

STATE OF NORTH CAROLINA

WAKE COUNTY

IN A MATTER
BEFORE THE COMMISSIONER OF BANKS
DOCKET NO. 2005:008:CF

IN RE:)	
)	
ADVANCE AMERICA, CASH ADVANCE)	JOINT RESPONSE TO RESPONDENT,
CENTERS OF NORTH CAROLINA, INC.)	ADVANCE AMERICA, CASH
)	ADVANCE CENTERS OF NORTH
)	CAROLINA, INC.'S, FIRST SET OF
)	REQUESTS FOR THE PRODUCTION OF
)	DOCUMENTS AND
)	INTERROGATORIES
)	
)	

TO: Christopher W. Jones
WOMBLE, CARLYLE, SANDRIDGE & RICE PLLC
 PO Box 831
 Raleigh, NC 27602

The petitioner and intervenor Attorney General (“the Petitioners”) submit the following joint responses to the Respondent’s First Set of Requests for Production of Documents and Interrogatories.

The Petitioners have previously filed a Motion for Protective Order and to Limit Discovery with respect to these discovery requests. The Petitioners contend that with limited exceptions, the discovery requests are irrelevant to this proceeding, are overbroad, are unreasonably burdensome and that some of the information sought is protected by attorney-client and attorney work product privileges and by statutory confidentiality requirements. The materials produced and information provided in these responses does not waive any objections asserted by the Petitioners.

Pursuant to G.S. §§ 53-92(d) and 53-107.2, the North Carolina Banking Commission (“Commission”) is an appellate review body separate and apart from the OCOB and is not a party to this proceeding. Notwithstanding this, to the knowledge of the undersigned, the Commission has not made any official pronouncements about payday lending issues, exercised any appellate authority over payday lending matters, or compiled or have on file any documents or records requested for production by Respondent. Without waiving any objection, Petitioners do not object to a review of the transcripts and/or minutes of the North Carolina Banking Commission Proceedings for a designated period of time. The minutes of meetings of the Commission can be made available for review by the Respondent upon request.

G.S. § 53-99(b)(2) expressly provides the OCOB with statutory authority to withhold as confidential any records containing information compiled in preparation or anticipation of litigation, examination, audit or investigation. Thus, any objection on the grounds of confidentiality pursuant to G.S. § 53-99(b), shall be construed to be an objection by the OCOB in response to Respondent’s request for production of documents and interrogatories.

REQUESTS FOR PRODUCTION OF DOCUMENTS

Please produce the following documents to the extent that they are in your care, custody or control and, with respect to each individual document that you produce and/or group of documents (if the production is of multiple pages constituting one document), please identify the specific request to which you consider your production to be responsive:

1. All documents created by or on behalf of the government representatives associated with or in furtherance of the Commissioner of Banks' investigation(s):

- A. Into AANC's business operations within the State of North Carolina, or elsewhere; and

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege and is confidential pursuant to G.S. § 53-99(b)(2).

- B. Into any other company, business or individual whose business activities have been investigated in an effort to determine whether said company, business or individual was engaged in "payday lending," deferred presentment lending, or other lending programs in violation of or consistent with North Carolina law.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege, confidential pursuant to G.S. § 53-99(b)(2), and irrelevant to the subject matter involved in the pending action. Without waiving said objection, see the response to Request No. 32. Also, complaints for civil actions brought by the OCOB related to payday lending enforcement are being produced.

2. Any and all investigative or fact finding reports or memoranda generated by or provided to the government representatives that relate in any way to the North Carolina business activities of AANC.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege. Without waiving said objection, see the response to Request No. 32.

3. Any and all documents exchanged between the government representatives that relate in any way to the business activities of AANC.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege. Without waiving said objection, other than the documents provided by AANC during the investigative hearing and the current administrative enforcement action pending before the Commissioner of Banks, and documents relating to the

October 12, 2001, inquiry directed to AANC, the Petitioners are not aware of any other documents in the Petitioner's possession, custody or control.

4. Any and all documents generated or assembled by the government representatives forwarded to members of the North Carolina General Assembly (including individual staff members of their offices) and/or the North Carolina Governor's office with regard to payday lending issues, including but not limited to any correspondence, memoranda, position papers, legal or factual analyses, or written statements or testimony in connection with contemplated or pending legislation.

RESPONSE: OBJECT on the ground that the discovery sought is irrelevant to the subject matter involved in the pending action. Without waiving said objection, copies of public statements made by the Attorney General or his staff relating to past payday lending legislation are being produced.

5. Any and all documents received from members of the North Carolina General Assembly (including individual staff members of their offices) and/or the North Carolina Governor's office with regard to payday lending issues, including but not limited to any correspondence, memoranda, position papers, legal or factual analyses, or written statements or testimony in connection with contemplated or pending legislation.

