

1 **ARIZONA DEPARTMENT OF FINANCIAL INSTITUTIONS**

2 In the Matter of the Sales Finance Company
3 License of:

No. 12F-BD005-BNK

CONSENT ORDER

4 **KATHLEEN MARIE MASON**
5 **DBA ADVANCE CASH**
6 2453 S. 4th Avenue
7 Yuma, AZ 85364

Petitioner.

8 On November 7, 2011, 2010, the Arizona Department of Financial Institutions (“Department”)
9 issued a Notice of Hearing, alleging that Petitioner had violated Arizona law. Wishing to resolve this
10 matter in lieu of an administrative hearing, Petitioner, without admitting or denying the following
11 Findings of Fact and Conclusions of Law, consents to the entry of the following Order.

12 **FINDINGS OF FACT**

13 1. Petitioner Kathleen Marie Mason (“Ms. Mason”), doing business as Advance Cash, a
14 registered Trade Name, is authorized to transact business in Arizona as a sales finance company,
15 license number SF-0912627, within the meaning of A.R.S. § 44-281, *et seq.* The nature of Ms.
16 Mason’s business is that of a sales finance company within the meaning of A.R.S. § 44-281(12).

17 2. An examination of Ms. Mason’s business, conducted by the Department, commencing on
18 January 13, 2011, revealed that:

19 a. Petitioner failed to display the original license, issued by the Department, in a
20 conspicuous place.

21 i. A photocopy of the license was posted on the wall in a back room.

22 b. Petitioner conducted secondary motor vehicle finance transactions under a name other
23 than the name as licensed by the Department.

24 i. One hundred percent (100%) of the reviewed contracts listed “Advance Cash-
25 Auto” as the company name, which name is not licensed by the Department.

26 ii. As of March 11, 2011, Ms. Mason submitted a request to the Department to

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list "Advance Cash" as a dba, and has corrected this violation.¹

- c. Petitioner's contracts failed to contain the required statements in at least "ten point bold type."
 - i. The contracts contain the required statements, but the statements are not properly formatted.
- d. Petitioner's contracts failed to contain the name of the buyer (licensee), as required, in one hundred percent (100%) of the contracts reviewed.
 - i. All contracts list "Advance Cash-Auto" as the buyer, a company name that is not licensed by the Department.
 - ii. As of March 11, 2011, Ms. Mason submitted a request to the Department to list "Advance Cash" as a dba and corrected the violation relating to future transactions.
- e. Petitioner exceeded the statutorily permitted maximum finance rates on secondary motor vehicle finance transactions (title loans).
- f. Petitioner contracted for and received finance charges in excess of the finance charges and other fees expressly permitted, for one hundred fifty seven (157) reviewed contracts.
- g. Petitioner clearly stated excessive finance and annual percentage rates on the contracts for one hundred fifty seven (157) secondary motor vehicle loan (title loan) transactions, and received and retained finance charges in excess of the statutory maximum from said transactions.
 - i. The principal and finance charges for the transactions in violation total fifty five thousand one hundred seven dollars (\$55,107.00).

¹ Petitioner was issued a Trade Name for Advance Cash by the Arizona Secretary of State, on February 9, 2011. Petitioner's sales finance company license was approved by the Department to read Kathleen A. Mason dba Advance Cash on May 19, 2011.

1 ii. The Department is unable to determine the extent of this violation without
2 receiving the requested information regarding the number of loans, and
3 without having an opportunity to review all contracts.

4 3. Based upon the above findings, the Department issued and served upon Petitioner an
5 Order to Cease and Desist; Notice of Opportunity For Hearing; Consent to Entry of Order (“Cease
6 and Desist Order”) on September 21, 2011.

7 4. On October 20, 2011, Petitioner filed a Request For Hearing to appeal the Cease and
8 Desist Order.

9 5. These Findings of Fact shall also serve as Conclusions of Law.

10 **CONCLUSIONS OF LAW**

11 1. Pursuant to A.R.S. § 44-281 *et seq.*, the Superintendent has the authority and duty to
12 regulate all persons engaged in the sales finance company business and with the enforcement of
13 statutes, rules, and regulations relating to sales finance companies.

- 14 2. By the conduct set forth above in the Findings of Fact, Petitioner violated the following:
- 15 a. A.R.S. § 44-282(D)² by failing to display the original license, issued by the
16 Department, in a conspicuous place;
 - 17 b. A.R.S. § 44-282(E)³ by conducting secondary motor vehicle finance transactions
18 under a name other than the name as licensed by the Department.
 - 19 c. A.R.S. § 44-286(A) by failing to ensure that Petitioner’s contracts contain the
20 required statements in at least “ten point bold type” as required.
 - 21 d. A.R.S. § 44-287(A) by failing to ensure all contracts contain the name of the buyer
22 (licensee) as required.
 - 23 e. A.R.S. § 44-291(G) by exceeding the statutorily permitted maximum finance rates on
24 secondary motor vehicle finance transactions (title loans).

