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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:

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

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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). 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:

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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.

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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
15 \$10,000 in loan and default fees for making the prohibited payday loans.

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

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

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

E. Communication Log. Respondent failed to maintain a communication log of all
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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1 **IV. NOTICE OF INTENT TO ENTER ORDER**

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

- 6 **4.1** Respondent Ace Cash Express, Inc.'s Washington license to conduct the business of
7 a check casher and seller with a small loan endorsement be revoked.
- 8 **4.2** Respondent Ace Cash Express, Inc. pay restitution to Washington borrowers
9 damaged by Respondent's violations of the Act. As of the date of this Statement of
10 Charges the amount of restitution is \$47,421.50; as the Department's investigation
11 into Respondent's alleged violations of the Act continues the amount of restitution
12 may increase.
- 13 **4.3** Respondent Ace Cash Express, Inc. pay a fine to the Department. As of the date of
14 this Statement of Charges the amount of the fine is \$50,000.00; as the Department's
15 investigation into Respondent's alleged violations of the Act continues the amount
16 of the fine may increase.
- 17 **4.4** Respondent Ace Cash Express, Inc. pay investigation fees to the Department. As of
18 the date of this Statement of Charges the amount of the investigative fees is
19 \$1,725.00; as the Department's investigation into Respondent's alleged violations
20 of the Act continues, the amount of investigative fees may increase.

21 **V. AUTHORITY AND PROCEDURE**

22 This Statement of Charges and Notice of Intent to Enter an Order to Revoke License, Order
23 Restitution, Impose Fine, and Collect Investigation Fees (Statement of Charges) is entered pursuant
24 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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4 CHARLES E. CLARK
Director, Division of Consumer Services
Department of Financial Institutions

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7 Presented by:



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9 ANTHONY W. CARTER
Financial Legal Examiner



10 KENNETH J. SUGIMOTO
Financial Legal Examiner

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12 Approved by:



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14 STEVEN C. SHERMAN
Enforcement Chief