STATE OF CALIFORNIA

BUSINESS, TRANSPORTATION AND HOUSING AGENCY

DEPARTMENT OF CORPORATIONS

TO: **ZIPPY'S CURRENCY X-CHANGE, INC. DOING BUSINESS AS POWER CHECK CASHING PAYDAY ADVANCE, CASH COW PAYDAY ADVANCE AND WESTERN AVENUE CHECK CASHING**
DOUG DECOSTER
MARK ZIPPERT
CAROL ZIPPERT
18016 S. Western Ave.
Gardena, California 90248
and
600 W. Sepulveda Blvd.
Carson, California 90745

CITATIONS
AND
DESIST AND REFRAIN ORDER
AND
ORDER TO VOID DEFERRED DEPOSIT TRANSACTIONS
(For violations of California Financial Code § 23005)

The California Corporations Commissioner finds that:

1. At all relevant times herein, Zippy's Currency X-Change, Inc., doing business as Power Check Cashing Payday Advance, Cash Cow Payday Advance and Western Avenue Check Cashing ("Zippy's") was a California corporation.

2. At all relevant times herein, Mark Zippert ("Zippert") was a control person of Zippy's.

3. At all relevant times herein, Carol Zippert was a control person of Zippy's.

4. At all relevant times herein, Doug DeCoster ("DeCoster") was a control person of Zippy's.

5. Zippy's was a deferred deposit originator licensed by the Department of Corporations ("Department") under the California Deferred Deposit Transaction Law ("CDDTL")

(California Financial Code section 23000 et seq.) at its two locations: 18016 S. Western Ave., Gardena, California 90248 (License No. 100-2684) ("Gardena Store") and 600 W. Sepulveda Blvd., Carson, California 90745 (License No. 100-2685) ("Carson Store").

6. Zippy's has been subject to numerous administrative actions taken by the Department for violations of the CDDTL. Since 2005, the Department has taken the following administrative actions against Zippy's for violating the CDDTL:

(1) On December 6, 2005, the Department issued an order against Zippy's and DeCoster to Desist and Refrain from originating deferred deposit transactions without a license;

(2) On April 15, 2009, the Department issued an order revoking Zippy's CDDTL licenses for failure to file an annual report. The order was subsequently rescinded upon filing of the annual report prior to the effective date of the revocation.

(3) On April 8, 2010, the Department issued an order revoking Zippy's CDDTL licenses for failure to file an annual report. The order was subsequently rescinded upon filing of the annual report prior to the effective date of the revocation.

(4) On June 17, 2010, the Department issued a Notice of Intention to issue an order revoking Zippy's CDDTL licenses for failuire to maintain a surety bond. The Notice of Intention was set aside upon filing of a surety bond.

(5) On September 3, 2010, the Department issued an order revoking Zippy's CDDTL licenses for failure to pay the invoices for the Department's regulatory examination. The order was subsequently rescinded upon payment of the invoices prior to the effective date of the revocation.

7. Under California Financial Code section 23016, all CDDTL licensees are required to pay an annual assessment to the Department. On August 13, 2010, the Department issued an Order Revoking California Deferred Deposit Transaction Law License Pursuant to Financial Code section 23010 to Zippy's ("August 2010 Revocation Order") due to Zippy's failure to pay their annual assessment. The August 2010 Revocation Order ordered that if Zippy's failed to pay their annual assessment and a late payment penalty by close of business on August 27, 2010, the revocation order would go into effect on August 30, 2010, and Zippy's CDDTL licenses would be revoked.

8. Zippy's sent a check to the Department in the amount of $1,938.46 ("Assessment

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Check") prior to the August 27, 2010 deadline and the Department issued an Order Setting Aside Order Revoking California Deferred Deposit Transaction Law License Pursuant to Financial Code section 23010.

9. The Department attempted to cash the Assessment Check, but the check was returned with a "Not Sufficient Funds" notation. On September 22, 2010, the Department sent a letter to Zippy's informing them that their Assessment Check was returned for non sufficient funds, and that Zippy's must send a new check to the Department within 15 business days of September 22, 2010, in the amount of $1,948.36, which consisted of the original annual assessment and late penalty, plus an additional $10 dishonored check service charge. The letter noted that Zippy's would be subject to possible penalties, suspension and revocation if they failed to send in a new check by the deadline. Zippy's did not send a new check by the 15 business day deadline.

10. On October 25, 2010, the Special Administrator for the CDDTL ("Special Administrator") sent an email to Zippy's designated contact person, DeCoster, reminding him that Zippy's had failed to send in a new check and that failure to respond to the second request will result in a revocation action. The Special Administrator also sent an identical letter by certified mail to Zippy's on October 26, 2010. A return receipt was signed by an individual at the Carson Store on October 27, 2010, evidencing receipt of the letter. Zippy's failed to either send in a new check or respond to the Department's letters.

