

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS**

IN THE MATTER OF:

DFI No. C-06-186-07

ZIPPY CASH, LLC d/b/a ZIPPY CASH and d/b/a
ADVANCE TIL PAYDAY, and DANIEL M. VAN
GASKEN, Managing Member and Executive
Trustee,

AGREED ORDER

Respondents.

COMES NOW the Director of the Department of Financial Institutions (“Department”) and Zippy Cash, LLC, d/b/a Zippy Cash and d/b/a Advance Til Payday, and Daniel M. Van Gasken (collectively “Respondents”), by and through their legal counsel, Margaret Y. Archer, of Gordon Thomas Honeywell LLP, and finding that that there is good cause for the Department and Respondents to fully and finally settle, compromise and resolve the matters set forth in the Department’s Final Decision and Order Modifying Initial Findings of Fact, Initial Conclusions of Law, and Initial Decision of Administrative Law Judge dated July 9, 2008, as modified by the Department’s Order Granting Petition for Reconsideration & Amending Department’s Final Decision and Order Modifying Initial Findings of Fact, Initial Conclusions of law, and Initial Decision of Administrative Law Judge dated July 18, 2008 (“Final Order”), hereby agree to the entry of this Agreed Order. This Agreed Order is entered pursuant to RCW 34.05.060 of the Administrative Procedure Act based on the following:

AGREEMENT AND ORDER

1. **No Admission of Findings of Fact and Conclusions of Law of Final Order.** It is agreed that the Respondents neither admit nor deny the Findings of Fact and Conclusions of Law set forth in the Final Order. Nevertheless, except as expressly modified by the provisions of this Agreed Order, the Final Order

AGREED ORDER
Zippy Cash, LLC d/b/a Zippy Cash and d/b/a 1
Advance Til Payday, and Daniel M. Van Gasken
DFI No. C-06-186-07

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 shall remain valid and enforceable against the Respondents, including, but not limited to, its provisions
2 ordering Respondents to cease and desist from violating specified provisions of the Check Cashers and Sellers
3 Act, Chapter 31.45 RCW, and ordering Respondents to retain records.

4 2. **Withdrawal of Appeal and Dismissal.** Upon entry of this Agreed Order, the Respondents agree
5 to forego all administrative and judicial review of the Final Order, or of the resolution reached herein, and the
6 Department and Respondents agree to jointly dismiss their cross-appeals currently before the Washington State
7 Court of Appeals, Division II, in Cause Number 39391-3-II, with prejudice and with each party paying their own
8 costs and attorney's fees.

9 3. **Payment of Fine.** Under the provisions of the Final Order, Respondents jointly and severally owe
10 the Department a total of \$262,720 in fines. In compromise, and in consideration of the additional terms set forth
11 herein, it is agreed that the fine owed jointly and severally by Zippy Cash, LLC and Daniel M. Van Gasken shall be
12 reduced to \$50,000.

13 4. **Payment of Fine Secured by Confession of Judgment.** Respondents have represented that they
14 currently have an inability to pay the foregoing \$50,000 fine immediately upon entry of this Agreed Order. As a
15 result, the Department has agreed to accept monthly payments of at least \$5,000 per month, with the first
16 installment to be paid on or before February 5, 2010. Thereafter, Zippy Cash LLC and Daniel Van Gasken shall
17 pay the Department at least \$5,000 on the fifth day of each subsequent month until such time as the entire \$50,000
18 fine, together with simple interest accrued at a rate of 12 percent per annum, is paid in full, with the last payment
19 being made no later than November 5, 2010. Payments shall be made directly to the Department in the form of
20 cashiers checks payable to the Washington State Treasurer. There will be no penalty for early payment of the fine.

