

ORDER SUMMARY – Case Number: C-15-1737

Name(s): ACE Cash Express, Inc.

Order Number: C-15-1737-16-CO01

Effective Date: 7/14/16

License Number: 13685
Or NMLS Identifier [U/L] _____

License Effect: Surrender

Not Apply Until: _____

Not Eligible Until: _____

Prohibition/Ban Until: _____

Investigation Costs	\$4,000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$25,000 \$25,000STAYED	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$47,421.50	Due	Paid <input type="checkbox"/> Y <input checked="" type="checkbox"/> N	Date
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments: Restitution to be paid within 90 days of CO

**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:

No. C-15-1737-16-CO01

CONSENT ORDER

ACE Cash Express, Inc., NMLS #13685,

Respondent.

COME NOW the Director of the Department of Financial Institutions (Director), through his designee Charles E. Clark, Division Director, Division of Consumer Services, and ACE Cash Express, Inc. (Respondent), and finding that the issues raised in the above-captioned matter 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 alleged in the attached Statement of Charges No. C-15-1737-16-SC01 (Statement of Charges), entered February 12, 2016. Pursuant to chapter 31.45 RCW, 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. The parties intend this Consent Order to fully resolve the Statement of Charges.

Based upon the foregoing:

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

B. Waiver of Hearing. It is AGREED that Respondent has been informed of the right to a hearing before an administrative law judge, and hereby waives its right to a hearing and any and all

1 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.
2 Accordingly, Respondent, by the signature of its authorized representative below, withdraws its appeal
3 to the Office of Administrative Hearings.

4 **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the Statement
5 of Charges and agree that Respondent does not admit to any wrongdoing by its entry.

6 **D. License Surrender.** It is AGREED that Respondent ceased all Washington business in August
7 2015, and began the process of voluntarily surrendering its Check Casher and Seller License, as well as
8 its Small Loan Endorsement to that license, at that time. It is further AGREED and ORDERED that
9 Respondent shall complete the license surrender process within 60 days of entry of this Consent Order.

10 **E. Restitution.** It is AGREED and ORDERED that Respondent will pay restitution in the amount
11 of \$47,421.50 to the Washington consumers referenced on Appendix A of this Consent Order. This
12 amount shall be deposited into the IOLTA account of a Washington-licensed attorney or the escrow
13 account of a Department-licensed Escrow Agent within 60 days of entry of this Consent Order.
14 Respondent shall notify the Department of the identity of the attorney or Escrow Agent at the time of
15 deposit, and shall instruct the attorney or Escrow Agent to disburse the funds to the identified
16 Washington consumers within 60 days of receipt of the funds. Respondent shall ensure that the
17 Department receives a copy of each refund check at the time of issuance. Any funds which have not
18 been successfully refunded within 60 days shall be forfeited to the Department of Revenue as unclaimed
19 funds. All costs associated with distribution of restitution and remittance of unclaimed funds to the
20 Department of Revenue shall be borne by Respondent.

21 **F. Fine.** It is AGREED and ORDERED that Respondent is liable to the Department for a fine of
22 \$50,000. It is further AGREED and ORDERED that payment of \$25,000 of the fine is STAYED
23 contingent upon Respondent's compliance with the terms of this Consent Order. The remaining \$25,000
24 fine shall be paid pursuant to Paragraph G, below.

1 **G. Investigation Fee.** It is AGREED and ORDERED that Respondent shall pay an investigation
2 fee of \$4,000. The Fine and Investigation Fee shall be paid to the Department in the amount of \$29,000
3 in the form of a cashier's check made payable to the "Washington State Treasurer" and sent to the
4 Department prior to entry of this Consent Order via overnight delivery.