11. On November 18, 2010, the Department issued another Order Revoking California Deferred Deposit Transaction Law License Pursuant to Financial Code section 23010 ("November 2010 Revocation Order"). The November 2010 Revocation Order ordered that if Zippy's failed to send a new check to the Department by December 6, 2010, the revocation order would go into effect on December 7, 2010. The November 2010 Revocation Order was served on Zippy's by certified mail and the return receipt was signed by an individual at the Carson Store on November 19, 2010, evidencing receipt of the November 2010 Revocation Order. Zippy's failed to either send in a new check or request a hearing on the November 2010 Revocation Order.

12. On December 7, 2010, the November 2010 Revocation Order went into effect and Zippy's two CDDTL licenses, License Nos. 100-2684 and 100-2685, for the Gardena Store and

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Carson Store, respectively, were revoked.

13. On July 28, 2011, the Department sent a Corporations Examiner ("Examiner") to the Gardena Store and Carson Store to conduct a special examination and determine whether or not Zippy's was originating deferred deposit transactions without a license in violation of California Financial Code section 23005 (a).

14. The Examiner first arrived at the Carson Store which now advertised itself as "Cash Cow Payday Advance." The Examiner confirmed with an employee that the Carson Store offered deferred deposit transactions. The Examiner also obtained an application form which had "Power Payday Advance" on it, and a business card with the name "Power Check Cashing Payday Advance." The Examiner observed that no license was posted at the Carson Store.

15. The Examiner then arrived at the Gardena Store and spoke with Zippert. Zippert assisted the Examiner and confirmed that they offer deferred deposit transactions. The Examiner then requested that Zippert provide a record of all deferred deposit transactions generated by the Gardena Store between December 7, 2010 and July 28, 2011. The Gardena Store's records reflect that between December 7, 2010 and July 28, 2011, the Gardena Store originated 1,537 deferred deposit transactions of which the total financed amount was $361,480.12 and fees collected were $63,362.80. Zippert informed the Department that the Carson Store had been sold since January 1, 2010.

16. On August 15, 2011, the Examiner returned to the Carson Store and met with DeCoster. The Examiner requested that DeCoster provide the Department with a record of all deferred deposit transactions generated by the Carson Store between December 7, 2010 and August 15, 2011. The Carson Store's records reflect that between December 7, 2010 and August 15, 2011, the Carson Store originated 711 deferred deposit transactions of which the total financed amount was $160,925.00 and the fees collected were $28,255.47. DeCoster stated that the Carson Store was still owned by Zippy's. However, DeCoster indicated that he was working on turning the Carson Store into a sole proprietorship under his name.

17. On August 22, 2011, the Examiner spoke with Zippert by telephone and requested additional loan records for the Gardena Store reflecting loan activity between July 28, 2011 and

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August 22, 2011. The records reveal that between July 28, 2011 and August 22, 2011, the Gardena Store originated 106 deferred deposit transactions of which the total financed amount was $24,979.42 and the fees collected were $4,408.29. Zippert also informed the examiner that Zippy's was now doing business as "Western Avenue Check Cashing." The Examiner informed Zippert that because Zippy's licenses were revoked, he must cease all deferred deposit transaction activity.

18. On August 22, 2011, the Examiner left voice mail messages with DeCoster informing him that the Department wanted to review the Carson Store's loan records between August 15, 2011 and August 22, 2011 and also that DeCoster had to cease all deferred deposit transaction activity. DeCoster failed to produce the loan records to the Department or respond to the Department's voice mail.

19. Zippy's has originated a total of 2,248 unlicensed deferred deposit transactions at the Carson and Gardena stores since Zippy's CDDTL licenses were revoked on December 7, 2010, of which the total financed amount was $522,405.12 and the fees collected were $91,618.27.

I.

CITATIONS

AND

DESIST AND REFRAIN ORDER

(For violations of California Financial Code section 23005 (a))

California Financial Code § 23005 provides, in pertinent part:

> (a) No person shall offer, originate, or make a deferred deposit transaction, arrange a deferred deposit transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist a deferred deposit originator in the origination of a deferred deposit transaction without first obtaining a license from the commissioner and complying with the provisions of this division.

California Financial Code § 23058 provides, in pertinent part:

> (a) If, upon inspection, examination or investigation, based upon a complaint or otherwise, the department has cause to believe that a person is engaged in the business of deferred deposit transactions without a license, or a licensee or person is violating any provision of this division or any rule or order thereunder, the department may issue a citation to that person in writing, describing with particularity the basis of the citation.

