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

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IN THE MATTER OF DETERMINING
Whether there has been a violation of the
Consumer Loan Act of Washington by:

No. C-10-030-11-FO01

PREMIUM CAPITAL FUNDING LLC, d/b/a
TOPDOT MORTGAGE,

FINAL ORDER

Respondent.

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I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through his designee, Consumer Services Division Director Deborah Bortner (Director's designee), pursuant to RCW 34.05.440(1). On February 5, 2011, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine, Collect Annual Assessment, Assess Late Penalties, Collect Cost of Investigation, and Maintain Records (Statement of Charges) against Premium Capital Funding LLC, d/b/a TopDot Mortgage (Respondent). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated February 7, 2011, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Respondent (collectively, accompanying documents).

On February 7, 2011, the Department served Respondent with the Statement of Charges and accompanying documents, sent by First-Class mail and Federal Express overnight delivery to each of the four owners of Respondent as identified in Respondent's initial license application. Respondent did not request an adjudicative hearing within twenty calendar days after the Department served the

1 Notice of Opportunity to Defend and Opportunity for Hearing, as provided for in WAC 208-08-
2 050(2).

3 B. Record Presented. The record presented to the Director's designee for her review and
4 for entry of a final decision included the Statement of Charges, cover letter dated February 7, 2011,
5 Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for
6 Adjudicative Hearing, with documentation of service.

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8 C. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(1), the
9 Director's designee hereby adopts the Statement of Charges, which is attached hereto.

10 II. FINAL ORDER

11 Based upon the foregoing, and the Director's designee having considered the record and being
12 otherwise fully advised, NOW, THEREFORE:

13 A. IT IS HEREBY ORDERED, That:

- 14 1. Respondent Premium Capital Funding LLC, d/b/a TopDot Mortgage's license to
conduct business as a consumer loan company is revoked.
- 15 2. Respondent Premium Capital Funding LLC, d/b/a TopDot Mortgage pay a fine of
16 \$3,000.
- 17 3. Respondent Premium Capital Funding LLC, d/b/a TopDot Mortgage pay an
annual assessment of \$3,903.54 for 2009.
- 18 4. Respondent Premium Capital Funding LLC, d/b/a TopDot Mortgage pay a \$3,200
19 penalty for filing its 2009 Consolidated Annual Report and 2009 Annual
Assessment Report 32 days late.
- 20 5. Respondent Premium Capital Funding LLC, d/b/a TopDot Mortgage pay a \$5,000
21 penalty for filing its closure Consolidated Annual Report and closure Annual
Assessment Report over 50 days late.
- 22 6. Respondent Premium Capital Funding LLC, d/b/a TopDot Mortgage pay an
23 investigation fee of \$2,346.34.

1 7. Respondent Premium Capital Funding LLC, d/b/a TopDot Mortgage, its officers,
2 employees, and agents maintain records in compliance with chapter 31.04 RCW,
3 the Consumer Loan Act (Act) and provide the Director with the location of the
4 books, records and other information related to Respondent Premium Capital
Funding LLC, d/b/a TopDot Mortgage's consumer loan company business, and the
name, address and telephone number of the individual responsible for maintenance
of such records in compliance with the Act.

5 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
6 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
7 must be filed in the Office of the Director of the Department of Financial Institutions by courier at
8 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
9 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The
10 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
11 Reconsideration a prerequisite for seeking judicial review in this matter.

12 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the
13 date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a
14 written notice specifying the date by which it will act on a petition.

15 C. Stay of Order. The Director's designee has determined not to consider a Petition to
16 Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
17 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

18 D. Judicial Review. Respondent has the right to petition the superior court for judicial
19 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for
20 filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

21 E. Non-compliance with Order. If you do not comply with the terms of this order, the
22 Department may seek its enforcement by the Office of the Attorney General to include the collection
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1 of the fines, assessments, late penalties, and fees imposed herein. The Department also may assign
2 the amounts owed to a collection agency for collection.

3 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial
4 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
5 attached hereto.

