

**OPEN MEETING ITEM
NEW APPLICATION**

COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

BRIAN C. McNEIL
EXECUTIVE SECRETARY

6/9/05 ORIGINAL



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Phoenix, AZ 85007
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ARIZONA CORPORATION COMMISSION

MEMORANDUM

TO: Jeff Hatch-Miller, Chairman
William A. Mundell
Marc Spitzer
Mike Gleason
Kristin K. Mayes

Arizona Corporation Commission

DOCKETED

MAY 24 2005

FROM: Matthew J. Neubert
Director of Securities

DOCKETED BY	KV
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DATE: May 24, 2005

RE: Proposed Order to Cease and Desist, Order of Restitution, Order of Revocation, Order for Administrative Penalties and Consent to Same: Roy R. Golladay, Jr. and Ester Golladay, husband and wife, and Check and Send, Inc., Docket No. S-03551A-05-0000

CC: Brian C. McNeil, Executive Secretary

ARIZONA CORPORATION COMMISSION
DOCUMENT CONTROL

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Attached is a proposed Order to Cease and Desist, Order of Restitution, Order of Revocation, Order for Administrative Penalties and Consent to Same ("Order"), fully executed by Respondent Roy R. Golladay, Jr. on behalf of himself and his business entity, Check and Send, Inc., and Ester Golladay. The proposed Order requires respondents to cease and desist from violations of the Securities Act and to pay restitution and penalties for the sale of unregistered and non-exempt securities in the form of promissory notes and investment contracts involving loans to individuals for the purchase and/or development of real property and to operate Check and Send, Inc., a payday loan company.

Pursuant to the proposed Order, Roy Golladay's securities salesman's registration will be revoked, and Mr. Golladay has agreed not to reapply for registration as a securities salesman or dealer, or licensing as an investment advisor or investment advisor representative in Arizona at any time in the future, pursuant to the proposed Order.

Mr. Golladay is an accountant who sold securities to 36 investors, some of whom were clients in his tax preparation business, while he was registered as a securities salesman under Fox & Company, Inc., a registered dealer in Arizona. Mr. Golladay did not report his activity to his dealer, and the transactions were not recorded on the books and records of his dealer, as required.

Golladay's employment with Fox & Co. was terminated in April 2005, and his registration was suspended in Arizona.

Respondents have agreed to pay full restitution in the amount of \$797,484, and \$10,000 in administrative penalties. To date, investors are receiving their monthly payments from these investments.

Originator: Pam Johnson

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 COMMISSIONERS

3 JEFF HATCH-MILLER, Chairman
4 WILLIAM A. MUNDELL
5 MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES

6 In the matter of)

) DOCKET NO. S-03551A-05-0000

7 ROY R. GOLLADAY, JR., CRD# 1856856,))
8 dba The Investment Group and ESTER)
9 GOLLADAY, husband and wife)
3130 East Fountain)
Mesa, Arizona 85204)

) DECISION NO. _____

10 CHECK AND SEND, INC.)
11 1241 E. Broadway Road)
Mesa, Arizona 85204)

) **ORDER TO CEASE AND DESIST, ORDER
OF RESTITUTION, ORDER OF
REVOCATION, ORDER FOR
ADMINISTRATIVE PENALTIES AND
CONSENT TO SAME**

12 Respondents.)
13 _____)

14 Respondents ROY R. GOLLADAY, JR. ("GOLLADAY"), dba The Investment Group and
15 ESTER GOLLADAY, husband and wife, and CHECK AND SEND, INC. ("CHECK AND
16 SEND"), elect to permanently waive any right to a hearing and appeal under Articles 11 and 12 of
17 the Securities Act of Arizona, A.R.S. § 44-1801 *et seq.* ("Securities Act") with respect to this
18 Order To Cease And Desist, Order of Restitution, Order of Revocation, Order for Administrative
19 Penalties and Consent to Same ("Order"). GOLLADAY, ESTER GOLLADAY and CHECK
20 AND SEND may be collectively referred to as "RESPONDENTS". RESPONDENTS admit the
21 jurisdiction of the Arizona Corporation Commission ("Commission"); admit only for purposes of
22 this proceeding and any other administrative proceeding before the Commission the Findings of
23 Fact and Conclusions of Law contained in this Order; and consent to the entry of this Order by the
24 Commission.

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I.

FINDINGS OF FACT

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3 1. GOLLADAY (CRD #1856856), dba The Investment Group, whose last known
4 address is 3130 East Fountain, Mesa, Arizona, 85204, was at all relevant times an Arizona
5 registered securities salesman with Fox & Company Investments, Inc. ("Fox & Company"), until
6 April 2005. GOLLADAY is not currently employed by any securities dealer. GOLLADAY is a
7 licensed insurance agent with the Arizona Department of Insurance and holds a license through the
8 Arizona Banking Department in connection with his check cashing operations.