RESPONSE: OBJECT on the ground that the discovery sought is irrelevant to the subject matter involved in the pending action.

6. Any and all documents sent to or received from state banking commissions and or state banking commissioners in other states, or similar agencies, Attorney General's offices of other States, or other state or federal regulators that concern payday lending issues.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege, is irrelevant to the subject matter involved in the pending action, and is unduly burdensome.

7. Any and all documents received from any state agencies, other than the government representatives addressed in these document requests, in North Carolina concerning payday lending issues.

RESPONSE: OBJECT on the ground that the discovery sought is irrelevant to the subject matter involved in the pending action. Without waiving said objection, a fax from Nancy Renn to Warren H. Harper, dated February 1, 2001, enclosing a copy of a letter from Sue Y. Little, Assistant Attorney General, to Peter A. Kolbe, General Counsel with the North Carolina Department of Insurance, dated January 17, 2001, is being produced.

8. Any and all documents that relate to payday lending issues that were sent to or received from groups or entities of any title or nature that are identified colloquially as consumer advocate/consumer rights groups, or the individuals associated with such groups, including but not limited to the Center for Responsible Lending, the Coalition for Responsible Lending, the Self Help Credit Union, the Self Help Assistance Corporation, the Self Help Services Corporation, the Community Reinvestment Association of North Carolina, the North Carolina Justice Center, the North Carolina Justice and Community Development Center, the Financial Protection Law Center, and the Trial Lawyers for Public Justice, which documents relate to payday lending issues.

RESPONSE: OBJECT on the grounds that the discovery sought is irrelevant to the subject matter involved in the pending action and unduly burdensome.

9. Any and all documents that relate to payday lending issues that were sent to or received from any outside attorneys or law firms, including but not limited to J. Jerome Hartzell or any individual associated with the law firm of Hartzell & Whiteman, LLP; Carlene McNulty or any individual associated with the North Carolina Justice Center; Mona Lisa Wallace, John Hughes or any individual associated with the law firm of Wallace & Graham, P.A.; Mallam J. Maynard or any individual associated with the Financial Protection Law Center; F. Paul Bland,

Jr. or any individual associated with the Trial Lawyers for Public Justice; Stephen Gardner or any individual associated with the Law Office of Stephen Gardner, PC; or Richard A. Fisher.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege, common interest privilege and irrelevant to the subject matter involved in the pending action. Without waiving said objection, a letter and legal memorandum from Carlene McCulty to the Commissioner, dated November 9, 2004 is being produced. The Attorney General's Office has received copies of pleadings and other documents filed by plaintiff's counsel in the *Kucan* and related cases. The Respondent as a party in said case is in possession of all such pleadings.

10. Any and all documents created by any government representatives, including but not limited to the following individuals, that in any way concerning payday lending issues in North Carolina prior to or after the August 31, 2001 sunset of N.C.G.S. § 53-281:

- A. Attorney General Roy Cooper
- B. Joshua N. Stein
- C. Philip A. Lehman
- D. L. McNeil Chestnut
- E. Daniel Garner
- F. M. Lynne Weaver
- G. Reitzel Deaton
- H. Hal Lingerfelt
- I. Hal Lingerfelt

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege, irrelevant to the subject matter involved in the pending action, and unduly burdensome. Without waiving said objection, the following documents are being produced: (1) Declaratory Ruling regarding Issues Under the North Carolina Check Cashers Act dated November 30, 1998; (2) OCOB Report to the General Assembly on Payday Lending dated February 22, 2001; (3) Memo from Hal D. Lingerfelt, Commissioner of Banks to All check-cashing business licensees who are engaged in "payday lending" dated July 31, 2001; (4) Memo from

Hal D. Lingerfelt, Commissioner of Banks to All check-cashing business licensees who are engaged in “payday lending” dated August 30, 2001; (5) speech given by Daniel E. Garner, Executive Legal Specialist, OCOB, sometime in 2001. In addition, various public statements, press releases, and letters from the Attorney General or members of his staff are being produced.

11. Any and all documents concerning payday lending issues created by the Office of the Commissioner of Banks.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege, confidential pursuant to G.S. § 53-99(b)(2), irrelevant to the subject matter involved in the pending action, and that this request is duplicative of Request No. 10. Without waiving said objection, see the response to Request No. 10. See also, statement from Joseph A. Smith, Jr., Commissioner of Banks, on Payday Lending Investigation dated August 25, 2004.