21 Zippy Cash, LLC and Daniel Van Gasken's payment obligation is secured by a Confession of Judgment.
22 Zippy Cash, LLC and Daniel Van Gasken have signed a Confession of Judgment, attached hereto, for the \$45,000
23 fine (\$50,000 less \$5,000 to be paid on February 5, 2010), plus interest of 12 percent per annum. The Department
24 will file the Confession of Judgment with the court only if Zippy Cash LLC and Daniel Van Gasken default on

25 AGREED ORDER

Zippy Cash, LLC d/b/a Zippy Cash and d/b/a 2
Advance Til Payday, and Daniel M. Van Gasken
DFI No. C-06-186-07

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 their payment obligation, to include failure to make any monthly minimum payment. Default shall be defined as
2 failure to deliver to the Department at least \$5,000 by the fifth day of the month in the month each payment is due.

3 In the event of default, the Department may file the Confession of Judgment with the Superior Court. If
4 payments were made prior to filing the Confession of Judgment, the Department shall simultaneously file a partial
5 satisfaction for that portion of the principal and accrued interest paid prior filing the Judgment. Respondents shall
6 thereafter collectively pay at least \$5,000 into the court by the 5th day of every month thereafter until the
7 Judgment and related interest is paid in full. The Department agrees to file partial satisfactions of judgment as it
8 receives payments from the court. Respondents agree to cooperate with the Department and perform any steps
9 necessary to facilitate entry of the Judgment by the court.

10 5. **Payment of Restitution.** Under the provisions of the Final Order, Respondents jointly and
11 severely owe six consumers restitution totaling \$11,510. In her Order on Judicial Review, Superior Court Judge
12 Kathryn J. Nelson reduced the total amount of restitution owed to the six borrowers to \$5,735 as set forth in the
13 restitution schedule in Exhibit A of Judge Nelson's Order on Judicial Review. This restitution schedule is
14 attached hereto as Exhibit A. It is agreed that the restitution owed jointly and severely by Zippy Cash, LLC and
15 Daniel M. Van Gasken shall be reduced to \$5,735. Restitution shall be paid to consumers as set forth in Exhibit
16 A. It is agreed that prior to the Director's entry of this Agreed Order, Respondents shall no later than February 5,
17 2010 transfer the \$5,735 to the trust account of Gordon Thomas Honeywell LLP. Respondents shall , through
18 Gordon Thomas Honeywell LLP disburse restitution payments to consumers no later than 14 days thereafter.
19 Prior to sending the restitution payments, respondents' counsel shall confer with the Department and advise the
20 addresses that will be used for each respective consumer payment. Respondents' counsel shall provide the
21 Department written proof that restitution checks have been issued from said trust account. At a minimum, such
22 proof shall include a copy of the check and written confirmation that the check was mailed to each of the six
23 consumer's last known address. Each mailed restitution check must be accompanied by the explanatory cover
24 letter discussed in further detail in paragraph 6 of this Agreed Order. All expenses associated with the payment of

25 AGREED ORDER

Zippy Cash, LLC d/b/a Zippy Cash and d/b/a 3
Advance Til Payday, and Daniel M. Van Gasken
DFI No. C-06-186-07

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 restitution, including but not limited to the cost of mailings and stop payment fees, shall be borne by Respondents.
2 It is further agreed that, no later than June 1, 2010, Respondents shall provide the Department with written proof
3 of the receipt and negotiation by the consumers of such restitution payments. The written proof at a minimum
4 must consist of copies of the front and back of cancelled checks to the extent that checks are received and cashed
5 or negotiated by their payees. If restitution cannot be made to any particular consumer due to lack of a current
6 address or for any other reason, Respondents shall take the necessary steps to escheat such funds to the State of
7 Washington Department of Revenue as unclaimed property and provide the Department with written proof of such
8 action. If restitution payments are mailed and not returned, and if the checks are uncashed or not negotiated for
9 more than ninety (90) days from the date of mailing, Respondents counsel shall place a stop payment on those
10 checks and escheat the funds to the State of Washington Department of Revenue in the name of the payee. All
11 restitution payments or payments to escheat funds as unclaimed property must be completed by June 1, 2010.