5 **H. Lifting of Stay.** It is AGREED and ORDERED that:

- 6 1. If the Department determines Respondent has not complied with this Consent Order and
7 seeks to lift the stay and impose the \$25,000 stayed fine, the Department will first serve
8 Respondent with a written notice of noncompliance. The notice of noncompliance will
9 include:
 - 10 a. A description of the alleged noncompliance;
 - 11 b. A statement that the Department seeks to lift the stay and impose the stayed fine;
 - 12 c. Notice that Respondent can contest the allegations of noncompliance by either
13 requesting an adjudicative hearing in writing or by submitting a written response to the
14 allegations of noncompliance; and
 - 15 d. Notice that the process for lifting the stay applies only to this Consent Order.
- 16 2. Respondent will be afforded ten (10) business days from the date of service of the notice of
17 noncompliance to submit to the Department either a written request for an adjudicative
18 hearing or a written response to the allegations of noncompliance.
- 19 3. The scope and issues of the adjudicative hearing are limited solely to whether or not
20 Respondent has failed to comply with the terms of this Consent Order.
- 21 4. At the conclusion of the adjudicative hearing the Administrative Law Judge will issue an
22 initial decision. Either party may subsequently file a Petition for Review with the Director
23 of the Department.
- 24 5. In lieu of requesting an adjudicative hearing, within ten (10) business days from the date of
 service of the notice of noncompliance, Respondent may submit to the Department a
 written response to the allegations of noncompliance for consideration by the Department.
 The response must include a waiver of the right to an adjudicative hearing, may address the
 allegations of noncompliance, and may seek an alternative resolution to lifting the stay and
 imposing the \$25,000 stayed fine.
6. **Default.** If Respondent does not timely request an adjudicative hearing or submit a written
 response to the notice of noncompliance, the Department may lift the stay and impose the
 \$25,000 stayed fine without further notice.


23 **I. Authority to Execute Order.** It is AGREED that Respondent's authorized representative has
24 warranted that he has the authority to execute this Consent Order on behalf of Respondent.

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

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

L. Completely Read, Understood, and Agreed. It is AGREED that Respondent's authorized representative has read this Consent Order in its entirety and fully understands and agrees to all of the same.

BY RESPONDENT:
ACE Cash Express, Inc.



TED MICHAEL EADES
Executive Vice President and COO

07/11/16
Date


DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 14th DAY OF JULY, 2016.





CHARLES E. CLARK
Director, Division of Consumer Services
Department of Financial Institutions

Presented by:


KENNETH J. SUGIMOTO
Financial Legal Examiner

Approved by:


STEVEN C. SHERMAN
Chief of Enforcement

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:

ACE CASH EXPRESS, INC.,

Respondent.

No. C-15-1737-16-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENT TO ENTER AN
ORDER TO REVOKE LICENSE, ORDER
RESTITUTION, IMPOSE FINE, AND
COLLECT INVESTIGATION FEES

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). Having conducted an examination and investigation pursuant to RCW 31.45.100, and based upon the facts available on the date of this Statement of Charges, the Director, through his designee, Division of Consumer Services Director Charles E. Clark, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondent Ace Cash Express, Inc. (Respondent), a financial services company headquartered in Irving, Texas, is an active Washington for-profit corporation. Respondent was first licensed by the Department of Financial Institutions (Department) on September 12, 2006, as a check casher and seller with a small loan endorsement.¹ Respondent advised the Department on May 21, 2015, that it would be surrendering its license and closing all operations in Washington effective August 8, 2016. Respondent requested to surrender its check casher and seller license on January 25, 2016, but did not submit all required paperwork to the Department.

¹ The small loan endorsement is required to make small loans in Washington. Licensees are required to set the due date for repayment of small loans to a date on or after the borrower's next pay day, hence "payday loans." Throughout this Statement of Charges we use the phrase "payday loans" in lieu of "small loans," as they mean the same.

1 **1.2 Examination.** In February 2015, Respondent's business practices were examined by a team of
2 Financial Examiners from the Department's Division of Consumer Services (Division). The on-site
3 examination was conducted at 10 Department-licensed branch locations, and included payday loans
4 made to Washington borrowers between January 1, 2010, and April 28, 2015. The examination
5 revealed numerous violations of the Act, including that Respondent had failed to record that more
6 than 1,700 borrowers had defaulted on payday loans originated by Respondent during the
7 examination period. As a result, those ineligible Washington borrowers obtained more than 4,000
8 subsequent payday loans from other Washington-licensed payday lenders.

9 **1.3 Prohibited Payday Loans.** The examination also revealed that Respondent made more than
10 700 prohibited payday loans to more than 360 Washington borrowers, collecting more than \$48,000
11 in loan and default fees.