12. Any and all documents contained within or otherwise considered a part of - Commissioner Lingerfelt's file and/or investigative materials of any government representative concerning any investigation of AANC’s business activities in North Carolina prior or subsequent to the August 31, 2001 sunset of N.C.G.S. § 53-281, including but not limited to any factual or legal analyses.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege and confidential pursuant to G.S. § 53-99(b)(2), and is duplicative of Request No. 2. Without waiving said objection, there has been no other investigation of AANC by the OCOB except in connection with this proceeding and the October 12, 2001 letter of inquiry.

13. Any and all documents contained within or otherwise considered a part of Commissioner Lingerfelt's file and/or investigative materials of any government representative concerning any investigation of ACE Cash Express, Inc.’s (“ACE”) business activities in North Carolina prior or subsequent to the August 31, 2001 sunset of N.C.G.S. § 53-281, including but not limited to any factual or legal analyses.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege, confidential pursuant to G.S. § 53-99(b)(2), and irrelevant to the subject matter involved in the pending action. Without waiving said objection, a copy of the complaint is being produced, and the pleadings on file with the Wake County Clerk of Superior Court are available for inspection and copying at the Office of the Attorney General.

14. Any and all documents contained within or otherwise considered a part of Commissioner Lingerfelt's file and/or investigative materials of any government representative concerning any investigation of Goleta National Bank's ("Goleta") business activities in North Carolina prior or subsequent to the August 31, 2001 sunset of N.C.G.S. § 53-281, including but not limited to any factual or legal analyses.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege, confidential pursuant to G.S. § 53-99(b)(2), and irrelevant to the subject matter involved in the pending action. Without waiving said objection, there was no such investigation other than the litigation brought by Goleta against the Commissioner and the Attorney General.

15. To the extent that you intend to call an expert witness or otherwise intend to present opinion evidence at the hearing in this matter, please produce the curriculum vitae of the expert and or other witness through whom you intend to introduce expert opinion testimony, as well as any and all reports, including, without limitation, any draft reports, notes, correspondence, or other documents created by those individuals concerning any and all of the facts or issues to be addressed and or decided in this proceeding, and their opinions, analysis or thoughts relative to said issues.

RESPONSE: This information is not available at this time, and this response will be supplemented accordingly.

16. Any and all expert reports and/or correspondence or notes of or with expert witnesses that provided opinion testimony or other evidence in the ACE investigation or

litigation (captioned: *State of North Carolina ex rel. Roy Cooper, Attorney General and Hal D. Lingerfelt, Commissioner of Banks v. ACE Cash Express, Inc.*, and bearing Wake County civil action number 02 CVS 000330 and which, after removal to the Federal Court for the Eastern District of North Carolina, bore civil action number 5:02-CV-69-F(3)) concerning its payday lending business operations in North Carolina.

RESPONSE: There are no such documents in the Petitioners' possession, custody or control.

17. Any and all expert reports and/or correspondence or notes of or with expert witnesses that provided opinion testimony or other evidence in the Goleta investigation or litigation (captioned *Goleta National Bank and Ace Cash Express, Inc. v. The Honorable Hal D. Lingerfelt, in his official capacity as the Commissioner of Banks of North Carolina and The Honorable Roy Cooper, in his official capacity as the Attorney General of North Carolina*, and bearing federal civil action number 5:02-CV-20-F(3)) concerning its payday lending business operations in North Carolina.

RESPONSE: There are no such documents in the Petitioners' possession, custody or control.

18. Any and all formal or informal opinions, rulings, announcements, and/or factual or legal memoranda or materials concerning payday lending issues in North Carolina prior or subsequent to the August 31, 2001 sunset of N.C.G.S. 53-281.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege, is irrelevant to the subject matter involved in the pending action, and is unduly burdensome and duplicative. Without waiving said objection, official announcements and/or rulings by the Commissioner or Attorney General are being produced.

19. Any and all formal or informal opinions, rulings, announcements, and/or factual or legal memoranda concerning the business operations of other payday cash advance companies, including but not limited to the following companies:

- A. AANC
- B. Ace Cash Express, Inc.
- C. Goleta National Bank
- D. Check 'N Go
- E. Check Into Cash
- F. Cash America International, Inc.
- G. QC Financial Services
- H. Valued Services, LLC
- I. Cash America Financial Services, Inc.
- J. Foresight Management Company, LLC
- K. Nationwide Budget Finance
- L. Compucredit
- M. First American Bank

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege and irrelevant to the subject matter involved in the pending action, except as to AANC. Without waiving said objection, a letter from Otis M. Meacham, Deputy Commissioner of Banks, to Gregory T.J. Madson, Legal Counsel for McKenzie Check Advance of North Carolina, LLC, dated June 4, 1998, and the inquiry dated May 12, 1998 are being produced. Letters from companies responding to the October 12, 2001 letter of inquiry from the Attorney General's Office are being produced. See also, Petitioners' response to Request No. 13.

