

IN THE MATTER OF:

ROADRUNNER TITLE PAWN, L.L.C.;
ADVANCED EZ CASH, L.L.C.
a/k/a **ADVANCED EZ CASH, LLC**
a/k/a **ADVANCED EZ CASH LLC**

GEORGE T. PARKER
a/k/a **TIMOTHY PARKER**
a/k/a **TIM PARKER; and**

MANDY LYNN PARKER
f/k/a **MARGARET TERESA VICK**
RESPONDENTS

BEFORE THE COMMISSIONER OF
FINANCIAL REGULATION

OAH No. DLR-CFR-76-15-18512
CFR: CFR-FY2015-0021

FINAL ORDER

A hearing on the exceptions filed in the above captioned matter was held before Gordon M. Cooley, Maryland Commissioner of Financial Regulation (“Commissioner”) on March 7, 2017. Kurt E. Nachtman, Esq. represented Roadrunner Title Pawn, L.L.C., Advanced EZ Cash L.L.C., George T. Parker, and Mandy Lynn Parker (collectively “Respondents”) and W. Thomas Lawrie, and John Hart, Assistants Attorneys General represented the Commissioner.

PROCEDURAL HISTORY

On December 9, 2016, the Commissioner received a letter from Mr. Nachtman in which he requested an extension of time to file exceptions in order to obtain a transcript of the Office of Administrative Hearings (“OAH hearing”) held on June 13, 14, and 17, 2016, before the Administrative Law Judge (“ALJ”). The letter also stated that should the Commissioner not approve this extension request, the Respondents took exception to each and every line of the Proposed Final Order and Proposed Decision (“Exception Letter”).

In a letter dated December 19, 2016, Sandra G. Small, Assistant Attorney General and counsel to the Commissioner, advised Mr. Nachtman that the Commissioner considered the Exception Letter to have been filed timely pursuant to *Code of Maryland Regulations* (“COMAR”) 09.01.03.09(A). Ms. Small informed Mr. Nachtman that the Commissioner had scheduled the date for the hearing on exceptions for February 2, 2017. Further, Ms. Small advised Mr. Nachtman that the Commissioner had authorized the filing of any amendments or supplements to the Exceptions Letter within 30-days of December 19, 2016.

On January 5, 2017, the Commissioner received a letter from Mr. Nachtman requesting that the Commissioner reschedule the hearing for early to mid-March because: (1) Mr. Nachtman was newly retained and recently had begun reviewing the lengthy history of the case; (2) the transcript would not be prepared for another 10-days, and he would need time to thoroughly review the matter; and (3) Mr. Nachtman had two (2) upcoming jury trials, all of which would require a significant amount of time.

In her letter January 9, 2017, Ms. Small advised Mr. Nachtman that the Commissioner had rescheduled the exceptions hearing for March 7, 2017. Further, Ms. Small advised him that the Respondents must file the transcript by February 24, 2017 pursuant to COMAR 09.01.03.09(H), and any request to introduce new evidence by February 21, 2017 pursuant to COMAR 09.01.03.09(K).

On February 21, 2017, Mr. Nachtman filed a Motion for Additional Evidence with the Commissioner. On February 24, 2017, Mr. Nachtman filed the transcript.

On March 1, 2017, W. Thomas Lawrie, Assistant Attorney General and presenter of evidence for the Commissioner filed his Response to the Proposed Final Order. Specifically, Mr. Lawrie noted that: (1) the dates of the hearing before the Administrative Law Judge (“ALJ”) in the Proposed Decision should be corrected to June 13, 14, and 17, 2016; (2) the parties stipulated to CFR Exs. 41, 283, 303, 328-345, 347-365, and 367-381, and accuracy of the spreadsheets comprising CFR Exs. 377 and 378; and (3) based on the dismissal of Count 13, the total monetary penalty of \$1,370,000 must be reduced by \$66,000 on the penalty for violations under Count 13.

PROCEEDINGS (Preliminary Matters)

At the Exceptions Hearing, Mr. Nachtman offered six (6) exhibits as new evidence:

1. An affidavit by George T. Parker dated February 21, 2017
2. Meeting notes from January 20, 2015 meeting between Tanya Minion, Mandy Parker, and Marianne Morris;
3. Email exchange with Tanya Minion, Tim Parker, and A.Koehler@dllr.state.md.us dated December 14, 2014;
4. Email exchange with Tanya Minion of February 18, 2015 re: George Parker name on application;
5. Email exchange with Tanya Minion and Margaret Vick dated April 8, 2015; and
6. Email exchange with Marianne Morris dated May 4, 2016.

