

STATE OF NORTH CAROLINA

WAKE COUNTY

IN A MATTER
BEFORE THE COMMISSIONER OF BANKS
DOCKET NO. 05:008:CF

IN RE:)
)
ADVANCE AMERICA, CASH ADVANCE)
CENTERS OF NORTH CAROLINA, INC.)
_____)

AMENDED PRE-HEARING ORDER

The undersigned Commissioner of Banks (“Commissioner”) (i) having been advised by Counsel for Respondent, Advance America, Cash Advance Centers of North Carolina, Inc. (“AANC”), that AANC has terminated its agreement with Republic Bank & Trust Company, and entered into a new agreement with First Fidelity Bank, Burke, South Dakota; and (ii) having convened a public hearing on July 11, 2005 at which a new hearing date of August 1, 2005 was set; agreed to a further scheduling conference on July 13, 2005. The purpose of this conference was to consider amending the Pre-Hearing Order dated June 21, 2005, which set forth a schedule for the presentation of evidence and briefs in this matter.

Present and appearing for the OCOB was L. McNeil Chestnut, Special Deputy Attorney General, and for the Office of the Attorney General, intervenor was Philip A. Lehman, Assistant Attorney General (hereinafter collectively referred to as the “Petitioners”).

Present and appearing for Advance America, Cash Advance Centers of North Carolina, Inc. (“Respondent”) was Christopher W. Jones of the law firm of Womble,

Carlyle, Sandridge and Rice; and by teleconference, Donald C. Lampe, also of Womble, Carlyle, Sandridge and Rice, and Saul M. Pilchen and Lesley B. Whitcomb of the law firm of Skadden, Arps, Slate, Meagher & Flom, L.L.P., Washington, D.C.

Upon hearing from counsel, and for good cause shown, the Commissioner withdraws his order issued on Monday, July 11, 2005, which set a hearing date of August 1, 2005, accepts a modification of the Pre-Hearing Order entered on June 21, 2005, as agreed to by counsel on July 13, 2005, and hereby issues the following Scheduling Order for supplementation of the record in this matter as follows:

1. **Amended Notice of Hearing.** With leave of the Commissioner, Petitioners served an Amended Notice of Hearing and Order for a Pre-Hearing Conference upon counsel for the Respondent on July 11, 2005.
2. **Supplemental Discovery Requests.** Petitioners shall serve their supplemental discovery requests upon counsel for the Respondent not later than Thursday, July 14, 2005. Respondent shall have until Tuesday, July 26, 2005, to respond to Petitioners' supplemental discovery requests. Petitioners have agreed to withdraw their subpoena *duces tecum* and discovery requests dated July 12, 2005.
3. **Service of Supplemental Affidavits.** Petitioners and Respondent will serve verified supplemental or amended affidavits of their fact witnesses on counsel for the opposing party not later than Tuesday, August 2, 2005. Petitioners and Respondent will serve verified supplemental or amended affidavits of their expert witnesses on counsel for the opposing party not later than Tuesday, August 9, 2005. Verified fact witness and expert witness affidavits served earlier than August 2 and August 9,

respectively, would promote a timely and more efficient disposition of this matter, and the parties are encouraged to serve affidavits as soon as possible.

4. **Deposition Schedule.** Affiant depositions shall be conducted during the weeks of August 15 and August 22, 2005, or at such other times as the parties may agree. Provided, however, depositions shall be completed not later than Friday, August 26, 2005; and to this end, counsel for the parties shall cooperate to expedite such depositions and to ensure the timely and convenient presence of affiants for the purpose of being deposed. To the extent practicable, the parties shall expedite the transcription of the depositions and either waive signing of the transcripts or provide for review and signature within 5 days of delivery thereof. Counsel for the parties agree that final acceptance of a verified affidavit into the record is contingent upon the party's witness being timely and conveniently made available for deposition upon the request of the opposing party.

5. **Completion of the Record.** Not later than 4:00 p.m., Friday, September 2, 2005, counsel for the parties shall file all stipulations, exhibits, affidavits, any completed transcripts of affiant depositions, or other evidence they wish to be included in the record with the OCOB. After submission of these items, the evidentiary record shall be deemed to be complete and shall be closed.

6. **Submission of Legal Briefs.** Not later than 4:00 p.m., Monday, September 12, 2005, counsel for each party, and counsel for amicus-intervenor, may file a written legal brief setting forth legal argument in this matter. The page limitation on briefs imposed in the June 21, 2005, Pre-hearing Order is hereby lifted subject to a final decision by the Commissioner on page limitation at a later date. After the submission of

briefs, the Commissioner shall take this matter under advisement and may schedule such other proceedings as he deems appropriate.

7. **Modification of Pre-Hearing Order.** Except as modified herein, the prior rulings by the Commissioner shall remain in full force and effect.

Entered this 15th day of July, 2005.

A handwritten signature in black ink, appearing to read 'Joseph A. Smith, Jr.', written over a horizontal line.

Joseph A. Smith, Jr.
Commissioner of Banks

CERTIFICATE OF SERVICE

THE UNDERSIGNED hereby certifies that he has this day served a copy of the foregoing Pre-Hearing Order by facsimile and by placing a copy of the same in the mail, at Raleigh, first class mail, postage prepaid and addressed to the persons listed below:

This the 15th day of July, 2005.



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