20. Any and all formal or informal opinions, rulings, announcements, and/or factual or legal memoranda created or received by you concerning the authority and/or jurisdiction of

the government representatives, or the lack of authority and/or jurisdiction, to regulate or otherwise control payday lending activities in North Carolina subsequent to August 31, 2001, even if such documents were created prior to that date.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege, unduly burdensome, and irrelevant to the subject matter involved in the pending action, except for official public announcements by the OCOB. Without waiving said objection, a letter from Donald C. Lampe to L. McNeil Chestnut, dated August 23, 2001, is being produced.

21. Any and all correspondence in any form whatsoever exchanged between the government representatives concerning payday lending activities by any company doing business in North Carolina.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege, irrelevant to the subject matter involved in the pending action and unduly burdensome.

22. Any and all formal or informal opinions, memoranda or correspondence created in response to an inquiry or complaint by any individual consumer, consumer advocate or consumer advocacy group regarding payday lending issues in North Carolina, and any and all such inquiries and complaints.

RESPONSE: OBJECT on the grounds that the discovery sought is confidential pursuant to G.S. § 53-99(b)(2), unduly burdensome, and irrelevant to the subject matter involved in the pending action, except as to AANC. Without waiving said objection, responses to consumer complaints relating to bank model payday lending received by the Attorney General's office are presently being recovered and will be produced or made available for inspection at the Attorney General's office.

23. Any and all documents sent to or received from or directed to the National Association of Attorneys General ("NAAG") regarding payday lending issues.

RESPONSE: OBJECT on the ground that the discovery sought is irrelevant to the subject matter involved in the pending action.

24. Any and all documents sent to or received from or directed to the Conference of State Bank Supervisors (“CSBS”) regarding payday lending issues.

RESPONSE: OBJECT on the ground that the discovery sought is irrelevant to the subject matter involved in the pending action.

25. Any and all documents or communications concerning payday lending activities that were received from or sent to any North Carolina State Governmental Agency, excepting the government representatives addressed in these document requests.

RESPONSE: OBJECT on the ground that the discovery sought is irrelevant to the subject matter involved in the pending action and is duplicative of Request No. 7. Without waiving said objection, see the response to Request No. 7.

26. Any and all internal memoranda concerning your agency's, office's and/or organization’s plan of action, intentions, analyses or intended chronology regarding administrative investigations and/or administrative action(s) against business in North Carolina that you believe(d) were involved in payday lending activities in North Carolina subsequent to August 31, 2001, even if such documents were created before that date.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege and irrelevant to the subject matter involved in the pending action, except as to AANC.

27. Any and all documents reflecting your office's, agency's, or organization’s plan of action relative to businesses that you believe(d) were/are engaged in payday lending activities in North Carolina, which documents were created prior or subsequent to execution of the consent order in the ACE payday lending litigation.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege and irrelevant to the subject matter involved in the pending action, except as to AANC. Without waiving said objection, see the response to Request No. 13.

28. Any articles, statements, testimony, reports, power point presentations, speeches, “white papers” or other similar documents created by you concerning payday lending activities in North Carolina or elsewhere.

RESPONSE: OBJECT on the ground that the discovery sought is irrelevant to the subject matter involved in the pending action. Without waiving said objection, outlines or manuscripts of public speeches or presentations by Assistant Attorney General Philip A. Lehman and by Daniel Garner, Executive Legal Specialist, OCOB, are being produced.

29. Any and all statements by any of the government representatives, including but not limited to the following individuals, concerning payday lending activities in North Carolina or elsewhere subsequent to August 31, 2001, made or given to the print or online media in North Carolina:

- A. Attorney General Roy Cooper;
- B. Joshua Stein;
- C. L. McNeil Chestnut;
- D. Philip Lehman;
- E. Daniel Garner;
- F. Commissioner Joseph A. Smith, Jr.;
- G. Commissioner Hal Lingerfelt; or
- H. Any Commissioner, Chairman or Member of the Banking Commission.

RESPONSE: OBJECT on the ground that the discovery sought is irrelevant to the subject matter involved in the pending action, except as to AANC. Without waiving said objection, copies of press releases issued by the Office of the Attorney General and the Office of the Commissioner of Banks are being produced.

30. Any and all speeches given by Attorney General Roy Cooper in any public or private forum during his campaign or after his election to the Office of North Carolina Attorney

General concerning or referencing payday lending activities in North Carolina or elsewhere, whether the speech was given prior to, on, or after August 31, 2001.

RESPONSE: OBJECT on the grounds that the discovery sought is irrelevant to the subject matter involved in the pending action. The Attorney General's office is not in possession of any campaign speeches by Attorney General Cooper and is not aware of any other speeches on the issue of payday lending.