Under COMAR 09.01.03.09(K), additional evidence may not be introduced during an exceptions hearing unless the party seeking to introduce it demonstrates to the satisfaction of the administrative unit that the new evidence: (1) is relevant and material; (2) was not discovered before the ALJ hearing; and (3) could not have been discovered before the ALJ hearing with the exercise of due diligence.

In his argument on behalf of the Respondents, Mr. Nachtman stated that Respondents' representation by prior counsel was relevant because upon review of the file from prior counsel, and the hearing transcript, Mr. Nachtman believed that prior counsel had given bad legal advice to the Respondents. Further, Mr. Nachtman stated that the Respondents' actions reflected good faith efforts, which is one of the factors that the Commissioner needs to take into account when making a determination of civil penalties. Mr. Nachtman noted that he did not know why prior counsel had not offered them into evidence at the hearing, that the documents were in the sole possession of prior counsel at the time of the hearing, and could not have been discovered with the exercise of due diligence until prior counsel's services had been terminated.

Having found that the new evidence satisfied the requirements for new evidence under COMAR 09.01.03.09K, the Commissioner admitted the exhibits.

PROCEEDINGS (Exceptions)

Mr. Nachtman requested the Commissioner to consider granting an additional supplemental evidentiary hearing, and if the Commissioner did not consider an additional supplemental evidentiary hearing, that the Commissioner require the Respondents to provide restitution of principal and interest, only.

Mr. Nachtman stated that he did not believe that Respondents took the actions subsequent to the Original Summary Order (i.e., Summary Order to Cease and Desist, dated November 17, 2014), intentionally. Rather, Respondents acted on the advice of the same counsel who represented them in every stage, and in good faith. Mr. Nachtman maintained that due to the circumstances underlying the representation, Respondents at least were entitled to a supplemental evidentiary hearing. Further, Mr. Nachtman asserted that the agency inferred malice from the Respondents' actions subsequent to the Original Summary Order. Rather, the newly admitted emails indicated that Parker worked diligently and attempted in his own good faith effort through counsel to resolve it.

Pursuant to Md. Code Ann., Fin. Inst. §2-115(c), before ordering a penalty, the Commissioner must consider the following factors:

1. The seriousness of the violation;
2. The good faith of the violator;
3. The violator's history of previous violations;
4. The deleterious effect of the violation on the public and the industry involved;
5. The assets of the violator; and
6. Any other factors relevant to the determination of the financial penalty.

The Commissioner may exercise his discretion in determining the weight of each factor because the statute does not prescribe specific weight for each factor.

Good faith is not defined in the statute. The cardinal rule in statutory interpretation is to ascertain and effectuate the real and actual intent of the legislature beginning with the normal, plain meaning of the statute.¹ The plain meaning must be viewed within the context of the statute, considering the legislature's intent.² It is proper to consult a dictionary for a term's ordinary meaning.³ In the context of the statute, good faith of the violator mitigates the seriousness of the violation, history of previous violations, and deleterious effect of the violation. Black's Law Dictionary defines good faith as "a state of mind consisting of honesty in belief or purpose."⁴

To the extent that the Commissioner assigns any weight to Respondents' good faith argument, the totality of all of the evidence on the record demonstrates a lack of honesty in purpose. Specifically, despite the fact that Respondents were put on notice to get new counsel before the OAH hearing by Judge Beachley at the hearing for preliminary injunction on May 5-6, 2016 (*see* Trans. 92:9-14.), Respondents chose to continue to be represented by Ira Cooke, Esq. Further, despite having been put on notice by the Commissioner that their title loans were considered illegal and unenforceable, the ALJ found that Respondents continued to make loans to consumers and collect on previous loans (*see* Proposed Decision at 22) and sell repossessed vehicles (*see* Proposed Decision at 40).

¹ *State v. Weems*, 429 Md. 329, 337 (2012).