9 2. CHECK AND SEND, an Arizona corporation, is a check cashing business located
10 at 1241 E. Broadway Road in Mesa, Arizona, 85204. CHECK AND SEND is and was at all
11 relevant times owned by Respondent GOLLADAY and provides check cashing services, wire
12 transfer services and money order services.

13 3. ESTER GOLLADAY was at all relevant times the spouse of GOLLADAY. Ester
14 GOLLADAY is joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining
15 the liability of the marital community.

16 4. At all times relevant, GOLLADAY and ESTER GOLLADAY were acting for their
17 own benefit, and for the benefit or in furtherance of the marital community.

18 5. At all times relevant, GOLLADAY owned and operated a tax accounting business
19 known as Roy Golladay Accounting. GOLLADAY recommended investments to his accounting
20 clients in connection with his tax preparation services.

21 6. From about 1995 through 2001, GOLLADAY, dba The Investment Group and
22 CHECK AND SEND, solicited approximately 36 private investors, many of whom were also
23 clients of his dealer, to invest approximately \$2,061,772, to be used to purchase and/or develop
24 real property or to operate CHECK AND SEND.

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1 The Arizona Attorney General shall disburse the funds on a pro rata basis to investors. Any funds
2 that the Attorney General is unable to disburse shall be transferred to the general fund of the state
3 of Arizona. If RESPONDENTS do not comply with this order of restitution, any outstanding
4 balance shall be in default and shall be immediately due and payable.

5 IT IS FURTHER ORDERED, pursuant to A.R.S. §§ 44-2036 and 44-1962, that
6 RESPONDENTS GOLLADAY, the marital community of ROY R. GOLLADAY, JR. and ESTER
7 GOLLADAY, and CHECK AND SEND, jointly and severally, shall pay administrative penalties
8 in the amount of \$10,000, plus interest at the rate of 5% per annum from the date of this Order.
9 Payment shall be made in full by cashier's check or money order payable to the "State of
10 Arizona." The payment obligations for these administrative penalties shall be subordinate to any
11 restitution obligations ordered herein and shall become immediately due and payable after
12 restitution payments have been paid in full, or if RESPONDENTS have defaulted prior to fulfilling
13 RESPONDENTS' restitution obligations. Any failure to make a timely payment as stated in this
14 Order, for any reason, shall be an act of default. In the event of default, the outstanding balance
15 shall be immediately due and payable.

16 IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-1962, that Respondent ROY R.
17 GOLLADAY's securities salesman registration is revoked.

18 IT IS FURTHER ORDERED that if any Respondent fails to comply with this order, the .

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1 Commission may bring further legal proceedings against any Respondent including application to
2 the superior court for an order of contempt.

3 IT IS FURTHER ORDERED that this Order shall become effective immediately.

4 BY ORDER OF THE ARIZONA CORPORATION COMMISSION

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CHAIRMAN

COMMISSIONER

COMMISSIONER

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COMMISSIONER

COMMISSIONER

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IN WITNESS WHEREOF, I, BRIAN C. McNEIL,
Executive Secretary of the Arizona Corporation
Commission, have hereunto set my hand and caused the
official seal of the Commission to be affixed at the
Capitol, in the City of Phoenix, this _____ day of
_____, 2005.

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BRIAN C. McNEIL
Executive Secretary

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DISSENT

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DISSENT

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This document is available in alternative formats by contacting Linda Hogan, Executive Assistant
to the Executive Secretary, voice phone number 602-542-3931, E-mail lhogan@azcc.gov.

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CONSENT TO ENTRY OF ORDER

1. Respondents ROY R. GOLLADAY, JR. ("GOLLADAY"), a married man, and ESTER GOLLADAY, his wife, and CHECK AND SEND, INC., an Arizona corporation (collectively "RESPONDENTS"), admit the jurisdiction of the Commission over the subject matter of this proceeding. RESPONDENTS acknowledge that they have been fully advised of their rights to a hearing to present evidence and call witnesses and RESPONDENTS knowingly and voluntarily waive any and all rights to a hearing before the Commission and all other rights otherwise available under Article 11 of the Securities Act and Title 14 of the Arizona Administrative Code. RESPONDENTS acknowledge that this Order To Cease and Desist, Order of Restitution, Order of Revocation, Order for Administrative Penalties and Consent to Same ("Order") constitutes a valid final order of the Commission.

2. RESPONDENTS knowingly and voluntarily waive any right under Article 12 of the Securities Act to judicial review by any court by way of suit, appeal, or extraordinary relief resulting from the entry of this Order.

3. RESPONDENTS acknowledge and agree that this Order is entered into freely and voluntarily and that no promise was made or coercion used to induce such entry.

4. RESPONDENTS acknowledge that they have been represented by an attorney in this matter, they have reviewed this Order with their attorney and understand all terms it contains.