31. Any and all documents concerning the sunset or expiration of N.C.G.S. § 53-281 including but not limited to opinions, plans, analyses or strategies to seek administrative or and legal remedies against companies doing business in North Carolina that you believe(d) continued to be involved in any way in payday lending activities subsequent to August 31, 2001, even if such documents were created prior to that date.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege and irrelevant to the subject matter involved in the pending action, except as to AANC. Without waiving said objection, see the response to Request No. 10.

32. Any and all documents reflecting events, conversations, or meetings between your office, agency or organization and any individual, business, group of businesses, or trade organization concerning payday lending activities in North Carolina subsequent to August 31, 2001.

RESPONSE: OBJECT on the grounds that the discovery sought is attorney work product and/or attorney-client privilege, is irrelevant to the subject matter involved in the pending action and is unduly burdensome. Without waiving said objection, see copies of letters from Messrs. Lehman and Chestnut to various payday lending companies, dated October 12, 2001. Said letters resulted in meetings with representatives with various payday lending companies, including AANC, in November, 2001. Copies of responsive letters from said companies are being produced.

33. Any documents created and sent by you to any company or business that you believe(d) was/were engaged in the business of payday lending in North Carolina subsequent to August 31, 2001.

RESPONSE: OBJECT on the grounds that the discovery sought is irrelevant to the subject matter involved in the pending action, except as to AANC. Without waiving said objection, see the response to Request No. 32.

34. Any and all documents received by you from any company that you believe(d) was/were engaged in the business of payday lending in North Carolina subsequent to August 31, 2001.

RESPONSE: OBJECT on the ground that the discovery sought is irrelevant to the subject matter involved in the pending action, except as to AANC. Without waiving said objection, see the response to Request No. 32.

35. Any and all documents sent to or received from any federally insured or federally chartered bank known or believed to be doing business with AANC in North Carolina.

RESPONSE: To Petitioners' knowledge, there are no such documents in the Petitioners' possession, custody or control, except for miscellaneous consumer complaints.

36. Any and all documents sent to or received from any federally insured or federally chartered bank known or believed to be doing payday lending business with other companies in North Carolina.

RESPONSE: OBJECT on the ground that the information sought is irrelevant to the subject matter involved in the pending action. To Petitioners' knowledge, there are no such documents in the Petitioners' possession, custody or control other than documents relating to the Goleta litigation (a copy of the Goleta complaint is being produced) and miscellaneous consumer complaints. See also the response to Request No. 22.

37. Any and all documents, including, without limitation, investigative reports, expert opinions, correspondence and notes contained your investigative files or the files of any individual cooperating or affiliated with you or acting as your agent or independent contractor

concerning the investigation(s) into alleged payday lending activities of any company, including but not limited to the following companies:

- A. McKenzie Check Advance of North Carolina, LLC d/b/a National Cash Advance
- B. National Cash Advance
- C. Check'n Go of North Carolina, Inc.
- D. Check Into Cash, Inc.
- E. Valued Services, LLC
- F. QC Financial Services
- G. Cash America Financial Services, Inc.
- H. Foresight Management Company, LLC
- I. Nationwide Budget Finance
- J. Compucredit

RESPONSE: OBJECT on the grounds that the discovery sought is confidential pursuant to G.S. § 53-99(b)(2), and irrelevant to the subject matter involved in the pending action, except as to AANC. Without waiving said objection, other than McKenzie Check Advance of North Carolina, LLC d/b/a National Cash Advance (to the extent that it is affiliated with AANC) and the correspondence dated October 12, 2001, which is being produced, Petitioners are not aware of any investigations regarding the named companies.

38. Any and all documents supporting your use and definition of the terms “fee” and “finance charge” as those terms are used in paragraph 5 of the Commissioner of Banks' Notice of Hearing in this matter (“Notice”) (in responding to this Request for Production, please identify particular documents and or pages/lines of testimony and/or North Carolina Statutory language).

RESPONSE: These terms are defined in the federal truth in lending act and are referred to in the “Prospectus - Advance America Cash Advance” (Registration No. 333-118227), dated December 15, 2004, filed with the

United States Securities and Exchange Commission pursuant to Rule 424(a)(1) (referred to as an S-1; hereinafter “AA’s S-1” or “S-1”). As used in the S-1, the term “finance charge” is synonymous with the term “interest.”

39. Any and all documents supporting your use and definition of the phrase “originates payday loans” as it is used in paragraph 8 of the Notice (in responding to this Request for Production, please identify particular documents and or pages/lines of testimony and/or North Carolina Statutory language).