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> Each citation may contain an order to desist and refrain and an assessment of an administrative penalty not to exceed two thousand five hundred dollars ($ 2,500). All penalties collected under this section shall be deposited in the State Corporations Fund.
>
> (b) The sanctions authorized under this section shall be separate from, and in addition to, all other administrative, civil, or criminal remedies.
>
> (c) If within 30 days from the receipt of the citation of the person cited fails to notify the department that the person intends to request a hearing as described in subdivision (d), the citation shall be deemed final.
>
> (d) Any hearing under this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and in all states the Department has all the powers granted therein.
>
> (e) After the exhaustion of the review procedures provided for in this section, the department may apply to the appropriate superior court for a judgment in the amount of the administrative penalty and order compelling the cited person to comply with the order of the department. The application, which shall include a certified copy of the final order of the department, shall constitute a sufficient showing to warrant the issuance of the judgment and order.

California Financial Code § 23050 provides in pertinent part:

> Whenever, in the opinion of the Department, any person is engaged in business in the business of deferred deposit transactions, as defined in this division, without a license from the Department . . . the Department may order that person or licensee to desist and to refrain from engaging in the business . . .. If, within 30 days, after the order is served, a written request for a hearing is filed and no hearing is held within 30 days thereafter, the order is rescinded.

A.

CITATIONS

Zippy's originated at least 2,248 deferred deposit transactions after its license was revoked on December 7, 2010, in violation of California Financial Code section 23005 (a). For Zippy's violations, the Department is issuing Citations 1 through 2,248 as follows:

CITATIONS 1 – 2,248 – Zippy's originated a deferred deposit transaction without obtaining a license from the Department in violation of California Financial Code section 23005 (a).

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Pursuant to California Financial Code section 23058, Zippy's Currency X-Change, Inc., doing business as Power Check Cashing Payday Advance, Cash Cow Payday Advance and Western Avenue Check Cashing, Doug DeCoster, Mark Zippert, and Carol Zippert are hereby ordered to pay to the Department within 30 days from the date of these citations, an administrative penalty of $2,500 for each of the 2,248 citations listed below, for the total amount of $5,620,000.

(1) **CITATIONS 1 – 2,248** - $5,620,000

These Citations shall remain in full force and effect until further order of the Department.

B.

DESIST AND REFRAIN ORDER

Pursuant to California Financial Code sections 23050 and 23058, Zippy's Currency X-Change, Inc., doing business as Power Check Cashing Payday Advance, Cash Cow Payday Advance and Western Avenue Check Cashing, Doug DeCoster, Mark Zippert, and Carol Zippert are hereby ordered to desist and refrain from engaging in the business of deferred deposit transactions, including but not limited to, originating or offering to originate deferred deposit transactions in the State of California without first obtaining a license from the Department of Corporations, or otherwise being exempt.

The Desist and Refrain Order is necessary for the protection of consumers and consistent with the purposes, policies and provisions of the CDDTL. This Order shall remain in full force and effect until further order of the Department.

II.

ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS

Zippy's Currency X-Change, Inc., doing business as Power Check Cashing Payday Advance, Cash Cow Payday Advance and Western Avenue Check Cashing, Doug DeCoster, Mark Zippert, and Carol Zippert willfully violated California Financial Code section 23005 (a) by originating at least 2,248 deferred deposit transactions without a license, despite the knowledge that their license was revoked on December 7, 2010.

California Financial Code § 23060 provides, in pertinent part:

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> (a) If any amount other than, or in excess of, the charges or fees permitted by this division is willfully charged, contracted for, or received, a deferred deposit transaction contract shall be void, and no person shall have any right to collect or receive the principal amount provided in the deferred deposit transaction, any charges, or fees in connection with the transaction.
>
> (b) If any provision of this division is willfully violated in the making or collection of a deferred deposit transaction, the deferred deposit transaction contract shall be void, and no person shall have any right to collect or receive any amount provided in the deferred deposit transaction, any charges, or fees in connection with the transaction.

Pursuant to California Financial Code section 23060 (b), all deferred deposit transactions originated by Zippy's Currency X-Change, Inc., doing business as Power Check Cashing Payday Advance, Cash Cow Payday Advance and Western Avenue Check Cashing, Doug DeCoster, Mark Zippert, and Carol Zippert after December 7, 2010, in an amount of at least $614,023.53 as of the date of this order, shall be declared void and Zippy's Currency X-Change, Inc., doing business as Power Check Cashing Payday Advance, Cash Cow Payday Advance and Western Avenue Check Cashing, Doug DeCoster, Mark Zippert, and Carol Zippert has no right to collect or receive any amount provided in the deferred deposit transactions, any charges, or fees in connection with those transactions, and is hereby ordered to immediately return any amount and all charges and fees received for these transactions.

Dated: September 21, 2011
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Department

By_____

Alan S. Weinger
Deputy Commissioner
Enforcement Division

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