unable to forward". (See Exhibit C)

16. More than twenty (20) days have passed and the Respondent did not file an Answer or make a timely request for a hearing pursuant to the requirements of KRS 286.9-120(1).

STATUTORY AUTHORITY

17. The Respondent is authorized to do business in Kentucky as a deferred deposit licensee, as defined in KRS 286.9-010(18) which states, "a Licensee is a person duly licensed by the commissioner under this subtitle to conduct check cashing or deferred deposit service business in the Commonwealth". Each license is unique to one specific location where the Respondent may operate.

18. KRS 286.9-070(4) states "A licensee shall notify the commissioner in writing at least fifteen (15) business days before any change in the licensee's business location or name.

19. KRS 286.9-104(1) requires a licensee to file an Annual Report with commissioner under the following provisions;

- (1) Each licensee shall file an annual report with the commissioner by March 1 of each year, containing the following information:
 - (a) The names and addresses of each person owning a controlling interest in each license;
 - (b) The location of all places of business operated by the licensee and the nature of the business conducted at each location;
 - (c) The names and addresses of all affiliated entities regulated under this subtitle and doing business in this state;
 - (d) Balance sheets, statement of income and expenses, and other statistical information as may be reasonably required by the commissioner, consistent with generally accepted accounting practices, for the purpose of determining the general results of operations under this subtitle; and
 - (e) If the licensee is a corporation, the names and addressees of its principal officers and directors; or if the licensee is a partnership, the names and addresses of the partners; or if the licensee is a limited liability company, the names and addresses of the board of directors of the limited liability company.

20. 286.9-110(1)(b), in relevant part, authorizes suspension of the license under the following provisions:

- (1) The commissioner may suspend, revoke, place on probation, condition, restrict, refuse to issue or renew a license, accept the surrender of a license in lieu of revocation or suspension, order that refunds to customers be made, or issue a cease-and-desist order, if the commissioner finds that the person, licensee, or a person in control of a licensee:
 - (b) Does not meet, has failed to comply with, or has violated any provisions of this subtitle or any administrative regulation issued pursuant thereto, or any order of the commissioner issued pursuant thereto, or has violated any other law in the course of its or his or her dealings as a licensee;

21. KRS 286.9-120(1) authorizes the filing of an Administrative Complaint for denial, suspension, or revocation of license under the following provisions;

- (1) The commissioner may file an administrative complaint against any person if it appears on grounds satisfactory to the commissioner that a potential or actual violation of this subtitle has been committed and when the person may be subject to the penalties of KRS 286.9-071, 286.9-110, and 286.9-991. The commissioner shall serve the administrative complaint to the last known address of the person named in the complaint. Service shall be by certified mail or personal delivery. The person named in the administrative complaint shall be entitled to an administrative hearing conducted in accordance with KRS Chapter 13B but only upon timely receipt of a written answer and request for an administrative hearing within twenty (20) days of the mailing or hand delivery of the administrative complaint. If timely requested, an administrative hearing shall be held in accordance with the provisions of KRS Chapter 13B. If an answer is not timely filed, or a written request for a hearing is not timely filed, the commissioner may enter a final order.

22. KRS 286.9-991 states:

- (1) The commissioner may levy a civil penalty against a person who violates any provision of, or administrative regulation promulgated under, or any order issued by the commissioner under this subtitle.
- (2) The civil penalty shall be not less than one thousand dollars (\$1,000) or more than five thousand dollars (\$5,000) per violation for each day the violation is outstanding, plus the state's costs and expenses ... including reasonable attorney's fees and court costs.
- (3) The commissioner may void a deferred deposit transaction agreement when it is determined by the commissioner that the licensee has violated any provision of this subtitle.

CONCLUSION OF LAW

23. Respondent failed to submit a written notice for the change of Respondent's business location in violation of KRS 286.9-070(4).

24. Respondent failed to file their 2015 annual report by March 1, 2016 in violation of KRS 286.9-104(1).

25. As a result of the above violations, grounds exist to suspend Respondent's license pursuant to KRS 286.9-110(1)(b).

26. Pursuant to KRS 286.9-120(1), the Respondent was properly served with written notice of intent to suspend Respondent's deferred deposit license, the grounds therefore, and given notice and opportunity for an Administrative hearing to be conducted in accordance with KRS Chapter 13B.

27. Twenty (20) days have elapsed since the Respondent was provided with the notice required by KRS 286.9-120(1).

28. Respondent has not submitted a timely answer to the Administrative Complaint nor requested a hearing regarding the contemplated suspension of the deferred deposit license and requested civil penalty.

29. Based on the Findings of Facts, Statutory Authority and Conclusions of Law set forth herein, Respondent's license should be suspended per KRS 286.9-120(1) and KRS 286.9-110(1)(b) and a civil penalty assessed per KRS 286.9-991.

ORDER

Based on the Findings of Fact, Statutory Authority and Conclusions of Law set forth above, the Commissioner **ORDERS:**

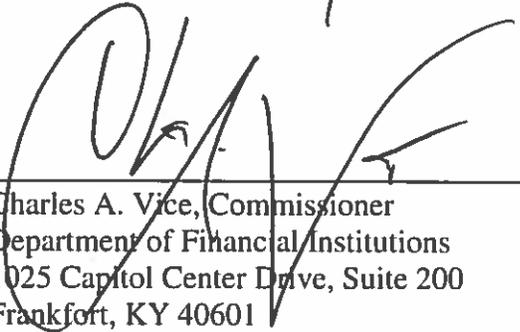
1. The Deferred Deposit license of Respondent is hereby **SUSPENDED**;
2. Respondent shall pay a civil penalty in the amount of one thousand dollars (\$1,000) for Respondent's failure to comply with the statutory requirements of KRS 286.9.

NOTICE OF APPEAL RIGHTS

Pursuant to KRS 13B.140, you are hereby notified that you have a right to appeal this Final Order of the Commissioner. If you chose to appeal, you must file a written Notice of Appeal with the Franklin Circuit Court within thirty (30) days after the service of a copy of the Final Order. A copy of any Appeal petition must be served on the Commissioner.

This is a **FINAL AND APPEALABLE ORDER**. The **EFFECTIVE DATE** of this Order shall be the date reflected on the certificate of service attached to this Order.

Executed on the 17th day of June, 2016.



Charles A. Vice, Commissioner
Department of Financial Institutions
1025 Capitol Center Drive, Suite 200
Frankfort, KY 40601

Certification of Service

I hereby certify that a copy of the foregoing **Final Order** was sent via certified mail, return receipt requested, on this the 17 day of JUNE, 2016 to:

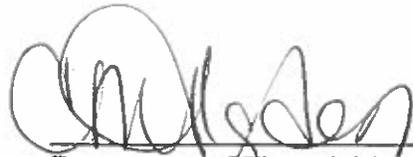
Isenberg, LLC
c/o Paul Isenberg
5180 Mount Olivet Road
Bowling Green, KY 42101

And;

Isenberg, LLC
c/o Paul Isenberg
327 West 6th Avenue
Bowling Green, KY 42101

Hand delivered to:

Catherine Falconer, attorney
Department of Financial Institutions
1025 Capital Center Drive, Suite 200
Frankfort, KY 40601



Department of Financial Institutions