12 **A. Statutory Loan Limit.** Respondent made more than 160 prohibited payday loans to
13 more than 65 Washington borrowers who had met or exceeded their statutory payday
14 loan limit of eight loans in a rolling 12 month period. Respondent collected at least
\$10,000 in loan and default fees for making the prohibited payday loans.

15 **B. Principal Balance Limit.** Respondent made more than 300 prohibited payday loans to
16 more than 190 Washington borrowers causing their payday loan principal balance to
17 exceed the statutory limit of \$700 or 30% of the borrowers' gross monthly income.
Respondent collected at least \$21,100 in loan and default fees for making the prohibited
payday loans.

18 **C. Borrowers in Installment Plans.** Respondent made more than 150 prohibited payday
19 loans to more than 75 Washington borrowers who were already on installment plans and
therefor ineligible for another payday loan. Respondent collected at least \$12,000 in loan
and default fees for making the prohibited payday loans.

20 **D. Borrowers in Default.** Respondent made more than 95 prohibited payday loans to
21 more than 40 Washington borrowers who were already in default and therefor ineligible
22 for another payday loan. Respondent collected at least \$5,750 in loan and default fees
for making the prohibited payday loans.

23 **E. Communication Log.** Respondent failed to maintain a communication log of all
24 telephone and written communications it initiated with Washington borrowers
regarding its collection efforts for payday loans in default, including the date, time, and
the nature of each communication.

1 **1.4 Failure to Comply with the Director's Investigative Authority.** On May 21, 2015,
2 Respondent notified the Department that it intended to close all Washington payday loan operations.
3 On August 18, 2015, the Division's Licensing Unit advised Respondent that it was required to file
4 with the Department closure documents, including a list of all open payday loans for the 37 branch
5 locations being closed. During September and November 2015 the Licensing Unit renewed this
6 request six times. Respondent did not comply with these requests. Consequently, on December 1,
7 2015, the Division's Enforcement Unit issued a Directive to Respondent requiring (1) a detailed
8 written explanation of its failure to comply with the requests to complete the closure process, and
9 (2) production of the completed closure forms and the required list of all open payday loans. The
10 response was due January 29, 2016. On January 25, 2016, Respondent requested to surrender its
11 check casher and sellers license and produced the completed closure forms. However, as of February
12 10, 2016, Respondent had not provided the required detailed written explanation of its failure to
13 comply with the Licensing Unit's requests to complete the closure process, nor had it produced the
14 required list of open payday loans.

15 **1.5 On-going Investigation.** The Department's investigation into the alleged violations of the Act
16 by Respondent continues to date.

17 **II. GROUNDS FOR ENTRY OF ORDER**

18 **2.1 Definition of Small Loan.** Pursuant to RCW 31.45.010(21), "Small Loan" means a loan up to
19 the maximum amount and for the maximum term specified in RCW 31.45.073.

20 **2.2 Definition of Borrower.** Pursuant to RCW 31.45.010(2), "Borrower" means a natural person
21 who receives a payday loan.

22 **2.3 Definition of Default.** Pursuant to RCW 31.45.010(9), "Default" means, in part, a borrower's
23 failure to repay the payday loan in compliance with the payday loan agreement or note or failure to
24 make any installment plan payment as agreed.

1 **2.4 Definition of Principal.** Pursuant to RCW 31.45.010(19), "Principal" means the loan proceeds
2 advanced for the benefit of the borrower in a payday loan, excluding any fee or interest charge.

3 **2.5 Definition of Installment Plan.** Pursuant to RCW 31.45.010(12), "Installment plan" means a
4 contract between a licensee and borrower that provides that the payday loan will be repaid in
5 substantially equal installments scheduled on or after a borrower's pay dates.

6 **2.6 Statutory Maximum Number of Payday Loans.** Based on the Factual Allegations set forth in
7 Section I above, Respondent is in apparent violation of RCW 31.45.073(4) for making payday loans
8 to Washington borrowers that resulted in those borrowers receiving more than eight payday loans
9 from all licensees in any twelve-month period.

10 **2.7 Statutory Maximum Principal Amount/Balance of Payday Loans.** Based on the Factual
11 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.45.073(2)
12 and (5) for making payday loans to Washington borrowers that resulted in those borrowers receiving
13 more than the maximum principal amount, or more than the outstanding principal balance of all
14 payday loans made by all licensees to a single borrower at any one time, which may not exceed \$700
15 or 30% of the gross monthly income of the borrower, whichever is lower.