6 DATED this 21st day of March, 2011



8 STATE OF WASHINGTON
9 DEPARTMENT OF FINANCIAL INSTITUTIONS

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11 DEBORAH BORTNER
12 Director
13 Division of Consumer Services

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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
Consumer Loan Act of Washington by:

NO. C-10-030-11-SC01

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PREMIUM CAPITAL FUNDING LLC, d/b/a
TOPDOT MORTGAGE,

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STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER AN
ORDER TO REVOKE LICENSE, IMPOSE FINE,
COLLECT ANNUAL ASSESSMENT, ASSESS
LATE PENALTIES, COLLECT COST OF
INVESTIGATION, AND MAINTAIN RECORDS

Respondent.

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INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an investigation pursuant to RCW 31.04.145, and based upon the facts available as of the date of this Statement of Charges, the Director, by and through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

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I. FACTUAL ALLEGATIONS

1.1 Respondent Premium Capital Funding LLC d/b/a TopDot Mortgage (Respondent) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on or about November 18, 2008. On or about June 29, 2010, the Department received a closure/surrender form from Respondent indicating Respondent closed effective March 31, 2010.

Respondent's license application indicated the following ownership:

David Andrew Brown 64% owner
Adam Jaime Brown 12% owner
Frank Anthony Fiore 12% owner
Brett Rosenblatt 12% owner

Since the date of initial licensure, Respondent has not notified the Department of any change in its ownership.

1.2 Failure to File Reports Timely. A Consolidated Annual Report (CAR) and an Annual Assessment Report (AAR), concerning the business and operations of each licensed place of business conducted during the

1 preceding calendar year, are due to the Department on or before the first day of March of each year or within 30
2 days of closure. A licensee is subject to a penalty of \$50 per report for each day's delay in filing required
3 reports. Respondent filed its 2009 CAR and AAR, due on or before March 1, 2010, on or about April 2, 2010.
4 Respondent filed its closure CAR and AAR, due on or before April 30, 2010, on or about June 29, 2010.

5 **1.3 Failure to Pay Annual Assessment.** Payment of an annual assessment, as calculated on the AAR, is
6 due to the Department on or before the first day of March of each year. Respondent's 2009 annual assessment,
7 as calculated on its 2009 AAR, totals \$3,903.54 and was due on or before March 1, 2010. As of the date of this
8 Statement of Charges, Respondent has not paid its 2009 annual assessment.

9 **1.4 Failure to Pay Annual Assessment Timely.** Payment of an annual assessment, as calculated on the
10 AAR, is due to the Department within 30 days of closure. Respondent paid its closure annual assessment, due
11 on or before April 30, 2010, on or about June 29, 2010.

12 **1.5 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
13 Respondent continues to date.

14 **II. GROUNDS FOR ENTRY OF ORDER**

15 **2.1 Requirement to File Annual Reports.** Based on the Factual Allegations set forth in Section I above,
16 Respondent is in apparent violation of RCW 31.04.155, WAC 208-620-430(1), WAC 208-620-460(1), and
17 WAC 208-620-499(2) for failing to file a Consolidated Annual Report and an Annual Assessment Report with
18 the Director on or before the first day of March of each year, or within thirty days of closure, giving such
19 relevant information as the Director may reasonably require concerning the business and operations of each
20 licensed place of business conducted during the preceding calendar year.

21 **2.2 Requirement to Pay Annual Assessment.** Based on the Factual Allegations set forth in Section I
22 above, Respondent is in apparent violation of RCW 31.04.085, WAC 208-620-430(1), WAC 208-620-460(1),
23 and WAC 208-620-499(2) for failing to pay an annual assessment, as calculated on the Annual Assessment
24 Report, to the Director on or before the first day of March of each year, or within thirty days of closure.

1 **2.3 Requirement to Maintain Records.** Pursuant to RCW 31.04.155 and WAC 208-620-520, a licensee
2 shall preserve the books, accounts, records papers, documents, files, and other information relevant to a loan for
3 at least twenty-five months after making the final entry on any loan. Pursuant to WAC 208-620-380, an out-of-
4 state licensee must request approval from the Department in writing to maintain a licensee's records at an out-
5 of-state location and must agree to provide the Department access to the records.

