

## Terms Completed

### ORDER SUMMARY – Case Number: C-05-012

**Name(s):** Check 'n Go of Washington Inc dba Check 'n Go

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**Order Number:** C-05-012-06-CO01

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**Effective Date:** December 12, 2006

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**License Number:** DFI: 16298  
**Or NMLS Identifier [U/L]** (Revoked, suspended, stayed, application denied or withdrawn)  
 If applicable, you must specifically note the ending dates of terms.

**License Effect:** n/a

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**Not Apply Until:** \_\_\_\_\_

**Not Eligible Until:** \_\_\_\_\_

**Prohibition/Ban Until:** \_\_\_\_\_

<b>Investigation Costs</b>	\$5,796.84	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 12.12.06
<b>Fine</b>	\$82,0000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 12.12.06
<b>Assessment(s)</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$69,675	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Judgment</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Satisfaction of Judgment Filed?</b>		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments: Restitution: Within 90 days of the date of entry of this CO, make restitution to consumers as specified immediately below and provide the Department with written proof of such payments within 120 days of the date of entry of this Consent Order in the amount of \$69,675.

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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Check Cashers and Sellers Act of Washington by:

NO. C-05-012-06-CO01

CHECK 'N GO OF WASHINGTON, INC., d/b/a  
CHECK 'N GO ,  
Respondent.

CONSENT ORDER

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Acting Division Director, Division of Consumer Services, and Check 'n Go of Washington, Inc. (Respondent) by and through its General Counsel, Stephen J. Schaller, and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.45 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

**AGREEMENT AND ORDER**

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-05-012-06-SC01 (Statement of Charges) entered August 2, 2006, (copy attached hereto). Pursuant to chapter 31.45 RCW, the Check Cashers and Sellers Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve all allegations raised in the Statement of Charges.

Based upon the foregoing:

A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the activities discussed herein.

CONSENT ORDER  
CHECK 'N GO OF WASHINGTON, INC.  
C-05-012-06-CO01

**RECEIVED**

1  
**DEC 11 2006**

DEPT. OF FINANCIAL INSTITUTIONS  
OLYMPIA, WASHINGTON

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Division of Consumer Services  
150 Israel Rd SW  
PO Box 41200  
Olympia, WA 98504-1200

1           **B. Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing  
2 before an administrative law judge, and that Respondent has waived the right to a hearing and any and all  
3 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.  
4 Accordingly, Respondent agrees to withdraw the application for hearing and to inform the Office of Administrative  
5 Hearings in writing of the withdrawal.

6           **C. Fine.** It is AGREED that Respondent shall pay to the Department a fine of \$82,000, in the form of a  
7 cashier's check made payable to the "Washington State Treasurer," upon entry of this order.

8           **D. Restitution.** It is AGREED that Respondent shall, within ninety (90) days of the date of entry of this  
9 Consent Order, make restitution to consumers as specified immediately below and provide the Department with  
10 written proof of such payments within one hundred and twenty (120) days of the date of entry of this Consent  
11 Order in the amount of \$69,675.

12           If restitution cannot be made to any particular consumer, Respondent shall take the necessary steps to  
13 escheat such funds to the State of Washington and provide the Department with written proof of such action. The  
14 "written proof" at a minimum must consist of a signed affidavit from Candace Sheridan (Respondent's Director of  
15 Compliance) attesting that she supervised Respondent's restitution efforts and verified that: (1) those consumers  
16 listed in the affidavit received payment in the amount and on the date indicated, and as applicable, (2) Respondent  
17 could not make restitution to those consumers listed in the affidavit, showing the amount due to each consumer,  
18 describing the efforts taken by Respondent to make restitution to these consumers, and detailing the steps taken to  
19 escheat the funds to the State of Washington. The Department may require Respondent to provide additional  
20 proof of compliance with this provision, which may include but not be limited to copies of the front and back of  
21 cancelled checks.

