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10 *Thomas W. McNamara*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 3342962 NOVA SCOTIA LIMITED, a body
corporate existing under the laws of the Province
14 of Nova Scotia, Canada, and 4043434 NOVA
SCOTIA LIMITED, a body corporate existing
15 under the laws of the Province of Nova Scotia,
Canada, individually and derivatively on behalf of
16 ZIPPY CASH LLC, a Nevada limited liability
company,

17 Plaintiffs,

18 v.

19 ZIPPY CASH LLC, a Nevada limited liability
20 company; TOUGH MONEY LLC, a Delaware
limited liability company; DUANE TOUGH;
21 BRENT RUTTMAN; LIO LLC, a Delaware
limited liability company; ROBERT L.
22 STEWART; JOHN F. STEWART; GENE
WILLIAMS; SALES CONSULTANTS INT’L,
23 INC., a New York Corporation; and Z CASH
LLC, a Nevada limited liability company,

24 Defendants.
25

Case No. A-22-851637-B

Dept. No. XIII

**ORDER FINDING CONTEMPT OF
COURT AND ISSUING PENALTIES
AGAINST DEFENDANTS DUANE
TOUGH AND BRENT RUTTMAN**

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1 THIS MATTER came on for hearing on October 11, 2022 on this Court’s September 9,
2 2022 Order to Show Cause re: Contempt Against Defendants Duane Tough and Brent Ruttman
3 (“OSC”). The Court-appointed receiver, Thomas W. McNamara (“Receiver”), appeared through
4 counsel of record, Andrew M. Greene of McNamara Smith LLP; plaintiffs 3342962 Nova Scotia
5 Limited and 4043434 Nova Scotia Limited (“Plaintiffs) appeared through their counsel of record
6 William M. Gantz and Tyson E. Hafen of Duane Morris LLP; and defendants Duane Tough and
7 Brent Ruttman (collectively “Defendants”) failed to appear. The Court having considered the
8 Receiver’s August 15, 2022 Motion for an Order to Show Cause Why Defendants Duane Tough
9 and Brent Ruttman Should Not be Held in Contempt (“Motion for OSC”), Plaintiffs’ August 7,
10 2022 Joinder in the Motion for OSC, Defendants’ August 23, 2022 Opposition to the Motion for
11 OSC and all other papers and pleadings on file herein, testimony and the exhibits offered,
12 arguments of counsel in connection with the OSC against Defendants Duane Tough and Brent
13 Ruttman, and good cause appearing, the Court makes the following findings of fact, conclusions
14 of law and order:

15 **I.**

16 **FINDINGS OF FACT**

17 1. On July 27, 2022, the Court entered an order (the “Order”) granting Plaintiffs’
18 Motion for Appointment Receiver and appointing Thomas W. McNamara as Receiver over Zippy
19 Cash LLC (“Zippy Cash”) and Z Cash LLC in this matter.

20 2. Among other things, the Order specified the duties and obligations of the Receiver
21 and the parties concerning the receivership over Zippy Cash and Z Cash LLC, including directing
22 the Receiver to, “[t]ake exclusive custody, control, and possession of all Assets and documents”
23 of any “Receivership Entity, wherever situated” (Order at 3, paragraph B) and imposing a duty on
24 all parties to “fully cooperate with and assist the Receiver” and to “immediately transfer or deliver
25 to the Receiver” all Assets and documents relating to the Receivership Entities. (Order at 6.)
26 Further, the parties were required to “promptly provide the Receiver full and unrestricted access
27 to all persons, documents, records, evidence, physical assets, information, electronic files and data,
28 writings, data compilations, reports, records, books, accounting records or work-papers, bank

1 records, financial records, corporate records, ESI, and any other information the Receiver may
2 deem necessary or appropriate to conduct Receiver’s work.” (Order at 7.)