12 6. **Explanatory Message.** It is agreed that Respondents shall enclose, along with each restitution
13 check, an explanatory message from the Department concerning the restitution payment. A copy of the
14 explanatory message is attached hereto as Exhibit B.

15 7. **Payment of Investigative Fees.** It is agreed that Respondents shall pay to the Department the
16 investigative fee owed under the Final Order in the amount of \$13,800 on or before February 5, 2010. It is further
17 agreed that this payment will be in the form of a cashier's check made payable to the "Washington State
18 Treasurer" and shall be made prior to the entry of this Agreed Order.

19 8. **Surrender of Check Cashers and Sellers License.** It is agreed that Zippy Cash, LLC shall
20 surrender to the Department its license to operate as a check casher or check seller with a small loan endorsement
21 no later than June 5, 2010.

22 9. **Agreement Not to Apply for New License.** It is agreed that Respondent Zippy Cash, LLC shall
23 not apply to the Department for any license or endorsement issued pursuant to chapter 31.45 RCW under any
24 name for a period of three years from the date of this Agreed Order. It is further agreed that Respondent Daniel

25 AGREED ORDER
Zippy Cash, LLC d/b/a Zippy Cash and d/b/a 4
Advance Til Payday, and Daniel M. Van Gasken
DFI No. C-06-186-07

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 M. Van Gasken shall not apply to the Department for any license or endorsement issued pursuant to chapter 31.45
2 RCW under any name for a period of three years from the date of this Agreed Order.

3 10. **Rights of Consumers.** It is agreed that this Agreed Order shall not release, waive, or in any way
4 affect any legal rights that any consumers may have concerning Respondents. The Department does not represent
5 or have the consent of consumers to take any action concerning their personal legal rights.

6 11. **Authority of the Department.** It is agreed that nothing in this Agreed Order shall be construed
7 as preventing the Department from fully exercising its authority and enforcing any provision of chapter 31.45
8 Revised Code of Washington.

9 12. **Voluntarily Entered.** It is agreed that Respondents have voluntarily entered into this Agreed
10 Order, which is effective when signed by the Director.

11 13. **Completely Read, Understood, and Agreed.** It is agreed that Respondents have read this
12 Agreed Order in its entirety and fully understand and agree to all of the same.

13
14
15
16
17
18
19
20
21
22
23
24

1 **RESPONDENTS:**

2 **ZIPPY CASH, LLC**

By:

3 

4 Daniel M. Van Gasken, Managing Member

2-5-2010

Date

5 

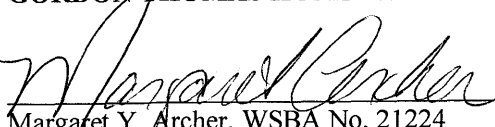
6 Daniel M. Van Gasken
7 Individually

2-5-2010

Date

8 Approved as to form; notice of presentation to the Director waived:

9 **GORDON THOMAS HONEYWELL LLP**

10 

11 Margaret Y. Archer, WSBA No. 21224
12 Attorneys for Respondents

2/5/2010

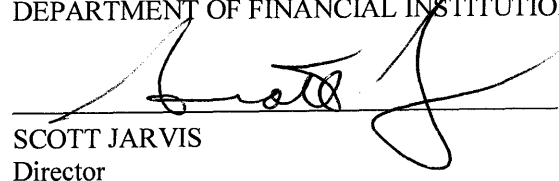
Date

13 **DO NOT WRITE BELOW THIS LINE**

14 THIS ORDER ENTERED THIS 5th DAY OF February 2010.



15 STATE OF WASHINGTON
16 DEPARTMENT OF FINANCIAL INSTITUTIONS

17 
18 SCOTT JARVIS
19 Director

20 Presented by:

21 

22 DEBORAH BORTNER
23 Director
24 Division of Consumer Services

25 **AGREED ORDER**
Zippy Cash, LLC d/b/a Zippy Cash and d/b/a
Advance Til Payday, and Daniel M. Van Gasken
DFI No. C-06-186-07

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

**STATE OF WASHINGTON
PIERCE COUNTY SUPERIOR COURT**

STATE OF WASHINGTON, DEPARTMENT
OF FINANCIAL INSTITUTIONS,

Plaintiff,

vs.