25 _____
26 ² This statute was amended to be designated as A.R.S. § 44-282(G), pursuant to Laws 2011, Ch. 190, § 34.
³ This statute was amended to be designated as A.R.S. § 44-282(H), pursuant to Laws 2011, Ch. 190, § 34.

1 f. A.R.S. § 44-291(H) by contracting for and receiving finance charges in excess of the
2 finance charges and other fees expressly permitted, for one hundred fifty seven (157)
3 reviewed contracts.

4 g. A.R.S. § 44-295 by clearly stating excessive finance and annual percentage rates on
5 the contracts for one hundred fifty seven (157) secondary motor vehicle loan (title
6 loan) transactions and receiving and retaining finance charges in excess of the
7 statutory maximum from said transactions..

8 3. Pursuant to A.R.S. § 6-132, Petitioner's violations of the aforementioned statutes are
9 grounds for an assessment of not more than five thousand dollars (\$5,000.00) for each violation for
10 each day.

11 4. The violations, set forth above, constitute grounds for: (1) the issuance of an order
12 pursuant to A.R.S. § 6-137 directing Petitioner to cease and desist from the violative conduct and to
13 take the appropriate affirmative actions, within a reasonable period of time prescribed by the
14 Superintendent, to correct the conditions resulting from unlawful acts, practices, and transactions;
15 (2) the imposition of an assessment pursuant to A.R.S. § 6-132; and (3) an order or any other remedy
16 necessary or proper for the enforcement of statutes and rules regulating sales finance companies
17 pursuant to A.R.S. §§ 6-123 and 6-131.

18 **ORDER**

19 1. Ms. Mason shall immediately stop the violations set forth in the Findings of Fact and
20 Conclusions of Law. Ms Mason:

- 21 a. Shall display the original license, issued by the Department, in a conspicuous place.
22 b. Shall not conduct secondary motor vehicle finance transactions under a name other
23 than the name as licensed by the Department.
24 c. Shall ensure that all contracts contain the required statements in at least "ten point
25 bold type" as required.
26 d. Shall ensure all contracts contain the name of the buyer (licensee) as required.

- 1 e. Shall not exceed the statutorily permitted maximum finance rates on secondary motor
- 2 vehicle finance transactions (title loans).
- 3 f. Shall not contract for and receive finance charges in excess of the finance charges and
- 4 other fees expressly permitted.
- 5 g. Shall not include excessive finance and annual percentage rates on contracts for
- 6 secondary motor vehicle loan (title loan) transactions nor receive and retain finance
- 7 charges in excess of the statutory maximum from secondary motor vehicle loan (title
- 8 loan) transactions..

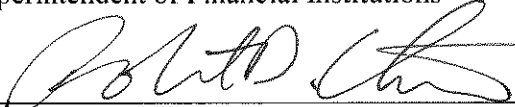
9 2. Ms. Mason shall on or before January 15, 2012, pay to the Department an assessment in
10 the amount of **fifty thousand dollars (\$50,000.00)**.

11 3. Ms. Mason shall comply with all Arizona statutes and rules regulating Arizona sales
12 finance companies (A.R.S. §§ 44-281 *et seq.*).

13 4. The provisions of this Order shall be binding upon Petitioner, her employees, agents, and
14 other persons participating in the conduct of the affairs of Petitioner.

15 5. This Order shall become effective upon service, and shall remain effective and
16 enforceable until such time as, and except to the extent that, it shall be stayed, modified, terminated,
17 or set aside.

18 SO ORDERED this 17 day of January, 2012.

19 Lauren W. Kingry
Superintendent of Financial Institutions
20
21 By 
Robert D. Charlton
22 Assistant Superintendent of Financial Institutions

23 **CONSENT TO ENTRY OF ORDER**

24 1. Petitioner acknowledges that she has been served with a copy of the foregoing Findings
25 of Fact, Conclusions of Law, and Order in the above-referenced matter, has read the same, is aware
26 of her right to an administrative hearing in this matter, and has waived the same.