3 3. Additionally, the Order (at pp. 9-10.) requires “Duane Tough and Brent Ruttman,
4 along with the Receivership Entities, and their officers, agents, employees, and attorneys, and all
5 other persons in active concert or participation with an of them or who receive actual notice of this
6 Order, whether acting directly or indirectly, are, until further order of the court, hereby restrained
7 and enjoined from:

8 A. exercising any powers or doing business whatsoever, except by and
9 through the Receiver as provided for in NRS §86.5415(1);

10 B. exercising any of their privileges or franchises and from collecting or
11 receiving any debts or paying out, selling, assigning or transferring any of
12 their estate, money, lands, tenements or effects, including, but not limited
13 to, the Zippy Cash LLC related or derived funds on account with IPpay,
14 Bank of America, and Metabank....” (Order at 7.)

15 4. Further, the Order requires “that that all parties shall immediately provide to the
16 Receiver:

17 A. A list of all Assets and accounts of the Receivership Entities that are
18 held in any name other than the name of a Receivership Entity, or by any
19 person other than a Receivership Entity;

20 B. A list of all agents, employees, officers, attorneys, servants, and those
21 persons in active concert and participation with the Receivership Entities,
22 or who have been associated with or done business with the Receivership
23 Entities;

24 ...

25 D. An accounting for all amounts transferred or deposited by Woopla or
26 other Zippy Cash Customers in 2021 and 2022 or to accounts held by or
27 controlled by the Receivership Entities or Defendants;

28

1 E. An accounting for all income or other amounts transferred to or obtained
2 by any party in relation to the operation of the Receivership Entities;

3 F. An accounting for all loans or indebtedness or investments claimed,
4 together with all loan instruments and indicia of payment by any party in
5 relation to the Receivership Entities ...”

6 *Failure to Turn Over Documents and Records*

7 5. Despite the Receiver’s repeated demands since the entry of the Order on July 27,
8 2022, Defendants Tough and Ruttman have failed and refused to provide the Receiver with
9 required Receivership Entities’ information, documents and access, including but not limited to;

- 10 • Administrative access to the Zippy Cash GoDaddy account.
- 11 • Administrative access to the cloud accounts that Defendants utilized for Zippy
12 Cash business.
- 13 • All Zippy Cash related emails located in Defendant Tough’s various personal
14 accounts which he utilized, at least in part, for Zippy Cash business, including:
- 15 puralife5@gmail.com
- 16 dtough@hotmail.com
- 17 dtough@pbatm.com
- 18 dtough@gmail.com
- 19 • All Zippy Cash-related Bank of America statements that Defendant Tough, as the
20 signatory and owner of the account(s), had or has access to.
- 21 • An accounting (and supporting evidence) of the \$2 million Defendant Tough
22 claims to have contributed to Zippy Cash.
- 23 • All Skype conversations from Defendant Tough’s Skype account involving
24 Plaintiffs and/or Zippy Cash issues.
- 25 • A list of all assets and accounts of the Receivership Entities that are held in any
26 name other than the name of a Receivership Entity, or by any person other than a
27 Receivership Entity.
- 28 • A list of all agents, employees, officers, attorneys, servants, and those persons in
active concert and participation with the Receivership Entities, or who have been
associated with or done business with the Receivership Entities.

- An accounting for all income or other amounts transferred to or obtained by any party in relation to the operation of the Receivership Entities.
- An accounting for all loans or indebtedness or investments claimed, together with all loan instruments and indicia of payment by any party in relation to the Receivership Entities.

Repeated Misrepresentations about Zippy Cash Assets

6. Defendants Tough and Ruttman made representations to the Court and to the Receiver concerning the existence of Zippy Cash assets protected in a “reserve” account at Bank of America which contained approximately \$2.4 million in Zippy Cash funds. These representations were false and misleading; no such account exists.¹ Defendant Tough represented to the Court and to the Receiver that he personally “invested in excess of \$2 Million in Zippy Cash to fund it’s [sic] technological build out and market and meet with potential customers of Zippy Cash.” These representations were false and misleading as there is no evidence that Defendant Tough invested funds into Zippy.