ZIPPY CASH, LLC and DANIEL M. VAN
GASKEN,

Defendants.

NO.

CONFESSION OF JUDGMENT

[Clerk's Action Required]

Judgment Summary

Judgment Creditor:	State of Washington, Department of Financial Institutions
Attorneys for Department of Financial Institutions:	Robert M. McKenna, Washington Attorney General Charles E. Clark, Assistant Attorney General
Judgment Debtors:	Zippy Cash, LLC and Daniel M. Van Gasken (Jointly and Severally)
Principal Judgment Amount:	\$45,000
Total Judgment Amount:	\$45,000
Post-Judgment Interest (per annum):	12%

1 Pursuant to Chapter 4.60 of the Revised Code of Washington, Judgment by Confession,
2 defendants Zippy Cash, LLC and Daniel Van Gasken hereby authorize entry of a judgment
3 under the following terms:

4 **Factual Basis for Judgment**

5 The State of Washington, Department of Financial Institutions (Department), Zippy
6 Cash, LLC and Daniel M. Van Gasken have agreed upon a basis for resolution of the matters set
7 forth in the Department's Final Decision and Order Modifying Initial Findings of Fact, Initial
8 Conclusions of Law, and Initial Decision of Administrative Law Judge, No. C-06-186-07, entered
9 July 1, 2008, and modified on July 18, 2008 (Final Order). The agreement is memorialized in
10 an Agreed Order, which Agreed Order is attached hereto as Exhibit A and incorporated herein
11 by this reference. The agreement includes a joint and several payment obligation by Zippy
12 Cash LLC and Daniel Van Gasken. Simultaneous with the signing of this confession and the
13 Agreed Order attached hereto, defendants Zippy Cash LLC and Daniel Van Gasken have
14 agreed to make monthly payments to the Department in the amount of \$5,000 per month on or
15 before the 5th day of each month, beginning on March 5, 2010, with the final payment being
16 no later than November 5, 2010. Pursuant to chapter 4.60 RCW, respondents Zippy Cash LLC
17 and Daniel Van Gasken authorize the Department to present this Confession of Judgment in
18 the amount of \$45,000, plus any unpaid accrued interest, for the purpose of the entry if
19 defendants fail to timely make any of these monthly payments. This \$45,000 amount is based
20 entirely upon an agreed upon fine.

21 //

22 //

23 //

24 //

25 //

26 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Authorization for Entry of Judgment

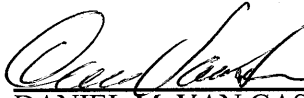
I, Daniel M. Van Gasken, being duly sworn upon oath, acknowledge my debt of \$45,000 to the State of Washington, Department of Financial Institutions, and I authorize entry of judgment against me, under the conditions specified above, for the amount set forth in the judgment summary above.

As the authorized representative of Zippy Cash, LLC, I also acknowledge this same joint and several debt of \$45,000 to the State of Washington, Department of Financial Institutions on behalf of Zippy Cash, LLC, and authorize entry of judgment against Zippy Cash, LLC, under the conditions specified above, for the amount set forth in the judgment summary above.

DATED this 5th day of February, 2010.

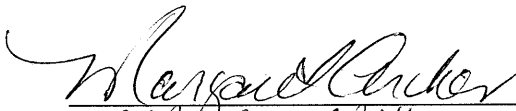


DANIEL M. VAN GASKEN, Individually



DANIEL M. VAN GASKEN,
Managing Member and Owner
Zippy Cash, LLC

SUBSCRIBED AND SWORN TO before me in Tacoma, Washington this 5 day of February, 2010.