22           **E. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an investigation fee in  
23 the amount of \$5796.84 in the form of a cashier's check made payable to the "Washington State Treasurer" upon  
24 entry of this Consent Order.

**RECEIVED**

**DEC 11 2006**

CONSENT ORDER  
CHECK 'N GO OF WASHINGTON  
C-05-012-06-CO01

DEPT. OF FINANCIAL INSTITUTIONS  
OLYMPIA, WASHINGTON

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Division of Consumer Services  
150 Israel Rd SW  
PO Box 41200  
Olympia, WA 98504-1200

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1 F. **Assurance of Discontinuance and Efforts Exerted by Respondent.** Respondent assures the  
2 Department that Respondent discontinued all practices giving rise to the issuance of the Statement of Charges and  
3 that Respondent has put controls in place to prevent their recurrence.

4 G. **Compliance with the Law.** It is AGREED that Respondent shall comply with the Check Cashers and  
5 Sellers Act and the rules adopted thereunder when engaged in any activities subject to that statute.

6 H. **Non-Compliance with Order.** It is AGREED that Respondent understands that failure to abide by  
7 the terms and conditions of this Consent Order may result in further legal action by the Director. In the event of  
8 such legal action, Respondent may be responsible to reimburse the Director for the cost incurred in pursuing  
9 such action, including but not limited to, attorney fees.

10 I. **Authority to Execute Order.** It is AGREED that the undersigned Respondent's General Counsel,  
11 Stephen J. Schaller, has represented and warranted that he has the full power and right to execute this Consent  
12 Order on behalf of the Respondent.

13 J. **Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily entered into  
14 this Consent Order, which is effective when signed by the Director's designee.

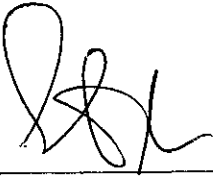
15 K. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read this Consent  
16 Order in its entirety and fully understands and agrees to all of the same.

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DEC 11 2006  
DEPT. OF FINANCIAL INSTITUTIONS  
OLYMPIA, WASHINGTON

1 **RESPONDENT CHECK 'N GO OF WASHINGTON, INC.:**

2  
3 By:



4  
5 Stephen J. Schaller  
General Counsel, Check 'n Go of Washington, Inc.

12-08-06  
Date

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8  
9 DO NOT WRITE BELOW THIS LINE

10  
11 THIS ORDER ENTERED THIS 11<sup>th</sup> DAY OF December 2006.



12  
13  for

14 Deborah Bortner  
Acting Director  
Division of Consumer Services  
Department of Financial Institutions

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20 RECEIVED

21 DEC 11 2006

22 DEPT. OF FINANCIAL INSTITUTIONS  
23 OLYMPIA, WASHINGTON

24  
25 CONSENT ORDER  
CHECK 'N GO OF WASHINGTON, INC.  
C-05-012-06-CO01

DEPARTMENT OF FINANCIAL INSTITUTIONS  
Division of Consumer Services  
150 Israel Rd SW  
PO Box 41200  
Olympia, WA 98504-1200

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**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
CONSUMER SERVICES DIVISION**

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IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Check Cashers and Sellers Act of Washington  
by:

CHECK 'N GO OF WASHINGTON, INC.,  
DBA CHECK 'N GO  
Respondent.

NO. C-05-012-06-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO REVOKE  
LICENSE, IMPOSE FINE, ORDER  
RESTITUTION, AND COLLECT  
INVESTIGATION FEE

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**INTRODUCTION**

Pursuant to RCW 31.45.110 and RCW 31.45.200, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.45 RCW, the Check Cashers and Sellers Act (Act). After having conducted an investigation pursuant to RCW 31.45.100, and based upon the facts available as of July 31, 2006, the Director institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondent.**

**A. Check 'n Go of Washington, Inc. (Respondent Check 'n Go)** is licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct the business of a check casher with a small loan endorsement. Respondent Check 'n Go has been so licensed since July 15, 1998.