RESPONSE: The role of AANC in originating payday loans for banks is described in AA’s S-1. The term is also used by the OCC in its order of February, 2003, and by the FDIC in its guidelines for payday lending.

40. Any and all documents supporting your use and definition of the phrase "payday lending presence" as it is used in paragraph 14 of the Notice (in responding to this Request for Production, please identify particular documents and or pages/lines of testimony and/or North Carolina Statutory language).

RESPONSE: AANC’s involvement in soliciting, arranging and originating payday loans is documented in AA’s S-1, the Marketing and Servicing Agreement with Republic Bank & Trust and other documents provided by AANC during the investigative hearing conducted by the OCOB and the Attorney General. These activities constitute a “payday lending presence” in North Carolina.

41. Any and all documents supporting your use and definition of the phrase "substantial portion of the loan fees" as it is used in paragraph 15 of the Notice (in responding to this Request for Production, please identify particular documents and or pages/lines of testimony and/or North Carolina Statutory language).

RESPONSE: There are no documents that disclose the exact percentage of loan fees paid by Peoples National Bank to AANC.

42. Any and all documents obtained from any source, or received from Republic Bank & Trust Company ("RB&T") relative to RB&T's business and/or affiliation with AANC.

RESPONSE: Neither the OCOB nor the Attorney General has received any such documents from RB&T. The only documents received by the OCOB and the Attorney General were provided by AANC during the investigation conducted by the OCOB and the Attorney General, except for RB&T's Q-10 filing with the Securities and Exchange Commission, which is a matter of public record.

43. Any and all documents supporting your use and definition of the following terms as those terms are used in paragraph 27 of the Notice in reference to AANC's business activities in North Carolina on or after August 31, 2001 (in responding to this Request for Production, please identify particular documents and/or pages/lines of testimony and/or North Carolina Statutory language):

- A. "Offering"
- B. "Arranging"
- C. "Collecting"

RESPONSE: The foregoing terms are used in AA's S-1 and the Marketing and Servicing Agreement with Republic Bank & Trust.

44. Any and all documents relied upon to form the basis of the allegation that AANC is "engaged in the business of lending" in North Carolina as that term is used in paragraph 1 of the "Claims for Relief" section of the Notice (in responding to this Request for Production, please identify particular documents and or pages/lines of testimony and or North Carolina Statutory language the referenced allegation).

RESPONSE: Such documents include, but are not limited to, AA's S-1 and the Marketing and Servicing Agreement with Republic Bank & Trust, which describe AANC's business activities in North Carolina. Reference is also made to N.C.G.S. § 53-166.

45. Any and all documents supporting your use of the phrase "endorsing or otherwise securing loans or contracts for the payment of loans" in paragraph 1 of the "Claims for Relief" section of the Notice (in responding to this Request for Production, please identify particular

documents and or pages/lines of testimony and or North Carolina Statutory language the referenced allegation).

RESPONSE: The phrase is statutory language taken from G.S. § 53-166.

46. Any and all documents relied upon to support the allegation that AANC "seeks to avoid [application of N.C.G.S. § 53-166(a)] by any device, subterfuge, or pretense whatsoever" as it is stated in paragraph 2 of the "Claims for Relief" section of the Notice."

RESPONSE: Paragraph 2 of the Claim for Relief is not an allegation but simply restates certain provisions of G.S. § 53-166.

47. Documents relied upon to support the allegation in paragraph 3 of the "Claims for Relief" section of the Notice that AANC is engaging in or has engaged in "the business of cashing checks, drafts, or money orders for consideration," as well as the use of the term "avoid" in the same paragraph.

RESPONSE: Paragraph 3 of the Claim for Relief is not an allegation but simply restates the provisions of G.S. §§ 53-275 and 53-276.

48. Any and all documents upon which you rely to define the phrase "for consideration" as it is used in paragraph 3 of the "Claims for Relief" section of the Notice.

RESPONSE: This term is statutory language taken from G.S. § 53-276 and is a commonly used term that is defined in dictionaries and case decisions.

49. To the extent that you believe or assert that AANC's receipt of payment, by a federally chartered or federally insured bank, for services rendered to said bank constitutes receipt of "for consideration" in violation of any North Carolina General Statute, please produce any and all documents relied upon to form the basis of your use and definition of the phrase "for consideration" as it is used in paragraph 3 of the "Claims for Relief" section of the Notice.

RESPONSE: See the response to Request No. 48.

