COUNTY OF LOS ANGELES
DEPARTMENT OF CONSUMER AFFAIRS

"To Enrich Lives Through Effective and Caring Service"

Members of the Board

Gloria Molina
Yvonne B. Burke
Zev Yaroslavsky
Don Knabe
Michael D. Antonovich

Pastor Herrera, Jr.
Director

December 6, 2005

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

APPROVAL OF DESIGNATED USE AGREEMENT ACCEPTING *CY PRES* FUNDS FOR USE BY THE DEPARTMENT OF CONSUMER AFFAIRS (ALL SUPERVISORIAL DISTRICTS – 4 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve and instruct the Chair of the Board to execute the attached Designated Use Agreement (Agreement) accepting *cy pres* funds in the amount of $5 million, which are to be used exclusively by the County of Los Angeles Department of Consumer Affairs (Department) to enhance existing programs and create new projects to assist consumers in the areas of consumer lending, consumer finance, debt collection, or the sale or lease of consumer goods and services.

2. Delegate authority to the Director of the Department, or his authorized designee, to approve and sign the following reports and documents, upon review and approval by County Counsel:

    a. Any forthcoming amendments, substantially similar to the Agreement, and all other necessary documentation to finalize the Agreement.

    b. An annual report to be submitted to Plaintiffs' counsel and Defendants' counsel pursuant to the Agreement, which will describe how the *cy pres* funds have been applied.

3. Approve the establishment of an interest bearing *Cy Pres–Griego Consumer Affairs Trust Fund* to be used exclusively by the Department to enhance existing programs and create new projects to assist consumers in the areas of consumer lending, consumer finance, debt collection, or the sale or lease of consumer goods and services.

4. Approve the attached Request for Appropriation Adjustment for $150,000 to use *cy pres* funds in fiscal year 2005-06 to fund anticipated projects to assist consumers, including developing and publishing consumer education materials

and reports, translating consumer education materials into different languages, and training staff on specialized consumer protection areas.

PURPOSE AND JUSTIFICATION OF RECOMMENDED ACTION

In approving the recommended action, the Board will enable the Department to accept *cy pres* funds in the amount of $5 million distributed as part of the settlement of a consumer protection class action lawsuit entitled *Benjamin Griego, et al., v. Rent-A-Center, Inc., et al*, San Diego Superior Court, JCCP No. 4244 (*Griego*).

In *Griego*, Plaintiffs accused Rent-a-Center, Inc. (Defendant) of violating several consumer protection statutes, including various provisions of the California Legal Remedies Act and the California Unfair Competition Law. After extensive litigation, Defendant settled the lawsuit, and agreed to pay $37.5 million in restitution to approximately 328,000 victims, stop all deceptive business practices, and obey all laws. The settlement agreement requires that a portion of any unclaimed restitution funds be deposited into a *cy pres* fund, and be awarded to a select number of agencies that serve California consumers. The Department is one of the select agencies, and will receive $5 million from the *cy pres* fund if the Board accepts and signs the Agreement.

Implementation of Strategic Plan Goals

Approval of the recommended action will assist the Department in implementing the Countywide Strategic Plan goals of service excellence and organizational effectiveness.

FISCAL IMPACT AND FINANCING

Under the Agreement, the court-appointed Claims Administrator will distribute $5 million from the *cy pres* fund to the County of Los Angeles to be used exclusively by the Department to enhance existing services and create additional programs to benefit consumers. The services may include, but not be limited to, investigation and mediation of consumer complaints, preparation of consumer fraud cases for criminal or civil prosecution, and development and implementation of consumer education initiatives.

There are no net County costs involved in this action. The Department will maintain the *cy pres* funds separate from General County funds in a new, interest-bearing account, and shall not use them to substitute funding for existing services. The Department will use the principal and any earned interest to fund the intended services until the *cy pres* funds are exhausted. The Department will submit a yearly report to the Board describing how the funds were applied.

The Request for Appropriation Adjustment in the amount of $150,000 for FY 2005-06 will increase the Department's spending authority to fund anticipated projects using *cy pres* funds.

FACTS, PROVISIONS, AND LEGAL REQUIREMENTS

In consumer protection class actions, not all funds awarded by judgment or settlement are claimed because claimants cannot be located or potential claimants do not file claims. *Cy pres* distribution is an equitable remedy that distributes unclaimed class funds to their "next best use." This prevents the funds from reverting back to the defendant, resulting in a disincentive for the defendant to assist in locating potential claimants. In consumer protection cases, *cy pres* funds are used by recipients to support projects benefiting the class or similarly situated persons, or promote the law consistent with consumer protection statutes.

The Agreement authorizes the award of $5 million to the Department from the *cy pres* fund established pursuant to the settlement in *Griego*. The Department shall use these funds for services that benefit California consumers in the areas of consumer lending, consumer finance, debt collection, or the sale or lease of consumer goods and services.

County Counsel has reviewed and approved the attached Agreement as to form.

IMPACT ON CURRENT SERVICES AND PROJECTS

Approval of the recommended action will enable the Department to enhance its existing services and develop and implement additional programs to better prepare consumers to make wise choices in the marketplace, as well as assist them in resolving their complaints if they become victims of consumer fraud.

CONCLUSION

The Executive Office and Board of Supervisors are requested to return a copy of the approved Board letter and three (3) signed copies of the Agreement to the Department.