7. Defendant Tough made representations to the Court and to the Receiver that he had not taken any funds from Zippy Cash, specifically stating, “[a]t no time have I ever taken any money from Zippy Cash, paid myself a dividend or distribution from Zippy Cash, or had Zippy Cash pay any amounts on my behalf.” These representations were false and misleading as Defendant Tough has withdrawn over \$4.2 million from Zippy Cash accounts and deposited such funds into his personal accounts located at the Bank of America.

8. Defendant Tough also made representations to the Court and to the Receiver that he did not use any Zippy Cash funds to purchase a penthouse condominium located at 201 Aqua Ave., Unit PH3, Miami Beach, Florida 33141 (“Miami Condo”), specifically declaring, “[a]t no time did I ever use any funds from Zippy Cash to purchase the apartment or to finance the purchase of the apartment. Any claim that Zippy Cash’s assets were used to purchase the apartment are [sic] simply false.” These representations were false and misleading as Defendant Tough transferred

¹ Plaintiff’s August 17, 2022 Joinder in Receiver’s Motion for OSC identifies over a dozen other examples of instances where Defendants Tough and Ruttman, or their counsel, made misrepresentations to the Court concerning the whereabouts of Zippy Cash funds and assets.

1 approximately \$2.1 million of funds he took from Zippy Cash into a escrow accounts at BG Law
2 LLP and MDLV LLC dba One Sothebys established for Defendant Tough's purchase of the Miami
3 Condo. In fact, the Miami Condo was purchased exclusively with Zippy Cash assets.

4 *Defendants Continue to Operate Receivership Entities*

5 9. Pursuant to his express authority under the Order, on August 9, 2022, the Receiver
6 provided notice to Z Cash Inc., Zippy.Cash Inc., and counsel of record that he had determined
7 Z Cash Inc. and Zippy.Cash Inc. are additional Receivership Entities under the terms of the Order
8 and further informed the recipients they could challenge this determination with the Court. No
9 challenges have been filed. The court finds that the exhibits entered at the hearing, the testimony
10 of the Receiver and the moving papers support the finding that Defendants Tough and Ruttman
11 have continued to work on the development of the Zippy Cash operational platform, solicit
12 customers and otherwise have continued to work toward launching and operating the Zippy Cash
13 business through the two Canadian entities.

14 10. Despite the Receiver's notification of determination regarding Z Cash Inc. and
15 Zippy Cash Inc., Defendants Tough and Ruttman have continued to operate and control Z Cash
16 Inc. and Zippy.Cash Inc. and have refused to provide the Receiver with any access to those
17 companies' documents, assets, platform, accounts, and communications despite the Receiver's
18 demands.

19 11. Defendants' conduct of business is a direct violation of the injunctive provisions of
20 the Order prohibiting the Defendants from carrying on the business other than through and as
21 directed by the Receiver. The Court further finds that Z Cash Inc. and Zippy.Cash Inc. are properly
22 designated by the Receiver as Receivership Entities under the Order.

23 12. As a result of the above, the Court finds that Defendants Tough and Ruttman have
24 violated the terms of the Order and have made multiple significant misrepresentations to the Court
25 and to the Receiver in connection with this matter.

26 *The Miami Condo (201 Aqua Avenue, Unit PH3, Miami Beach, Florida 33141)*

27 13. The Court further finds based upon clear and convincing evidence that certain
28 withdrawals and transfers from the Zippy Cash Bank of America operating account to Tough's

1 personal accounts directly coincided in timing and amount with payments made by Tough from
2 his personal accounts to escrow accounts associated with the purchase of the Miami Condo. More
3 specifically, the Court finds that Tough transferred in excess of \$2,100,000 from Zippy Cash's
4 Bank of America account to his personal accounts between September 2021 and February 2022.
5 The Court further finds that, during this same time period, Tough transferred the net amount of
6 \$2,123,938.69 (the purchase price of the Miami Condo) from his personal accounts to escrow in
7 order to fund his purchase of the Miami Condo. Based upon clear and convincing evidence the
8 Court determines that all of the funds applied to purchase the Miami Condo derived from Zippy
9 Cash such that the Miami Condo should be deemed an Asset of the Receivership under the Order.

