

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.<sup>1</sup> 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.

<sup>1</sup> 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 12<sup>th</sup> day of February, 2016.



[Redacted signature]

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

7 Presented by:

8 [Redacted signature]

9 ANTHONY W. CARTER  
10 Financial Legal Examiner

[Redacted signature]

KENNETH J. SUGIMOTO  
Financial Legal Examiner

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12 Approved by:

13 [Redacted signature]

14 STEVEN C. SHERMAN  
15 Enforcement Chief