MARGARET ARCHER
Notary Public in and for the State of
Washington, residing at TACOMA,
Washington.
My Commission expires: 7/11/2013



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

Order for Entry

The above Confession of Judgment having been presented to this Court for entry in accordance with RCW 4.60.070, the Court having found said Confession of Judgment to be sufficient, now, therefore, it is hereby

ORDERED that the Clerk of this Court shall forthwith enter Judgment against Zippy Cash, LLC and Daniel Van Gasken in accordance with the terms of the Confession of Judgment.

DONE IN OPEN COURT this _____ day of _____, 2010.

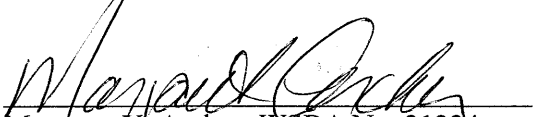
JUDGE/COURT COMMISSIONER

Presented by:

ROBERT M. MCKENNA
Attorney General

CHARLES E. CLARK
Assistant Attorney General
WSBA No. 28918
Attorneys for State of Washington
Department of Financial Institutions

Approved as to form, notice of presentation waived:
GORDON THOMAS HONEYWELL LLP


Margaret Y. Archer, WSBA No. 21224
Attorneys for Respondents

2/5/2010
Date



State of Washington
DEPARTMENT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF:

ZIPPY CASH, LLC, d/b/a/ ZIPPY CASH
and d/b/a ADVANCE TIL PAYDAY, and
DANIEL M. VAN GASKEN, Managing
Member and Executive Trustee,

Respondents.

DOCKET NO. 2007-DEPARTMENT-0001
DEPARTMENT NO. C-06-186-07

ORDERING GRANTING PETITION FOR
RECONSIDERATION & AMENDING
DEPARTMENT'S FINAL DECISION AND
ORDER MODIFYING INITIAL FINDINGS
OF FACT, INITIAL CONCLUSIONS OF
LAW, AND INITIAL DECISION OF
ADMINISTRATIVE LAW JUDGE

THIS MATTER has come again before the Director (hereinafter, "Director") of the Washington State Department of Financial Institutions (hereinafter, "Department") on a Petition for Reconsideration, dated July 9, 2008, by the Division of Consumer Services (hereinafter, the "Division"), requesting that the \$13,800 awarded against Zippy Cash, LLC (hereinafter, "Zippy Cash") and Daniel M. Van Gasken (hereinafter, "Van Gasken"), jointly and severally, by Administrative Law Judge Brian O. Watkins (hereinafter, "Administrative Law Judge") in his Findings of Fact (hereinafter, "FOF"), Conclusions of Law (hereinafter, "COL") and Initial Order dated April 4, 2008 (hereinafter, "Initial Order) be confirmed by way of amending the Department's Final Decision and Order dated July 1, 2008.

1.0 Division's Petition for Reconsideration

The Director notes preliminarily that, notwithstanding a Summons and Petition for Judicial Review in Pierce County Superior Court by Zippy Cash and Van Gasken, dated July 10,

2008, the Director still retains jurisdiction for purposes of deciding this pending Petition for Reconsideration. Moreover, this Petition for Reconsideration has been timely filed. *See* RCW 34.05.470. Therefore, the Director is privileged to consider the Division's Petition for Reconsideration.

In considering the Division's Petition for Reconsideration, the Director notes, first of all, that the failure to confirm in the Final Decision and Order the Administrative Law Judge's award of investigative fees, as set forth in Paragraph 4 of the Initial Order (*see* Initial Order, p. 28) was an oversight by the Director and does not reflect a reticence to grant reasonable investigative fees.

The Director also notes that Zippy Cash and Van Gasken did not file an objection to the Petition for Reconsideration.

