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AUG 16 2011

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Check Cashers and Sellers Act of Washington by:

No. C-09-269-11-CO02

CONSENT ORDER AS TO
RESPONDENT GARY W. ZACHER

ACCESS CASH, INC. d/b/a PAYDAY
ADVANCE, GARY W. ZACHER, and JILL M.
ZACHER,
Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Gary W. Zacher, former co-owner, officer, and director of Access Cash, Inc. (Respondent), and finding that the issues raised in the above-captioned matter as related to Respondent may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.45 of the Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent have agreed upon a basis for resolution of the matters as related to Respondent alleged in Statement of Charges No. C-09-269-10-SC01 (Statement of Charges), entered April 27, 2010, incorporated herein by reference and attached hereto. Pursuant to chapter 31.45, the Check Cashers and Sellers Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees to the Department's entry of this Consent Order, which the parties intend to fully resolve the Statement of Charges as related to Respondent.

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1 Based upon the foregoing:

2 **A. Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter
3 of the activities discussed herein.

4 **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a
5 hearing before an administrative law judge, and hereby waives the right to a hearing and to any and
6 all administrative and judicial review of the issues raised in this matter, or of the resolution reached
7 herein. Accordingly, by signing below, Respondent withdraws the appeal of the Statement of
8 Charges to the Office of Administrative Hearings.

9 **C. Admissions.** Respondent admits that in some small loan transactions made pursuant to
10 the Act, Respondent did not allow borrowers to convert their small loans to payment plans. In
11 addition, Respondent admits allowing some borrowers to use a new loan to pay off an existing loan
12 from Access Cash, Inc., collecting additional fees for the “rollover” of the existing loan. With these
13 exceptions, Respondent neither admits nor denies the Factual Allegations of the Statement of
14 Charges as related to Respondent.

15 **D. Prohibition from Industry.** It is AGREED that, for ten years from the date of entry of
16 this Consent Order, Respondent is prohibited from participating in the conduct of the affairs of any
17 entity licensed by the Department or subject to licensure or regulation by the Department, including
18 in any active or passive financial capacity or as an owner, director, principal, partner, or member.

19 **E. Fine.** It is AGREED that upon entry of this Consent Order Respondent shall pay to the
20 Department a fine of \$2,500. Payment must be made in the form of a cashier’s check payable to the
21 “Washington State Treasurer.”

22 **F. Investigation Fee.** It is AGREED that upon entry of this Consent Order Respondent
23 shall pay to the Department an investigation fee of \$500. Payment must be made in the form of a

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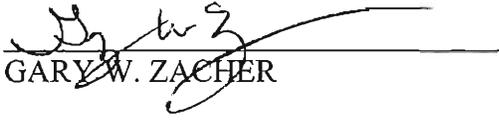
1 cashier's check payable to the "Washington State Treasurer." The fine and investigation fee may be
2 paid in one \$3,000 cashier's check payable to the "Washington State Treasurer."

3 **G. Non-Compliance with Order.** It is AGREED that Respondent understands that failure
4 to abide by the terms and conditions of this Consent Order may result in further legal action by the
5 Director. In the event of such legal action, Respondent may be responsible to reimburse the Director
6 for the cost incurred in pursuing such action, including but not limited to, attorney fees.

7 **H. Voluntarily Entered.** It is AGREED that Respondent has voluntarily entered into this
8 Consent Order, which is effective when signed by the Director's designee.

9 **I. Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read
10 this Consent Order in its entirety and fully understands and agrees to all of the same.

11 **RESPONDENT:**

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13 GARY W. ZACHER

12 8/16/2011
13 Date

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DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 17th DAY OF August, 2011.



Deborah Bortner

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

Anthony W. Carter

ANTHONY W. CARTER
Senior Enforcement Attorney

Approved by:

James R. Brusselback

JAMES R. BRUSSELBACK
Enforcement Chief

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING
Whether there has been a violation of the Check
Cashers and Sellers Act of Washington by:

ACCESS CASH INC. d/b/a PAYDAY ADVANCE,
Licensee, and
GARY W. ZACHER, Co-Owner, Vice-President,
Director and Chief Financial Officer, and
JILL M. ZACHER, Co-Owner,

Respondents.

NO. C-09-269-10-SC01

STATEMENT OF CHARGES and NOTICE
OF INTENTION TO ENTER AN ORDER TO
BAN FROM INDUSTRY, IMPOSE FINE,
ORDER RESTITUTION, AND COLLECT
INVESTIGATION FEE

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INTRODUCTION

Pursuant to RCW 31.45.110 and RCW 31.45.200, the Director of the Department of Financial
Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.45 RCW,
the Check Cashers and Sellers Act (Act). After having conducted an investigation pursuant to RCW 31.45.100,
and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee,
Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

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I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. **Access Cash Inc. (Respondent Access)** was licensed by the Department of Financial
Institutions of the State of Washington (Department) to conduct business as a check casher with a small loan
endorsement and a check seller on May 17, 2006, and has continued to be licensed to date. Respondent
Access, at all times relevant to this Statement of Charges, was licensed to conduct the business of a check
casher with a small loan endorsement and a check seller at 8765 Tallon Ln. N.E. Ste. K, Lacey, Washington
and 5710 Ruddell Rd. S.E. Ste. 6, Lacey, Washington.