1 consumer's PIN numbers unnecessarily exposed the affected consumers to possible theft of funds and  
2 possible identity theft.<sup>1</sup>

3 **1.8 On-Going Investigation:** The Department's investigation into the alleged violations of the  
4 Act by Respondent Check 'n Go continues to date.

## 5 **II. GROUNDS FOR ENTRY OF ORDER**

6 **2.1 Definition of Check Casher.** Pursuant to RCW 31.45.010(5), a "Check Casher" is defined as  
7 an individual, partnership, unincorporated association, or corporation that, for compensation, engages,  
8 in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper  
9 serving the same purpose.

10 **2.2 Definition of Licensee.** Pursuant to RCW 31.45.010(12), a "Licensee" is defined as a check  
11 cashier or seller licensed by the director to engage in business in accordance with the Act. For the  
12 purpose of the enforcement powers of the Act, including the power to issue cease and desist orders  
13 under RCW 31.45.110, "licensee" also means a check cashier or seller who fails to obtain the license  
14 required by the Act.

15 **2.3 Definition of Small Loan.** Pursuant to RCW 31.45.010(19), a "Small Loan" is defined as a  
16 loan up to the maximum amount and for a period of time up to the maximum term specified in RCW  
17 31.45.073.

18 **2.4 Acceptance of Multiple Postdated Checks.** Based on the Factual Allegations set forth in  
19 Section I above, Respondent Check 'n Go is in apparent violation of RCW 31.45.073(4) for accepting  
20 more than one postdated check per small loan as security for the small loan.

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23 <sup>1</sup> Additionally, a PIN number is an "access device" pursuant to RCW 9A.56.010(1). Exerting unauthorized control over or  
24 possessing an access devise can constitute the crimes of Theft in the Second Degree or Possession of Stolen Property in the  
25 Second Degree pursuant to RCW 9A.56.020, .040, and .160; both of which are class C felonies.

1 **2.5 Statutory Maximum Fees on Delinquent Small Loans.** Based on the Factual Allegations set  
2 forth in Section I above, Respondent Check 'n Go is in apparent violation of RCW 31.45.082 for  
3 charging fees on delinquent small loans in excess of the one-time fee authorized by the director where  
4 a borrower's check has been returned unpaid by the financial institution upon which it is drawn.  
5 Pursuant to WAC 208-630-085(1)(b), the allowable one-time fee where a borrower's check has been  
6 returned unpaid by the financial institution upon which it is drawn is currently no more than twenty-  
7 five dollars (\$25.00).

8 **2.6 Prohibited Acts.** Based on the Factual Allegations set forth in Section I above, Respondent  
9 Check 'n Go is in apparent violation of RCW 31.45.110(1)(h) and (l) for knowingly committing or  
10 being a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick,  
11 scheme, or device whereby any other person relying upon the word, representation, or conduct of the  
12 licensee acts to his or her injury or damage; and for committing an act or engaging in conduct that  
13 demonstrates incompetence or untrustworthiness or is a source of injury and loss.

14 **2.7 Authority to Revoke License.** Pursuant to RCW 31.45.110(2)(a), the Director may revoke a  
15 license if a licensee is violating or has violated the Act including rules and orders, or commits any act  
16 or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury or  
17 loss to the public.

18 **2.8 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a fine,  
19 not to exceed one hundred dollars per day for each day's violation of the Act, on any licensee or  
20 applicant, or any director, officer, sole proprietor, partner, controlling person, or employee of a  
21 licensee or applicant, that is violating or has violated the Act, including rules and orders, or commits  
22 any act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of  
23 injury or loss to the public.

1 **2.9 Authority to Order Restitution.** Pursuant to RCW 31.45.110(2)(d), the Director may order  
2 restitution to borrowers damaged by the licensee's violation of this chapter.