² *Id.*

³ *Chow v. State*, 393 Md. 431, 445 (2006)

⁴ Black's Law Dictionary, 701 (7th ed. 1999)

ORDER

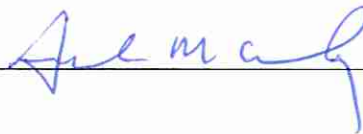
The arguments having been received and considered, and, having been considered and the exhibits having been reviewed, it is, by the Commissioner of Financial Regulation this 1st day of June, 2017,

ORDERED:

1. That the exceptions to the Proposed Final Order filed on behalf of Roadrunner Title Pawn, L.L.C., Advanced EZ Cash, L.L.C., George T. Parker, and Mandy Lynn Parker, be, and hereby are, **DENIED**;
2. That the Proposed Final Order of the Commissioner issued on November 21, 2016, be, and hereby is, **AFFIRMED** with the modification that the civil penalty shall be reduced by \$66,000.00 to **One Million Three Hundred Four Thousand** (\$1,304,000.00).
3. That the records, files and documents of the Commissioner reflect this decision.

COMMISSIONER OF FINANCIAL REGULATION

By: _____



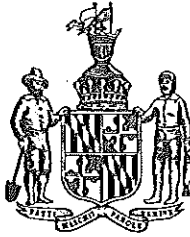
Note: A judicial review of this Final Order may be sought in the Circuit Court of Maryland in which the Appellant resides or has his/her principal place of business, or in the Circuit Court for Baltimore City. A petition for judicial review must be filed with the court within 30-days after the mailing of this Order.

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

DONNA HILL STATON
Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



JESSICA V. CARTER
Division Director

SUSAN M. CHERRY
Chief of Litigation

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LABOR, LICENSING AND REGULATION

WRITER'S DIRECT DIAL NO.

June 1, 2017

VIA CERTIFIED MAIL--RETURN RECEIPT REQUESTED
AND REGULAR MAIL

7006 0100 0000 2097 3478
c/o Managing Member
Roadrunner Title Pawn, LLC, et al.
17617 Virginia Avenue
Hagerstown, MD 21740

Re: Final Order

In the Matter of: Roadrunner Title Pawn, LLC, et al.

OAH Case No.: DLR-CFR-76-15-18512; CFR Case No: CFR-FY2015-021

Dear Managing Member:

Please find enclosed a Final Order issued by the Maryland Commissioner of Financial Regulation in the above referenced case.

Pursuant to State Govt. Art., Section 10-222, any party who is aggrieved by the Commissioner's decision may file a petition for judicial review with the Circuit Court for the county where any party resides or has a principal place of business. Such petition must be filed within 30 days after the date of this Final Order (MD. Rule 7-203). The filing of a petition for judicial review does not automatically stay the enforcement of the Final Order.

Very truly yours,

A handwritten signature in black ink, appearing to read 'JoAnn Simpson'.

JoAnn Simpson
Administrative Aide

Enclosures

cc: Gordon M. Cooley, Commissioner
Carmen Rivera, Administrator
W. Thomas Lawrie, Assistant Attorney General
John Hart, Assistant Attorney General
Kurt E. Nachtman, Esq

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
Chief Deputy Attorney General

DONNA HILL STATON
Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



JESSICA V. CARTER
Division Director

SUSAN M. CHERRY
Chief of Litigation

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LABOR, LICENSING AND REGULATION

WRITER'S DIRECT DIAL NO.

June 1, 2017

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AND REGULAR MAIL

7006 0100 0000 2097 3522
c/o George T. Parker, Resident Agent
Roadrunner Title Pawn, LLC, et al.
20668 Beaver Creek Road
Hagerstown, MD 21740

Re: Final Order

In the Matter of: Roadrunner Title Pawn, LLC, et al.

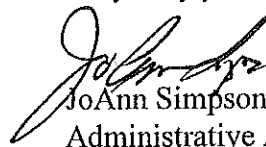
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JoAnn Simpson
Administrative Aide

Enclosures

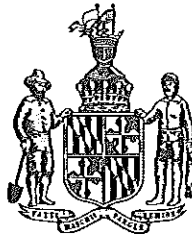
cc: Gordon M. Cooley, Commissioner
Carmen Rivera, Administrator
W. Thomas Lawrie, Assistant Attorney General
John Hart, Assistant Attorney General
Kurt E. Nachtman, Esq.