6 **III. AUTHORITY TO IMPOSE SANCTIONS**

7 **3.1 Authority to Revoke License.** Pursuant to RCW 31.04.093(3) and WAC 208-620-570, the Director
8 may revoke a license if a licensee: has failed to pay any fee due the state of Washington; or, either knowingly or
9 without the exercise of due care, has violated any provision of the Act or any rule adopted under the Act.

10 **3.2 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of up to one
11 hundred dollars per day upon the licensee for any violation of the Act.

12 **3.3 Authority to Issue Order to Take Affirmative Action.** Pursuant to RCW 31.04.093(5), the Director
13 may issue an order directing the licensee, its employee or loan originator, or other person subject to the Act, to
14 take such affirmative action as is necessary to comply with the Act.

15 **3.4 Authority to Assess Report Late Penalties.** Pursuant to RCW 31.04.155 and WAC 208-620-430(2), a
16 licensee that fails to file a report that is required to be filed by the Act, within the time frame required under the Act,
17 is subject to a penalty of fifty dollars per report for each day of delay. The maximum late penalty that will be
18 assessed is five thousand dollars per year.

19 **3.5 Authority to Collect Cost of Investigation.** Pursuant to RCW 31.04.145(3) and WAC 208-620-590,
20 every licensee investigated by the Director or the Director's designee shall pay to the Director the cost of the
21 investigation, calculated at the rate of \$69.01 per staff hour spent on the investigation.

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1 **IV. NOTICE OF INTENTION TO ENTER ORDER**

2 Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as set forth in
3 the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions, constitute a basis
4 for the entry of an Order under RCW 31.04.093, RCW 31.04.165, and RCW 31.04.205. Therefore, it is the
5 Director's intention to ORDER that:

- 6 4.1 Respondent Premium Capital Funding LLC d/b/a TopDot Mortgage's license to conduct business as a
consumer loan company be revoked.
- 7 4.2 Respondent Premium Capital Funding LLC d/b/a TopDot Mortgage pay a fine. As of the date of this
Statement of Charges, the fine totals \$3,000.
- 8 4.3 Respondent Premium Capital Funding LLC d/b/a TopDot Mortgage pay an annual assessment of
9 \$3,903.54 for 2009.
- 10 4.4 Respondent Premium Capital Funding LLC d/b/a TopDot Mortgage pay a \$3,200 penalty for filing its
2009 Consolidated Annual Report and 2009 Annual Assessment Report 32 days late.
- 11 4.5 Respondent Premium Capital Funding LLC d/b/a TopDot Mortgage pay a \$5,000 penalty for filing its
closure Consolidated Annual Report and closure Annual Assessment Report over 50 days late.
- 12 4.6 Respondent Premium Capital Funding LLC d/b/a TopDot Mortgage pay the cost of the Department's
13 investigation. As of the date of this Statement of Charges, the cost of the investigation totals \$2,346.34.
- 14 4.7 Respondent Premium Capital Funding LLC d/b/a TopDot Mortgage, its officers, employees, and agents
15 maintain records in compliance with the Act and keep the Department apprised of the location of the
books, records and other information relating to Respondent Premium Capital Funding LLC d/b/a TopDot
Mortgage's consumer loan company business, and the name, address and telephone number of the
16 individual responsible for maintenance of such records in compliance with the Act.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Impose Fine,
3 Collect Annual Assessment, Assess Late Penalties, Collect Cost of Investigation, and Maintain Records is
4 entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202, and RCW 31.04.205,
5 and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may
6 make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND
7 OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

8 Dated this 5th day of February, 2011.



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10 DEBORAH BORTNER
11 Director
12 Division of Consumer Services
13 Department of Financial Institutions

14 Presented by:

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16 MARK T. OLSON
17 Financial Legal Examiner

18 Approved by:

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20 JAMES R. BRUSSELBACK
21 Enforcement Chief