16 **2.8 Prohibition against Making Payday Loans to Borrowers in Installment Plans.** Based on
17 the Factual Allegations set forth in Section I above, Respondent is in apparent violation of
18 RCW 31.45.073(3) for making payday loans to Washington borrowers who were in an installment
19 plan on another payday loan.

20 **2.9 Prohibition against Making Payday Loans to Borrowers in Default.** Based on the
21 Factual Allegations set forth in Section I above, Respondent is in apparent violation of
22 RCW 31.45.073(2) for making payday loans to Washington borrowers who were in default on
23 another payday loan.

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1 **2.10 Requirement to Comply with Recordkeeping.** Based on the Factual Allegations set forth in
2 Section I above, Respondent is in apparent violation of RCW 31.45.060(2) for failing to keep and
3 maintain records by failing to maintain the communication log required by RCW 31.45.082(4).

4 **2.11 Requirement to Comply with Director's Investigative Authority.** Based on the Factual
5 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.45.100 for
6 failing to comply with a Directive issued under the Director's investigative authority.

7 **III. AUTHORITY TO IMPOSE SANCTIONS**

8 **3.1 Authority to Revoke Licenses.** Pursuant to RCW 31.45.110(2)(a), the Director may
9 revoke a license if a licensee is violating or has violated the Act, including the rules promulgated
10 thereunder, is a source of injury or loss to the public, or commits any act, or engages in conduct, that
11 demonstrates incompetence or untrustworthiness.

12 **3.2 Authority to Order Restitution.** Pursuant to RCW 31.45.110(2)(d), the Director may order
13 payment of restitution to Washington borrowers damaged by a licensee's violation of the Act.

14 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a
15 fine on a license if a licensee is violating or has violated the Act, including the rules promulgated
16 thereunder, is a source of injury or loss to the public, or commits any act, or engages in conduct, that
17 demonstrates incompetence or untrustworthiness. The fine may not exceed one hundred dollars per
18 day, per violation, for each violation of the Act.

19 **3.4 Authority to Collect Investigation Fees.** Pursuant to RCW 31.45.050(1) and RCW
20 31.45.100, the Director shall collect from the licensee the actual cost of an investigation of a
21 licensee. Pursuant to WAC 208-630-380, the investigation fees will be calculated at the rate of
22 sixty-nine dollars (\$69) per hour that each staff person devoted to the investigation, plus actual costs.

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IV. NOTICE OF INTENT TO ENTER ORDER

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

- 4.1 Respondent Ace Cash Express, Inc.'s Washington license to conduct the business of a check casher and seller with a small loan endorsement be revoked.
- 4.2 Respondent Ace Cash Express, Inc. pay restitution to Washington borrowers damaged by Respondent's violations of the Act. As of the date of this Statement of Charges the amount of restitution is \$47,421.50; as the Department's investigation into Respondent's alleged violations of the Act continues the amount of restitution may increase.
- 4.3 Respondent Ace Cash Express, Inc. pay a fine to the Department. As of the date of this Statement of Charges the amount of the fine is \$50,000.00; as the Department's investigation into Respondent's alleged violations of the Act continues the amount of the fine may increase.
- 4.4 Respondent Ace Cash Express, Inc. pay investigation fees to the Department. As of the date of this Statement of Charges the amount of the investigative fees is \$1,725.00; as the Department's investigation into Respondent's alleged violations of the Act continues, the amount of investigative fees may increase.

V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intent to Enter an Order to Revoke License, Order Restitution, Impose Fine, and Collect Investigation Fees (Statement of Charges) is entered pursuant to the provisions of RCW 31.45.110 and RCW 31.45.200, and is subject to the provisions of chapter 34.05 RCW, the Administrative Procedures Act. Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

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1 Dated this 12th day of February, 2016.



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CHARLES E. CLARK
Director, Division of Consumer Services
Department of Financial Institutions

Presented by:

ANTHONY W. CARTER
Financial Legal Examiner

KENNETH J. SUGIMOTO
Financial Legal Examiner

Approved by:

STEVEN C. SHERMAN
Enforcement Chief