3 **2.10 Authority to Charge Investigation Fee.** Pursuant to RCW 31.45.050(1), RCW 31.45.100,  
4 WAC 208-630-020, WAC 208-630-023, and WAC 208-630-02303, upon completion of any  
5 investigation of the books and records of a licensee, the Director shall collect from the licensee the actual  
6 cost of the investigation. The investigation charge will be calculated at the rate of sixty-nine dollars and  
7 one cent (\$69.01) per hour that each staff person devoted to the investigation.

### 8 **III. NOTICE OF INTENTION TO ENTER ORDER**

9 Respondent Check 'n Go's violations of the provisions of chapter 31.45 RCW and chapter 208-  
10 630 WAC, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis  
11 for the entry of an order under RCW 31.45.110 and RCW 31.45.200. Therefore, it is the Director's  
12 intention to ORDER that:

13 3.1 Respondent Check 'n Go of Washington, Inc.'s license to conduct the business of a check  
14 cashier with a small loan endorsement be revoked; and

15 3.2 Respondent Check 'n Go of Washington, Inc., pay a fine of \$333,700, which consists of:  
16 a. \$26,900 for accepting multiple postdated checks for small loans from at least 20  
17 Washington consumers in violation of RCW 31.45.073(4), calculated at \$100 per day for  
18 the term of each consumer's loan, as discovered during the July 19, 2004, exam, and  
19 b. \$60,800 for accepting multiple postdated checks from at least 39 Washington consumers  
20 in violation of RCW 31.45.073(4), calculated at \$100 per day for the term of each  
21 consumer's loan, as discovered during the November 18, 2005 exam, and  
22 c. \$105,000 for causing at least 35 Washington consumers to unnecessarily incur NSF fees  
23 in violation of RCW 31.45.110(1)(h) and (l), calculated at \$100 per day, per consumer, for  
24 30 days, and  
25 d. \$84,000 for charging multiple NSF fees from at least 29 Washington consumers in  
violation of RCW 31.45.082, calculated at \$100 per day, per consumer, for 30 days, and  
e. \$57,000 for obtaining and retaining the PIN numbers of at least 19 Washington consumers  
in violation of RCW 31.45.110(1)(h) and (l), calculated at \$100 per day, per consumer, for  
30 days, and


3.3 Respondent Check 'n Go of Washington, Inc., pay restitution to all affected borrowers for  
any fees incurred from the solicitation of two postdated checks for a single loan; and

1 3.4 Respondent Check 'n Go of Washington, Inc. pay an investigation fee in the amount of  
2 \$5796.84, calculated at \$69.01 per hour for eighty-four (84) staff hours devoted to the  
3 investigation.

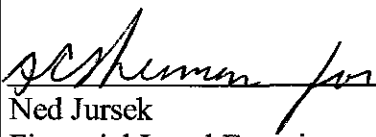
4 **IV. AUTHORITY AND PROCEDURE**

5 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine,  
6 Order Restitution, and Collect Investigation Fee is entered pursuant to the provisions of  
7 RCW 31.45.110 and RCW 31.45.200, and is subject to the provisions of chapter 34.05 RCW (The  
8 Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in  
9 the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING  
10 accompanying this Statement of Charges and Notice of Intention to Enter an Order to Revoke License,  
11 Impose Fine, Order Restitution, and Collect Investigation Fee.

12 Dated this 2nd day of August, 2006.

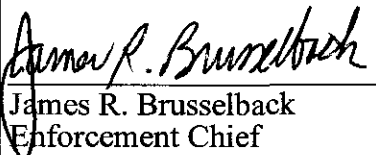
13   
14 **CHUCK CROSS**  
15 Director  
16 Division of Consumer Services  
17 Department of Financial Institutions

18 Presented by:

19   
20 Ned Jursek  
21 Financial Legal Examiner



22 Approved By:

23   
24 James R. Brusselback  
25 Enforcement Chief