The Administrative Law Judge found that the Department's staff had spent 200 staff hours on its investigation of Zippy Cash. *See* FOF 94. This was supported by substantial evidence at the hearing. The Administrative Law Judge concluded that the Department may charge an "investigative fee" at the hourly rate of \$69.00 per person per hour expended, plus actual expenses, relying upon RCW 31.45.050(1), RCW 31.45.100, and WAC 208-630-380. *See* COL 29. Based upon this application of the law to FOF 94, the Administrative Law Judge further concluded that (1) the Division's staff spent 200 hours on its investigation of Zippy Cash and (2) Zippy Cash and Van Gasken are liable, jointly and severally to pay the Department \$13,800 (\$69 x 200 hours). COL 94 was supported by the law and substantial evidence.

There being no opposition from Zippy Cash or Van Gasken to the Petition for Reconsideration, the Director can only consider the Petition for Reconsideration as filed by the Division on July 9, 2008. The Division's request is supported by substantial law and evidence.

The Director therefore agrees with the Division that the Department is entitled to investigative fees from Zippy Cash and Van Gasken, jointly and severally, in the amount of \$13,800.

2.0 Amendment to Final Decision and Order

For all of the reasons set forth above, IT IS HEREBY ORDERED:

2.1 Petition for Reconsideration Granted. The Division's Petition for Reconsideration dated July 9, 2008, is hereby granted.

2.2 Amendment. The Department's Final Decision and Order, dated July 1, 2008, is hereby amended to provide that Zippy Cash, LLC, and Daniel M. Van Gasken are liable to the Department, jointly and severally, for investigative fees in connection with this matter in the sum of Thirteen Thousand Eight Hundred Dollars (\$13,800.00).

2.3 All Other Provisions of Final Decision and Order in Effect. Except as set forth in Sub-Paragraph 2.2 above, all other provisions of the Department's Final Decision and Order shall remain in effect and un-altered.

2.4 Effectiveness and Enforcement of Amendment to Final Decision and Order. Pursuant to the Administrative Procedures Act, at RCW 34.05.473, this Amendment to the Final Decision and Order shall be effective immediately upon deposit in the United States Mail; *provided, however,* that all fines and restitution imposed herein shall be fully paid not more than thirty days from the date of this Final Decision and Order, and, to the extent left unpaid, shall be thereafter subject to immediate execution as provided in Subsection 2.11 below.

2.5 Stay of Order. The Director has determined not to consider a petition to stay the effectiveness of this Amendment to the Final Decision and Order. Any such requests should be made in connection with a petition for judicial review made under the Administrative Procedures Act, Chapter 34.05 RCW, including RCW 34.05.550.

4.10 Judicial Review. Zippy Cash and Van Gasken each have the right to petition the superior court for judicial review of the Department's action under the provisions of the Administrative Procedures Act, Chapter 34.05 RCW.

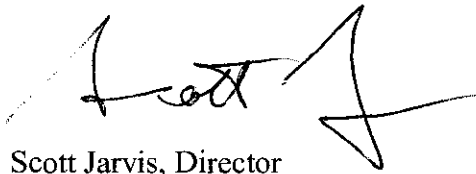
4.11 Non-Compliance with Final Decision and Order. If Zippy Cash and/or Van Gasken do not comply with the terms of this order, the Department may seek enforcement by the Office of Attorney General to include the collection of the fines, fees and restitution imposed herein. Failure to comply with this Amendment to the Final Decision and Order may also prompt action against Zippy Cash by the Department, as permitted by the Check Cashers and Check Seller's Act, Chapter 31.45 RCW, for failure to comply with a lawful order of the Department.

4.12 Service. For purposes of filing a petition for judicial review, service of this Final Decision and Order is effective upon its having been deposited in the United States Mail with a declaration of service attached hereto.

Dated at Tumwater, Washington, on this 18th day of July, 2008.

WASHINGTON STATE DEPARTMENT
OF FINANCIAL INSTITUTIONS

By:


Scott Jarvis, Director