50. Any and all documents relied upon to support the allegations contained in the fifth paragraph (which is incorrectly denoted as No. “6”) of the “Claims for Relief” section of the Notice and, without limitation, the specific allegations that:

- A. AANC may be engaged in the business of lending within the meaning of N.C.G.S. § 53-166;
- B. AANC offers consumer loans (and your support for the definition and use of the term “offers” as it is used in that paragraph);
- C. AANC arranges consumer loans (and your support for the definition and use of the term “arranges” as it is used in that paragraph);
- D. AANC originates consumer loans (and your support for the definition and use of the term “originates” as it is used in that paragraph);
- E. AANC collects consumer loans (and your support for the definition and use of the term “collects” as it is used in that paragraph);
- F. AANC "contracts for, exacts or receives in connection with such loans, directly or indirectly, “charges” in connection with loans (and your support for the definition and use of the phrase "contracts for, exacts or receives in connection with such loans, directly or indirectly, charges” as it is used in that paragraph).

RESPONSE: All documents provided by AANC which describe AANC’s business and lending activities in North Carolina, including but not limited to, AA’s S-1 and the Marketing and Servicing Agreement with Republic Bank & Trust. The applicable terms are all commonly used terms with readily available definitions.

51. Any and all documents supporting the allegations in paragraph 6 of the “Claims for Relief” section of the Notice that there is “good cause to believe that AANC may be cashing checks for consideration in violation of G.S. § 53-276.”

RESPONSE: The testimony of Sterling Laney during the investigative hearing held on November 22, 2004 and other documents produced by AANC during the investigative hearing which describe how a consumer obtains a cash advance by tendering a personal check.

52. Any and all documents forming the basis for your definition and use of the term “consideration” as that term is used in paragraph 6 of the “Claims for Relief” section of the Notice in relation to G.S. § 53-276.

RESPONSE: See the response to Request No. 48.

INTERROGATORIES

1. Provide the definition that you intend to apply to each of the terms or phrases from the Notice that are quoted in the above Requests for Production of Documents at/in request nos.: 39, 40, 41, 42, 44, 45, 46, 48, 49, 50 and 52, and with respect to each identified term or phrase, identify the source that you used in defining said term or phrase.

RESPONSE: The terms and phrases are commonly used terms with readily available definitions, some of which are statutory definitions that speak for themselves.

2. Define the term “deferred deposit cash advance centers” as that term is used in the Notice and explain all characteristics that combine to create such a “center.”

RESPONSE: This term is commonly used by AANC to describe its business locations where it offers deferred deposit transactions. The term “deferred deposit” is defined in G.S. § 53-281 (repealed) and is further described in AA’s S-1.

3. Identify any distinctions known to you between an “account controlled by the bank,” as that phrased is used in paragraph 8 of the Notice in reference to a federally insured,

out-of-state bank, and actual ownership of the referenced account by the federally insured “out-of-state-bank.”

RESPONSE: This term requires no further distinction or explanation. There is no substantial distinction in the term “controlled by” and “actual ownership.”

4. Identify, with specificity, the relevance (relative to any allegations of misconduct or violations of North Carolina law by AANC) of the allegations in paragraph 16 of the Notice regarding the “customer's perspective” of the loan process, and the allegation in that paragraph that, from that perspective, the "loan process" and "documentation" are "substantially the same."

RESPONSE: The purpose of the allegation is to more fully describe AANC’s lending process as perceived by the customer. The manner in which the product is marketed to the customer throughout the continuum of AANC’s lending activities in North Carolina and how the loan process is conducted is relevant to whether AANC is or has been engaged in the business of lending in North Carolina.

5. With respect to paragraphs 14-26, inclusive, contained within the Notice, identify which North Carolina statutes or laws, if any, were violated as a result of the conduct and/or allegations described in the subject paragraph, and if more than one action is described and/or you believe more than one statute or law is violated, then identify each specific act that violates any statute or law and identify the statute or law that you believe to be violated.

RESPONSE: The statutory violations are fully set forth in the Claims for Relief section set out in the Notice of Hearing.

6. State your factual basis for the claim that the payment that AANC receives from a federally chartered bank for the services that it provides to that federally chartered bank constitutes “consideration” from consumers or customers for loans such that AANC may be treated as the lending institution.

RESPONSE: The current allegations do not involve a federally chartered bank. It is undisputed that consumers pay consideration for loan and/or

check cashing services and that AANC initially receives such consideration for payment to the bank and that AANC subsequently receives a portion of such consideration, directly or indirectly, from the bank.

7. To the extent you intend to offer any expert witness opinion testimony or evidence at the hearing in this matter, identify the following information about any such expert:

- A. Name, address, telephone number, and email address;
- B. area(s) of expertise;
- C. issues upon which the witness is expected to testify and/or opine;
- D. the witnesses' opinions relative to each of the issues that you identified in response to this Interrogatory; and
- E. the basis for each opinion identified in response to this interrogatory.

RESPONSE: This information is not available at this time and will be supplemented accordingly.