BRIAN E. FROSH
Attorney General

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CAROLYN QUATTROCKI
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June 1, 2017

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7006 0100 0000 2097 3492
Managing Member
Advanced EZ Cash, LLC, et al.
17617 Virginia Avenue
Hagerstown, MD 21740

Re: Final Order

In the Matter of: Advanced EZ Cash, LLC, et al.

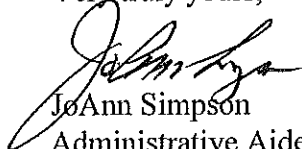
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Very truly yours,


JoAnn Simpson
Administrative Aide

Enclosures

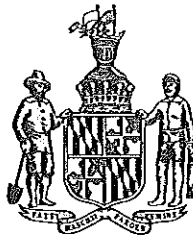
cc: Gordon M. Cooley, Commissioner
Carmen Rivera, Administrator
W. Thomas Lawrie, Assistant Attorney General
John Hart, Assistant Attorney General
Kurt E. Nachtman, Esq.

BRIAN E. FROSH
Attorney General

ELIZABETH F. HARRIS
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WRITER'S DIRECT DIAL NO.

June 1, 2017

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7006 0100 0000 2097 3508
c/o George T. Parker, Resident Agent
Advanced EZ Cash, LLC, et al.
20668 Beaver Creek Road
Hagerstown, MD 21740

Re: Final Order

In the Matter of: Advanced EZ Cash, LLC, et al.

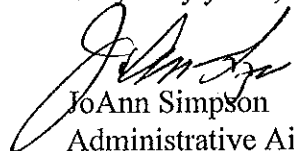
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JoAnn Simpson
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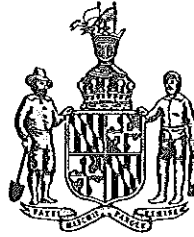
cc: Gordon M. Cooley, Commissioner
Carmen Rivera, Administrator
W. Thomas Lawrie, Assistant Attorney General
John Hart, Assistant Attorney General
Kurt E. Nachtman, Esq.

BRIAN E. FROSH
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WRITER'S DIRECT DIAL NO.

June 1, 2017

**VIA CERTIFIED MAIL--RETURN RECEIPT REQUESTED
AND REGULAR MAIL**

7006 0100 0000 2097 3515
c/o Matthew Higdon, Resident Agent
Advanced EZ Cash, LLC, et al.
14124 Maugansville Rd.
Maugansville, MD 21767

Re: Final Order

In the Matter of: Advanced EZ Cash, LLC, et al.

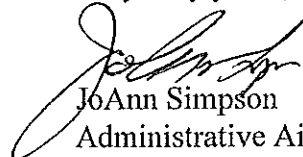
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JoAnn Simpson
Administrative Aide

Enclosures

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John Hart, Assistant Attorney General
Kurt E. Nachtman, Esq.

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June 1, 2017

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7006 0100 0000 3485

George Parker
Roadrunner Title Pawn, LLC et al.
20668 Beaver Creek Road
Hagerstown, MD 21740

Re: Final Order

In the Matter of: Roadrunner Title Pawn, LLC et al.

OA Case No.: DLR-CFR-76-15-18512; CFR Case No: CFR-FY2015-021

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JoAnn Simpson
Administrative Aide

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Carmen Rivera, Administrator
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John Hart, Assistant Attorney General
Kurt E. Nachtman, Esq.

STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

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JESSICA V. CARTER
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SUSAN M. CHERRY
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DEPARTMENT OF LABOR, LICENSING AND REGULATION
500 N. Calvert Street - Suite 406
Baltimore, Maryland 21202-3659
(410) 230-6108 - FAX: (410) 333-6503
June 1, 2017

VIA CERTIFIED MAIL--RETURN RECEIPT REQUESTED
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7006 0100 0000 2097 3539
Mandy Lynn Parker
Roadrunner Title Pawn, LLC, et al.
20668 Beaver Creek Road
Hagerstown, MD 21740

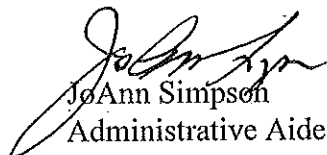
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John Hart, Assistant Attorney General
Kurt E. Nachtman, Esq.

FINREG/Roadrunner Prop Final Order clt