5. RESPONDENTS admit, only for purposes of this proceeding and any other administrative proceeding before the Commission the Findings of Fact and Conclusions of Law contained in this Order.

6. By consenting to the entry of this Order, RESPONDENTS agree not to take any action or to make, or permit to be made, any public statement denying, directly or indirectly, any Finding of Fact or Conclusion of Law in this Order or creating the impression that this Order is

1 without factual basis. RESPONDENTS will undertake steps necessary to assure that all of their
2 agents and employees understand and comply with this agreement.

3 7. While this Order settles this administrative matter between RESPONDENTS and
4 the Commission, RESPONDENTS understand that this Order does not preclude the Commission
5 from instituting other administrative proceedings based on violations that are not addressed by this
6 Order.

7 8. RESPONDENTS understand that this Order does not preclude the Commission
8 from referring this matter to any governmental agency for administrative, civil, or criminal
9 proceedings that may be related to the matters addressed by this Order.

10 9. RESPONDENTS understand that this Order does not preclude any other agency or
11 officer of the state of Arizona or its subdivisions from instituting administrative, civil, or criminal
12 proceedings that may be related to matters addressed by this Order.

13 10. RESPONDENTS agree that they will not apply to the state of Arizona for
14 registration as a securities dealer or salesman or for licensure as an investment adviser or
15 investment adviser representative at any time in the future, nor sell securities whether registered or
16 exempt.

17 11. RESPONDENTS agree that they will not exercise any control over any entity that
18 offers or sells securities or provides investment advisory services within or from Arizona at any
19 time in the future.

20 12. RESPONDENTS acknowledge and understand that if they fail to comply with the
21 provisions of the order and this consent, the Commission may bring further legal proceedings
22 against them, including application to the superior court for an order of contempt.

23 13. RESPONDENTS agree that until restitution and penalties are paid in full,
24 RESPONDENTS shall notify the Director of the Securities Division within 30 days of any change
25 in home address and any change in their ability to pay amounts due under this Order.
26 RESPONDENTS agree that they shall provide the Commission with an updated financial

1 statement every six months from entry of this Order or when any change in his ability to pay
2 restitution occurs. RESPONDENTS agree that failure to perform any action in this paragraph shall
3 result in their being in default with any outstanding balance being immediately due and payable
4 without notice or demand.

5 14. RESPONDENTS understand that default shall render them liable to the
6 Commission for its costs of collection and interest at the maximum legal rate.

7 15. RESPONDENTS agree and understand that if they fail to make any payment as
8 required in the Order, any outstanding balance shall be in default and shall be immediately due and
9 payable without notice or demand. RESPONDENTS agree and understand that acceptance of any
10 partial or late payment by the Commission is not a waiver of default by the Commission.

11 16. RESPONDENTS agree that they will continue to cooperate with the Securities
12 Division including, but not limited to, providing complete and accurate testimony at any hearing in
13 this matter and cooperating with the state of Arizona in any related investigation or any other
14 matters arising from the activities described in this Order.

15 17. ROY R. GOLLADAY, JR. and ESTER GOLLADAY acknowledge that any
16 restitution, rescission or penalties imposed by this Order are obligations of the RESPONDENTS as
17 well as the marital community

18 18. ROY R. GOLLADAY, JR. represents that he is President and Chief Executive
19 Officer of CHECK AND SEND, INC., and that he has been authorized by CHECK AND SEND,
20 INC. to enter into this Order for and on its behalf.

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1 19. ROY R. GOLLADAY, JR., ESTER GOLLADAY, and CHECK AND SEND,
2 INC. consent to the entry of this Order and agree to be fully bound by its terms and conditions.

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4 
5 ROY R. GOLLADAY, JR.

6 State of Arizona)
7 County of Maricopa)

8 SUBSCRIBED AND SWORN TO BEFORE me this 24th day of May, 2005.

9 
10 NOTARY PUBLIC



11 My Commission Expires:

12 January 24, 2007

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14 
15 ESTER GOLLADAY

16 State of Arizona)
17 County of Maricopa)

18 SUBSCRIBED AND SWORN TO BEFORE me this 24th day of May, 2005.

19 
20 NOTARY PUBLIC



21 My Commission Expires:

22 January 24, 2007

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CHECK AND SEND, INC.

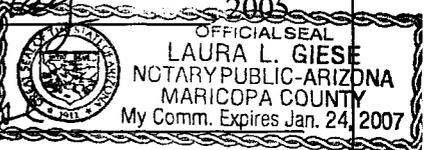


By ROY K. GOLLADAY, Its President/CEO

State of Arizona)
County of Maricopa)

SUBSCRIBED AND SWORN TO BEFORE me this 24th day of May, 2005

Laura L. Giese
NOTARY PUBLIC



My Commission Expires:

January 24, 2007