8. Identify each and every individual currently or previously employed by you that has met with and/or participated in or attended meeting(s) with members, agents or employees of businesses engaged in payday lending operations in North Carolina prior or subsequent to August 31, 2001 and/or with trade organizations representing the interests of such businesses, and with respect to each such individual, state the following:

- A. date of the meeting or conference;
- B. subject of the meeting or conference;
- C. whether or not the identified individual spoke during the meeting or conference;
- D. if the identified individual spoke during the meeting or conference, the substance of his or her comments;
- E. identification of all other participants in the identified meeting or conference; and
- F. whether or not the identified individual took notes or spoke from prepared remarks during the meeting or conference.

RESPONSE: OBJECT on the ground that the discovery sought is irrelevant to the subject matter involved in the pending action. Without waiving said objection, Messrs. Lehman and Chestnut had various meetings with representatives of the check cashing industry prior to and during the time that G.S. § 53-275, *et seq.* was enacted to discuss the proposed legislation. Messrs. Lehman and Chestnut do not have any specific recollection to reflect the times, dates and specific details of such meetings. Other persons who may have participated in such meetings include Daniel E. Garner, Executive Legal Specialist with the OCOB and W. Reitzel Deaton, Director of the Consumer Finance Division, OCOB. Similar meetings took place during the 2001 legislative session at which Joshua N. Stein, Senior Deputy Attorney General, McNeil Chestnut and Philip Lehman participated in various ad hoc meetings to discuss proposed legislation.

Messrs. Stein, Lehman and Chestnut also met from time to time on an ad hoc basis with representatives of the payday lending industry when payday lending legislation was being considered by the North Carolina General Assembly during the 2002 and 2003 legislative sessions. Various proposals were considered but no legislation was enacted so any such meetings, discussions or proposals have no relevance to this proceeding.

Representatives of the Attorney General's office and the Office of the Commissioner of Banks, including Joshua Stein, Philip Lehman, Lynne Weaver, McNeil Chestnut and Daniel Garner, met with representatives of the payday lending industry, including Advance America, Check 'n Go, Check

Into Cash and First American Holding, LLC, on November 27, 2001, to discuss bank model payday lending by various companies who were formerly licensed as check cashers to do deferred deposit lending in North Carolina prior to August 31, 2001. Letters of inquiry to payday lending companies that precipitated this meeting and responsive letters from such companies are included with the production of documents. Another such meeting was held with representatives of Cash America on January 10, 2002. The matters discussed included legislation and the general manner in which the payday lending companies conducted their business in North Carolina.

Attorney General Cooper and Commissioner of Banks Smith have met with Billy Webster, Advance America's CEO. The times and dates of such meetings are known to the Respondent.

Representatives of the Attorney General's Office, including Messrs. Stein and Lehman, met with representatives of Check Into Cash, including Lynn Devault, Greg Madsen, and counsel, on March 9, and 22, 2005 to generally discuss legislative proposals.

9. Identify specific and/or particular consumers whom you allege paid money (in any form) to AANC in consideration or exchange for a short term loan since August 31, 2001.

RESPONSE: Every consumer who repaid a cash advance transaction at an AANC location paid the amount of the cash advance plus a fee to AANC, usually in the form of cash. Specific names of such consumers are identified on the consumer transaction records and lists provided by AANC.

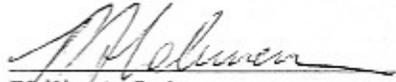
This the 15th day of April, 2005.



L. McNeil Chestnut
Special Deputy Attorney General
And Counsel to the Office of the
Commissioner of Banks
N.C. Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
Phone: 919.716.6800
Fax: 919.716.6755
Email: mchest@ncdoj.com

ROY COOPER
ATTORNEY GENERAL

By:



Philip A. Lehman
Assistant Attorney General
Consumer Protection Division
N.C. Department of Justice
9001 Mail Service Center
Raleigh, NC 27699-9001
Phone: 919.716.6000
Fax: 919.716.6050
Email: plehman@ncdoj.com

CERTIFICATE OF SERVICE

THE UNDERSIGNED hereby certifies that he has this day served a copy of the foregoing
JOINT RESPONSE TO RESPONDENT, ADVANCE AMERICA, CASH ADVANCE
CENTERS OF NORTH CAROLINA, INC.'S, FIRST SET OF REQUESTS FOR THE
PRODUCTION OF DOCUMENTS AND INTERROGATORIES by hand delivering same to the
Respondent's attorney of record, addressed as follows:

Christopher W. Jones
WOMBLE, CARLYLE, SANDRIDGE & RICE PLLC
150 Fayetteville Street Mall
Suite 2100
Raleigh, NC 27601

This the 18th day of April, 2005.



L. McNeil Chestnut
Special Deputy Attorney General