Respectfully submitted,

PASTOR HERRERA, JR.
Director

ATTACHMENTS: Designated Use Agreement
Request for Appropriation Adjustment

C: David Janssen, Chief Administrative Officer
Violet Varona-Lukens, Executive Officer, Board of Supervisors
Raymond G. Fortner, Jr., County Counsel
J. Tyler McCauley, Auditor-Controller

Designated Use Agreement

GRIEGO v. RENT-A-CENTER
S.D. Superior Court, JCCP No. 4244

This agreement governs the use of any and all *cy pres* funds distributed by the Claims Administrator to the Department of Consumer Affairs of the County of Los Angeles. The terms used herein shall have the meaning defined in the Stipulation of Settlement signed by the Parties in *Benjamin Griego, et al., v. Rent-A-Center, Inc., et al.*, San Diego County Superior Court, JCCP No. 4244 (a copy of the Stipulation of Settlement is attached). By signing below, the County of Los Angeles agrees to each and all of the following conditions:

1. Any and all *cy pres* funds received from the Claims Administrator shall be used exclusively by the Department of Consumer Affairs of the County of Los Angeles, in the State of California, and solely and exclusively for the benefit of California consumers in the areas of consumer lending, consumer finance, debt collection or the sale or lease of consumer goods or services (including insurance), including but not limited to the investigation, prosecution and/or consumer education in those areas, but not for purposes of investigating or prosecuting antitrust or environmental matters;

2. The County of Los Angeles agrees that its Department of Consumer Affairs will prepare an annual report describing with particularity how the *cy pres* funds received pursuant to this agreement have been applied, showing that such funds have been used in accordance with the purposes specified above (to the extent such funds have been expended) and accounting for such expenditures; however, nothing in this agreement shall be construed to require the County of Los Angeles or its Department of Consumer Affairs to disclose the existence of a confidential investigation or otherwise violate any statutory limit or prohibition on the release of information and accounting for such expenditures. The annual report shall be submitted to both Plaintiffs' Counsel and Defendants' counsel at the following addresses:

Frank J. Fox, Esq.
MAJORS & FOX LLP
401 West "A" Street, Suite 2350
San Diego, California 92101

Wayne W. Bost, Esq.
WINSTEAD SECHREST & MINICK P.C.
401 Congress Avenue, Suite 2100
Austin, Texas 78701

3. The County of Los Angeles shall refund to the Court all funds distributed by the Claims Administrator in the event the Court determines that the County of Los Angeles or its Department of Consumer Affairs have used any portion of such funds in violation of the Designated Use Agreement.

AUTHORIZATION OF DESIGNATED USE AGREEMENT
BY THE COUNTY OF LOS ANGELES

IN WITNESS WHEREOF, the County of Los Angeles Board of Supervisors has caused this Designated Use Agreement to be subscribed by its Chairperson and the seal of said Board to be affixed and attested by the Executive Officer and Clerk thereof, this _____ day of _____, 2005.

COUNTY OF LOS ANGELES

By:_____
Chair, Board of Supervisors

ATTEST:

VIOLET VARONA-LUKENS
Executive Officer - Clerk
Of the Board of Supervisors
County of Los Angeles

By:_____
Deputy

APPROVED AS TO FORM:

County Counsel

By_____
Senior Deputy County Counsel

76R 352M 11/83

BOARD OF SUPERVISORS OFFICIAL COPY

COUNTY OF LOS ANGELES

REQUEST FOR APPROPRIATION ADJUSTMENT

DEPT'S. No. 762/06-01

DEPARTMENT OF CONSUMER AFFAIRS

November 18, 2005 19

AUDITOR-CONTROLLER.
THE FOLLOWING APPROPRIATION ADJUSTMENT IS DEEMED NECESSARY BY THIS DEPARTMENT. WILL YOU PLEASE REPORT AS TO ACCOUNTING AND AVAILABLE BALANCES AND FORWARD TO THE CHIEF ADMINISTRATIVE OFFICER FOR HIS RECOMMENDATION OR ACTION.

ADJUSTMENT REQUESTED AND REASONS THEREFOR

4-Vote Budget Adjustment
FISCAL YEAR 2005-06

Sources		Uses	
Department of Consumer Affairs		Department of Consumer Affairs	
Unanticipated Revenue		Services and Supplies	
A01-CA-19100-9461		A01-CA-19100-2000	
Increase in Revenue	$150,000	Increase in Appropriation	$150,000
	$ 150,000		$ 150,000

JUSTIFICATION:

This will allow the Department of Consumer Affairs to provide for the anticipated project costs using cy pres funds to enhance existing programs and create new projects to assist consumers in the areas of consumer lending, consumer finance, debt collection, or the sale of lease of consumer goods and services.

These expenditures will include developing and publishing consumer education materials and reports, translating consumer education materials into different languages, and training staff on specialized consumer protection areas.

PASTOR HERRERA, JR., DIRECTOR

Pastor Herrera Jr.

CHIEF ADMINISTRATIVE OFFICER'S REPORT

REFERRED TO THE CHIEF ADMINISTRATIVE OFFICER FOR— ACTION

✓ RECOMMENDATION

AUDITOR-CONTROLLER BY Helen Tang FOR CONNIE YEE

No. 192 NOV. 18 2005 19

APPROVED AS REQUESTED AS REVISED

November 22 2005 19

CHIEF ADMINISTRATIVE OFFICER

APPROVED (AS REVISED): 19

BOARD OF SUPERVISORS

BY

DEPUTY COUNTY CLERK

SEND 6 COPIES TO THE AUDITOR-CONTROLLER