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

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

NO. C-10-043-10-FO01

PAYCHECK TODAY a/k/a APEX 1,

FINAL ORDER

Respondent.

**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, pursuant to RCW 34.05.440(1). On May 27, 2010, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Ban from Industry, Order Restitution, Impose Fine, and Collect Investigation Fee (Statement of Charges). 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 May 28, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for Respondent. The Department served the Statement of Charges, cover letter, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing on Respondent, on May 28, 2010, by United States Postal Service First-Class mail and Federal Express overnight delivery. On June 1, 2010, the documents sent via Federal Express overnight delivery were delivered. The documents sent via First-Class mail were not returned to the Department by the United States Postal Service.

1 Respondent did not request an adjudicative hearing within twenty calendar days after the  
2 Department served Respondent with the Notice of Opportunity to Defend and Opportunity for  
3 Hearing, as provided for in WAC 208-08-050(2).

4 B. Record Presented. The record presented to the Director's designee for her review and  
5 for entry of a final decision included the Statement of Charges, cover letter dated May 28, 2010, Notice of  
6 Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for  
7 Paycheck Today a/k/a Apex 1, with documentation of service.

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  
11 II. FINAL ORDER

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

14 A. IT IS HEREBY ORDERED, That:

- 15 1. Respondent Paycheck Today a/k/a Apex 1 cease and desist offering check casher, check  
16 seller, and payday loan services or otherwise conducting the business of a check casher, check  
17 seller, or payday loan provider in the state of Washington; and
- 18 2. Respondent Paycheck Today a/k/a Apex 1 is banned from participation in the conduct of the  
19 affairs of any check seller, check casher, or check casher with a small loan endorsement subject to  
20 licensure by the Director, in any manner, for a period of five (5) years; and
- 21 3. Respondent Paycheck Today a/k/a Apex 1 provide a refund of \$680 to the borrower  
22 referenced in the attached restitution schedule, and notify all collection and consumer reporting  
23 agencies to delete all references to the transactions between Respondent Paycheck Today a/k/a  
24 Apex 1 and the borrower from their records; and
- 25 4. Respondent Paycheck Today a/k/a Apex 1 pay a fine of \$5,000; and
5. Respondent Paycheck Today a/k/a Apex 1 pay an investigation fee of \$1,242; and
6. Respondent Paycheck Today a/k/a Apex 1 maintain records in compliance with the Act and  
provide the Department with the location of the books, records and other information relating to

1 Respondent Paycheck Today a/k/a Apex 1's business, and the name, address and telephone  
2 number of the individual responsible for maintenance of such records in compliance with the Act.

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

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

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

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

19 E. Non-compliance with Order. If you do not comply with the terms of this order, the  
20 Department may seek its enforcement by the Office of Attorney General to include the collection of the  
21 restitution, fines, and fees imposed herein.  
22

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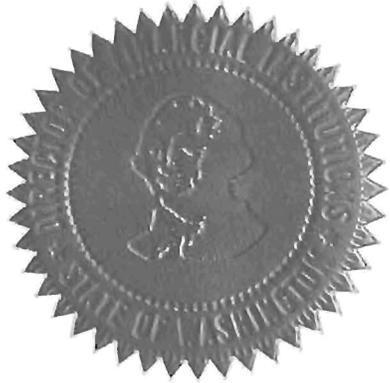
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F. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service attached hereto.

DATED this 8<sup>th</sup> day of October, 2010.



STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS

Deborah Bortner  
DEBORAH BORTNER  
DIRECTOR  
DIVISION OF CONSUMER SERVICES

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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  
Check Cashers and Sellers Act of Washington by:

NO. C-10-043-10-SC01

PAYCHECK TODAY aka APEX 1,

Respondent.

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER  
AN ORDER TO CEASE AND DESIST, BAN FROM  
INDUSTRY, ORDER RESTITUTION,  
IMPOSE FINE, 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 the date of this Statement of Charges, the Director, through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondent.** Paycheck Today Inc aka Apex 1 (Respondent) is an Oklahoma Corporation.

Respondent is known to have conducted the business of a payday lender via the internet with consumers located in the State of Washington. Respondent has never been licensed or endorsed by the Washington State Department of Financial Institutions (Department) to conduct the business of a payday lender.

**1.2 Unlicensed Activity.** Respondent engaged in the business of a payday lender or made small loans, via the internet, to at least two borrowers located in the State of Washington from at least September 2008 through the date of this Statement of Charges. To date the Department has not issued a check seller or check cashier's license or small loan endorsement to Respondent.

1 **1.3 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
2 Respondent continues to date.

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

4 **2.1 Definition of Check Casher.** Pursuant to RCW 31.45.010(5), a "Check Casher" is defined as an  
5 individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or  
6 in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same  
7 purpose.

8 **2.2 Definition of Check Seller.** Pursuant to RCW 31.45.010(6), a "Check Seller" means and individual,  
9 partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in  
10 the business of or selling checks, drafts, money orders, or other commercial paper serving the same purpose.

11 **2.3 Definition of Small Loan.** Pursuant to RCW 31.45.010(19), a "Small Loan" is defined as a loan up to  
12 the maximum amount and for a period of time up to the maximum term specified in RCW 31.45.073.

