

**IN THE DISTRICT COURT OF EL PASO COUNTY, TEXAS
205TH JUDICIAL DISTRICT**

THE STATE OF TEXAS,

Plaintiff,

v.

**CNG FINANCIAL CORPORATION, CHECK
'N GO OF TEXAS, INC.,
and SOUTHWESTERN & PACIFIC
SPECIALTY FINANCE, INC.,**

Defendants.

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CAUSE NO. 2007- 2248

AGREED TEMPORARY INJUNCTION

CAME ON THIS DAY BEFORE THIS COURT, the STATE OF TEXAS, acting by and through Attorney General GREG ABBOTT, on behalf of his Consumer Protection and Public Health Division, and presented its request for Temporary Injunction in this case.

Plaintiff, the State of Texas, has filed its Original Petition and prayed for, among other things, civil penalties and injunctive relief. As set forth in its Petition, the State of Texas has presented a request for a Temporary Injunction against Defendants CNG FINANCIAL CORPORATION, CHECK 'N GO OF TEXAS, INC., and SOUTHWESTERN & PACIFIC SPECIALTY FINANCE, INC., d/b/a CHECK 'N GO (hereinafter "Defendants")

Defendants represent:

- A. that all of the requirements and prohibitions recited in the Plaintiff's request for temporary injunction are within the sole control and authority of Defendant SOUTHWESTERN & PACIFIC SPECIALTY FINANCE, INC., d/b/a CHECK 'N GO, and its affiliates, officers, agents, servants, and employees;

- B. that CHECK 'N GO OF TEXAS, INC., is not currently conducting business in Texas and has not conducted business in Texas since July 1, 2005; and
- C. that they implement and maintain reasonable procedures to protect and safeguard from unlawful use or disclosure any sensitive personal information collected or maintained by Defendants in the regular course of business.

It is stipulated that the parties agree to and do not contest the entry of this Agreed Temporary Injunction against SOUTHWESTERN & PACIFIC SPECIALTY FINANCE, INC., d/b/a CHECK 'N GO, and its officers, agents, servants, and employees. By and through their duly authorized signatures, the parties represent the following: that they understand the terms of this injunction; that they agree to the terms of this injunction; that they acknowledge receipt of copies of this injunction; and that the terms of this injunction are sufficiently detailed and specific to be enforceable by the Court.

It is further stipulated that, for purposes of this Order, the following terms are defined as follows:

- (A) "Personal identifying information" ("PII") means information that alone or in conjunction with other information identifies an individual, including an individual's:
 - (1) name, social security number, date of birth, or government-issued identification number;
 - (2) mother's maiden name;
 - (3) unique biometric data, including the individual's fingerprint, voice print, and retina or iris image;

- (4) unique electronic identification number, address, or routing code; and
- (5) telecommunication access device.

(B) “Sensitive personal information” (SPI”) means:

- (1) an individual's first name or first initial and last name in combination with any one or more of the following items, if the name and the items are not encrypted:
 - (i) social security number;
 - (ii) driver's license number or government-issued identification number; or
 - (iii) account number or credit or debit card number in combination with any required security code, access code, or password that would permit access to an individual's financial account; and
- (2) does not include publicly available information that is lawfully made available to the general public from the federal government or a state or local government.

(C) Attachment “A” lists examples of “PII” and “SPI”.

Having read the pleadings, it appears to this court that both Plaintiff and Defendant agree to the entry of this temporary injunction. It further appears to this court that the Plaintiff is entitled to this temporary injunction as granted below:

IT IS THEREFORE ORDERED that Defendant SOUTHWESTERN & PACIFIC SPECIALTY FINANCE, INC., d/b/a CHECK ‘N GO, and its officers, agents, servants, and employees, are hereby commanded to immediately desist and refrain from the following

acts from the date of entry of this Order until trial on the merits of this case:

- A. Failing to implement and maintain reasonable procedures to protect and safeguard from unlawful use or disclosure any sensitive personal information collected or maintained by Defendants in the regular course of business; and
- B. Disposing of any business record that contains personal identifying information without destroying or arranging for the destruction of such documents by shredding, erasing, or otherwise modifying the personal identifying information to make the information unreadable or undecipherable through any means.