1 conduct acts to his or her injury or damage, for committing an act or engaging in conduct that demonstrates
2 incompetence or untrustworthiness, or is a source of injury and loss to the public.

3 **2.2 Rollover Loans.** Based on the Factual Allegations set forth in Section I above, Respondents are in
4 apparent violation of WAC 208-630-770 for allowing borrowers to use a new loan to pay off an existing loan
5 by the same lender.

6 **2.3 Excessive Fees.** Based on the Factual Allegations set forth in Section I above, Respondents are in
7 apparent violation of RCW 31.45.073 for charging interest or fees in excess of the amount allowed by the
8 Act.

9 III. AUTHORITY TO IMPOSE SANCTIONS

10 **3.1 Authority to Ban from the Industry.** Pursuant to RCW 31.45.110(2)(e), the Director may remove
11 from office or ban from participation in the conduct of the affairs of any licensee any director, officer, sole
12 proprietor, partner, controlling person, or employee of a licensee that is violating or has violated the Act
13 including rules and orders, or commits any act or engages in conduct that demonstrates incompetence or
14 untrustworthiness, or is a source of injury or loss to the public.

15 **3.2 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a fine, not to
16 exceed one hundred dollars per day for each day's violation of the Act, on any licensee or applicant, or any
17 director, officer, sole proprietor, partner, controlling person, or employee of a licensee or applicant, that is
18 violating or has violated the Act including rules and orders, or commits any act or engages in conduct that
19 demonstrates incompetence or untrustworthiness, or is a source of injury or loss to the public.

20 **3.3 Authority to Order Restitution.** Pursuant to RCW31.45.110(2)(d) the Director may order restitution
21 to borrowers or other parties damaged by the licensee's violation of the Act.

22 **3.4 Authority to Collect Investigation Fee(s).** Pursuant to RCW 31.45.050(1), RCW 31.45.100, and
23 WAC 208-630-350 and WAC 208-630-380, the Director shall collect from the licensee the actual cost of an
24 examination or investigation of the business, books, accounts, records, files, or other information of a licensee or
25 person who the Director has reason to believe is engaging in the business governed by the Act. The charge will

1 be calculated at the rate of sixty-nine dollars (\$69) per hour that each staff person devoted to the examination or
2 investigation, plus actual expenses.

3 **IV. NOTICE OF INTENTION TO ENTER ORDER**

4 Respondents' violations of the provisions of chapter 31.45 RCW and chapter 208-630 WAC, as set forth
5 in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order
6 under RCW 31.45.110 and RCW 31.45.200. Therefore, it is the Director's intention to ORDER that:

- 7 **4.1** Respondents Gary Zacher and Jill Zacher be banned from participation in the conduct of the affairs of
8 any check casher or check seller subject to licensure by the Director, in any manner, for a period of 5
9 years;
- 9 **4.2** Respondent Access Cash Inc. d/b/a Payday Advance pay a fine which, as of the date of these charges,
10 totals \$1,000.
- 10 **4.3** Respondents Gary Zacher and Jill Zacher, jointly and severally pay a fine which, as of the date of these
11 charges, totals \$36,500;
- 12 **4.4** Respondents Access Cash Inc. d/b/a Payday Advance, Gary Zacher and Jill Zacher, jointly and severally
13 pay restitution to borrowers in an amount which, as of the date of these charges, totals \$4,700;
- 14 **4.5** Respondent Access Cash Inc. d/b/a Advance Payday, pay an investigation fee which, as of the date of
15 these charges, totals \$966, plus accrued interest; calculated at \$69 per hour for the 14 staff hours devoted
16 to the investigation.
- 16 **4.6** Respondents Gary Zacher and Jill Zacher, jointly and severally, pay an investigation fee which, as of the
17 date of these charges, totals \$3,657, plus accrued interest, calculated at \$69 per hour for the 53 staff
18 hours devoted to the investigation.
- 18 **4.7** Respondent Access Cash Inc. d/b/a Payday Advance maintain records in compliance with the Act and
19 provide the Department with the location of the books, records and other information relating to Respondent
20 Access Cash d/b/a Payday Advance's check casher and seller business, and the name, address and telephone
21 number of the individual responsible for maintenance of such records in compliance with the Act.

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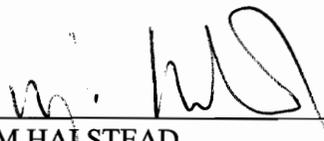
1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Ban from Industry, Impose
3 Fine, Order Restitution, and Collect Investigation Fee (Statement of Charges) is entered pursuant to the
4 provisions of RCW 31.45.110 and RCW 31.45.200, and is subject to the provisions of chapter 34.05 RCW
5 (The Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in
6 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying
7 this Statement of Charges.

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9 Dated this 27th day of April, 2010.

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11 
12 DEBORAH BORTNER
13 Director
14 Division of Consumer Services
15 Department of Financial Institutions

16 Presented by:

17 
18 WILLIAM HALSTEAD
19 Financial Legal Examiner



20 Approved by:

21 
22 JAMES R. BRUSSELBACK
23 Enforcement Chief