10 *Defendants Failed to Appear at the October 11, 2022 OSC Hearing*
11 *Despite Being Ordered to Appear*

12 14. It is also found that the OSC states, in relevant part, that "DEFENDANTS DUANE
13 TOUGH AND BRENT RUTTMAN ... ARE HEREBY ORDERED to appear before the
14 Honorable Mark R. Denton" at the October 11, 2022 OSC hearing. Neither Defendants Tough,
15 Ruttman, nor any other person or counsel on their behalf, appeared either personally or remotely
16 at the OSC despite Defendants being properly served with the OSC.

17 15. The Receiver informed the Court that he had received an email from Defendant
18 Tough less than an hour prior to the OSC hearing stating Defendants would not appear at the OSC
19 hearing and requesting an alternative hearing date. The email was read into the record. The date
20 and time of the OSC hearing was agreed to by the parties more than one month prior to the hearing.
21 The Court finds no good cause for continuing the OSC hearing to a different date.

22 **II.**

23 **CONCLUSIONS OF LAW**

24 16. Pursuant to NRS 22.010(3), any "[d]isobedience or resistance to any lawful writ,
25 order, rule or process issued by the court or judge at chambers" shall be deemed and constitutes
26 contempt.

27 17. Pursuant to NRS 22.010(7), "[a]busing the process or proceedings of the court"
28 also shall be deemed and constitutes contempt.

1 and relief from the Court if necessary.

2 **IT IS FURTHER ORDERED, ADJUDGED, AND DECREED** that Defendants Tough
3 and Ruttman shall be deemed in contempt and subject to the \$500/day fine unless and until they
4 comply with the Order Receiver's outstanding requests for documents and information as to all
5 Receivership Entities, to wit:

- 6 • Administrative access to the cloud accounts that Defendants utilized for Zippy Cash
7 business.
- 8 • All Receivership Entities related emails located in Defendant Tough's various
9 personal accounts which he utilized, at least in part, for Zippy Cash business,
including but not limited to:

10 puralife5@gmail.com

11 dtough@hotmail.com

12 dtough@pbatm.com

13 dtough@gmail.com

- 14 • Z Cash, Inc.'s platform, accounts, and communications.
- 15 • All Zippy Cash-related Bank of America statements that Defendant Tough, as the
16 signatory and owner of the account(s), had or has access to.
- 17 • An accounting (and supporting evidence) of the \$2 million Defendant Tough claims
18 to have contributed to Zippy Cash.
- 19 • All Skype conversations from Defendant Tough's Skype account involving
20 Plaintiffs and/or Zippy Cash issues.
- 21 • A list of all assets and accounts of the Receivership Entities that are held in any
22 name other than the name of a Receivership Entity, or by any person other than a
23 Receivership Entity.
- 24 • A list of all agents, employees, officers, attorneys, servants, and those persons in
25 active concert and participation with the Receivership Entities, or who have been
26 associated with or done business with the Receivership Entities.
- 27 • An accounting for all income or other amounts transferred to or obtained by any
28 party in relation to the operation of the Receivership Entities.
- An accounting for all loans or indebtedness or investments claimed, together with
all loan instruments and indicia of payment by any party in relation to the
Receivership Entities.

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Respectfully submitted by:

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1 **CSERV**

2
3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 3342962 Nova Scotia Limited,
7 Plaintiff(s)

CASE NO: A-22-851637-B

8 vs.

DEPT. NO. Department 13

9 Zippy Cash LLC, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order was served via the court's electronic eFile system to all
14 recipients registered for e-Service on the above entitled case as listed below:

15 Service Date: 10/21/2022

16 Jana Dailey jldailey@duanemorris.com

17 Tyson Hafen tehafen@duanemorris.com

18 CaraMia Gerard cgerard@mcdonaldcarano.com

19 Brian Grubb bgrubb@mcdonaldcarano.com

20 Rory Kay rkay@mcdonaldcarano.com

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