IT IS FURTHER ORDERED that within twenty four hours of entry of this AGREED TEMPORARY INJUNCTION, Defendant SOUTHWESTERN & PACIFIC SPECIALTY FINANCE, INC., d/b/a CHECK 'N GO, shall:

- A. Implement an enhanced process for the disposal of documents containing personal identifying information and sensitive personal information (“PII” and “SPI”) and communicate that process to their agents or employees in Texas, including but not limited to Divisional Vice President, Regional Vice President, District Directors of Operations, Risk & Compliance staff, Internal Auditors, Store Managers, Customer Service Representatives, Store Associates, any other store employees and persons responsible for the management and staffing of the Fraud and Ethics hotline. At a minimum this process shall include the following:
 - 1. A system whereby all of its employees will deposit all documents containing PII or SPI into locked containers dedicated to the purpose

of shredding (herein referred to as SECURED DOCUMENT CONTAINER), located behind their counters and not accessible by the public, until such documents can be picked up for shredding by a third party disposal company;

2. Provide each of its Regional Vice Presidents, District Directors of Operations and Store Managers with specific written directives describing which documents must be deposited in the SECURED DOCUMENT CONTAINER, and in that case, instructing that such are to be left in the SECURED DOCUMENT CONTAINER until picked up for shredding by a third party disposal company;
3. Provide each of its employees in Texas with the name and telephone number and/or e-mail address of the corporate level person described in paragraph 5 below to whom they can direct questions regarding Defendants' Privacy Procedures, compliance with those procedures, compliance with TEX. BUS. & COM. CODE ANN. §35.48 and Chapter 48 of the TEX. BUS. & COM. CODE ANN. §48.001, *et seq.* (titled "Identity Theft Enforcement and Protection Act") and compliance with this Order;
4. Provide each of its Store Managers with signs to be posted within each store clearly and conspicuously disclosing to all employees that they are prohibited from disposing of or throwing away documents which contain SPI or PII into any container other than the SECURED DOCUMENT CONTAINERS;

5. Designate a corporate level in-house attorney to be responsible for responding to questions from employees regarding Defendants' Privacy Procedures, compliance with those procedures, compliance with TEX. BUS. & COM. CODE ANN. §35.48 and Chapter 48 of the TEX. BUS. & COM. CODE ANN. §48.001, *et seq* (titled "Identity Theft Enforcement and Protection Act"), and compliance with this Order;
- B. A program whereby a Reminder Statement is prominently posted in the employee area of all Texas stores regarding the Process described herein and specifically including clear and conspicuous disclosure of the requirements described in the preceding paragraph (A)(3);.
- C. Obtain the signature of its District Directors of Operation and Store Managers acknowledging that he or she: (i) has received a copy of Defendants' Procedures; (ii) has read the Procedures; (iii) has implemented those procedures in the stores for which he or she has managerial responsibility; and (iv) has been provided with contact information for described in the preceding paragraph 5.

The Defendant waives the issuance of a writ of injunction and acknowledge by its signature below that it has received notice and receipt of this temporary injunction; therefore, no writ need be issued.

This Order shall be effective without the execution and filing of a bond because Plaintiff State of Texas is exempt from such bond under TEX. CIV. PRAC. & REM. CODE §6.001 and TEX. BUS. & COM. CODE §17.47(b).

This temporary injunction will remain in full force pending a final trial or further orders of the court.

Any relief not granted herein is specifically denied.

A trial on the merits of this cause is hereby set on December 3, 2007 at 9 a.m.

SIGNED AND ENTERED this _____ day of June, 2007.

JUDGE PRESIDING

APPROVED AS TO FORM AND SUBSTANCE AND ENTRY REQUESTED:

CNG FINANCIAL CORPORATION

BY: _____

CHECK N GO OF TEXAS, INC.

BY: _____

SOUTHWESTERN & PACIFIC
SPECIALTY FINANCE, INC.

By: _____

FOR THE STATE OF TEXAS:

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Attachment "A"

Examples of "PII" and "SPI":

Any information given to obtain a financial service

- Name
- Address
- Income
- Date of Birth
- Social Security or Driver's License Number or other government-issued identification number;
- Mother's maiden name
- Unique biometric data, including the individual's fingerprint, voice print, and retina or iris image
- Unique electronic identification number, address, or routing code
- Telecommunication access device, including debit and credit card information
- Financial institution account number or any other financial information

Any information about an individual from a transaction involving the financial service

- Fact Individual is a Customer (*i.e.*, List of Check 'n Go Customers)
- Account Number
- Payment History
- Insufficient Funds Check History
- Loan or Deposit Balances
- Credit/Debit Card Information and any required security code, access code, or password that would permit access to an individual's financial account
- Bank Account Information

Any information obtained in connection with providing financial service

- Information from Court Records
- Information from Consumer's Credit Report
- A telephone number is only PII if it is an unlisted number (otherwise deemed publically available). Since Check 'n Go has no means to know whether a telephone number is unlisted or publically available, any document with a customer telephone number must be considered PII.