1 COPY mailed/delivered same date to:

2 Craig A. Raby, Assistant Attorney General
3 Office of the Attorney General
4 1275 West Washington
5 Phoenix, AZ 85007

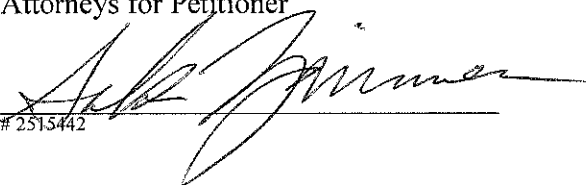
6 Robert D. Charlton, Assistant Superintendent
7 Lola Duncan, Examiner-in-Charge
8 Arizona Department of Financial Institutions
9 2910 North 44th Street, Suite 310
10 Phoenix, AZ 85018

11 AND COPY MAILED SAME DATE by
12 Certified Mail, Return Receipt Requested, to:

13 Kathleen Marie Mason
14 dba Advance Cash
15 2453 S. 4th Avenue
16 Yuma, AZ 85364
17 Petitioner

18 Kathleen Marie Mason
19 dba Advance Cash
20 44-720 San Pablo Avenue
21 Palm Desert, CA 92260
22 Petitioner

23 Brian J. Schulman, Esq.
24 GREENBERG TRAURIG, LLP
25 2375 E. Camelback Road, Suite 700
26 Phoenix, AZ 85016-9000
Attorneys for Petitioner

18 
19 # 2515442

Date Received 1/3/2012 Received from BBB Advance Cash

As payment for the following statutory fees: _____

NEW	RENEWAL	SEE TYPE	AMT. PAID	CO. TYPE
<input type="checkbox"/>	<input type="checkbox"/>	Application Fee - H. O.	\$ _____	ALB <input type="checkbox"/> Advanced Fee Loan Broker
<input type="checkbox"/>	<input type="checkbox"/>	Application Fee - BR/AD. (x _____)	\$ _____	BA <input type="checkbox"/> Bank
<input type="checkbox"/>	<input type="checkbox"/>	License Fee - H. O.	\$ _____	CA <input type="checkbox"/> Collection Agency
<input type="checkbox"/>	<input type="checkbox"/>	License Fee - BR/AD. (x _____)	\$ _____	CBK <input type="checkbox"/> Commercial Mortgage Banker
<input type="checkbox"/>	<input type="checkbox"/>	Fingerprint Fee (x \$24)	\$ _____	CMB <input type="checkbox"/> Commercial Mortgage Broker
<input type="checkbox"/>	<input type="checkbox"/>	Examination/Annual Assessment	\$ _____	CL <input type="checkbox"/> Consumer Lender
<input type="checkbox"/>	<input type="checkbox"/>	Name/Address Change/Dup. License	\$ _____	CU <input type="checkbox"/> Credit Union
<input type="checkbox"/>	<input type="checkbox"/>	RI/AM Change	\$ _____	DM <input type="checkbox"/> Debt Management
<input type="checkbox"/>	<input type="checkbox"/>	Travel Reimbursement	\$ _____	EA <input type="checkbox"/> Escrow Agent
<input type="checkbox"/>	<input type="checkbox"/>	Test Fee	\$ _____	LO <input type="checkbox"/> Loan Originator
<input type="checkbox"/>	<input type="checkbox"/>	Penalties	\$ _____	MT <input type="checkbox"/> Money Transmitter
<input type="checkbox"/>	<input type="checkbox"/>	Late - Exam	\$ _____	BK <input type="checkbox"/> Mortgage Banker
<input type="checkbox"/>	<input type="checkbox"/>	Late - Renewal	\$ _____	MB <input type="checkbox"/> Mortgage Broker
<input type="checkbox"/>	<input type="checkbox"/>	Rate Deviation / Other	\$ _____	MVD <input type="checkbox"/> Motor Vehicle Dealer
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Civil Money EXAM/DIC/ULA	\$ <u>50,000</u>	PF <input type="checkbox"/> Premium Finance Company
<input type="checkbox"/>	<input type="checkbox"/>	Other Payments	\$ _____	PN <input type="checkbox"/> Pre-Need Funeral Trust
<input type="checkbox"/>	<input type="checkbox"/>	Escrow - Real Property	\$ _____	SF <input type="checkbox"/> Sales Finance Company
<input type="checkbox"/>	<input type="checkbox"/>	Escrow - Other	\$ _____	OTHER <input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	Mortgage Recovery Fund	\$ _____	
<input type="checkbox"/>	<input type="checkbox"/>	OTHER	\$ _____	
TOTAL PAID			\$ <u>50,000</u>	

Received in Accounting: _____
 Received By: [Signature]
 2nd Initials for CASH: _____

ENTERED JAN 17 2012