13 **2.4 Definition of Licensee.** Pursuant to RCW 31.45.010(12), a "Licensee" is defined as a check casher or  
14 seller licensed by the director to engage in business in accordance with the Act. For the purpose of the  
15 enforcement powers of the Act, "licensee" also means a check casher or seller who fails to obtain the license  
16 required by the Act.

17 **2.5 Requirement to Obtain a Check Casher or Seller License.** Based on the Factual Allegations set  
18 forth in Section I above, Respondent is in apparent violation of RCW 31.45.030(1) for engaging in the business  
19 of a check casher or seller without first obtaining a license from the Director.

20 **2.6 Requirement to Obtain a Small Loan Endorsement.** Based on the Factual Allegations set forth in  
21 Section I above, Respondent is in apparent violation of RCW 31.45.040(1), RCW 31.45.073(1), RCW  
22 31.45.079, and RCW 31.45.105(1)(d) for engaging in the business of making small loans without first obtaining  
23 a small loan endorsement from the Director.

24 **2.7 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent is in  
25 apparent violation of RCW 31.45.105(1)(a) and (b) for directly or indirectly employing any scheme, device, or

1 artifice to defraud or mislead any borrower, or to defraud or mislead any person, or directly or indirectly  
2 engaging in any unfair or deceptive practice toward any person.

3 **2.8 Requirement to Maintain Business Books and Records.** Based on the Factual Allegations set forth  
4 in Section I above, Respondent is in apparent violation of RCW 31.45.060(2) for failing to keep and maintain  
5 the business books, accounts and records as required by the Director for at least two years from the completion  
6 of a transaction.

### 7 III. AUTHORITY TO IMPOSE SANCTIONS

8 **3.1 Authority to Issue Cease and Desist Order.** Pursuant to RCW 31.45.110(2)(b), the Director may  
9 order a licensee to cease and desist from practices in violation of the Act or practices that constitute unsafe and  
10 unsound financial practices in the sale of checks.

11 **3.2 Authority to Remove and Ban from the Industry.** Pursuant to RCW 31.45.110(2)(e), the Director  
12 may remove from office or ban from participation in the conduct of the affairs of any licensee any director,  
13 officer, sole proprietor, partner, controlling person, or employee of a licensee that is violating or has violated the  
14 Act including rules and orders, or commits any act or engages in conduct that demonstrates incompetence or  
15 untrustworthiness, or is a source of injury or loss to the public.

16 **3.3 Authority to Order Restitution.** Pursuant to RCW 31.45.105(2) and RCW 31.45.110(2)(d), the  
17 Director may order restitution to borrowers damaged by the licensee's violation of this chapter.

18 **3.4 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a fine, not to  
19 exceed one hundred dollars per day for each day's violation of the Act, on any licensee or applicant, or any  
20 director, officer, sole proprietor, partner, controlling person, or employee of a licensee or applicant, that is  
21 violating or has violated the Act including rules and orders, or commits any act or engages in conduct that  
22 demonstrates incompetence or untrustworthiness, or is a source of injury or loss to the public.

23 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 31.45.050(1), RCW 31.45.100, WAC 208-  
24 630-015, WAC 208-630-020, WAC 208-630-023 and WAC 208-630-02303, the Director shall collect from the  
25 licensee the actual cost of an examination or investigation of the business, books, accounts, records, files, or other

1 information of a licensee or person who the Director has reason to believe is engaging in the business governed by  
2 the Act. The investigation charge will be calculated at the rate of sixty-nine dollars and one cent (\$69.01) per hour  
3 that each staff person devoted to the investigation, plus actual expenses.

4 **III. NOTICE OF INTENTION TO ENTER ORDER**

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

- 8 **4.1** Respondent Paycheck Today aka Apex 1 cease and desist offering check casher, check seller, and payday  
9 loan services or otherwise conducting the business of a check casher, check seller, or payday loan provider  
10 in the state of Washington; and
- 11 **4.2** Respondent Paycheck Today aka Apex 1 be banned from participation in the conduct of the affairs of any  
12 check seller, check casher, or check casher with a small loan endorsement subject to licensure by the  
13 Director, in any manner, for a period of five (5) years; and
- 14 **4.3** Respondent Paycheck Today aka Apex 1 refund all fees or monies it collected from the borrowers  
15 referenced in paragraph 1.2 above, and shall notify all consumer reporting agencies to delete all references  
16 to the transactions between Respondent Paycheck Today aka Apex 1 and the borrowers from their records;  
17 and
- 18 **4.4** Respondent Paycheck Today aka Apex 1 pay a fine, which as of the date of these charges, totals \$5,000;  
19 and
- 20 **4.5** Respondent Paycheck Today aka Apex 1 pay an investigation fee, which as of the date of these charges,  
21 totals \$1,242, calculated at \$69 per hour for eighteen (18) staff hours devoted to the investigation; and
- 22 **4.6** Respondent Paycheck Today aka Apex 1 shall maintain records in compliance with the Act and provide the  
23 Department with the location of the books, records and other information relating to Respondent Paycheck  
24 Today aka Apex 1's business, and the name, address and telephone number of the individual responsible  
25 for maintenance of such records in compliance with the Act.

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**IV. AUTHORITY AND PROCEDURE**

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

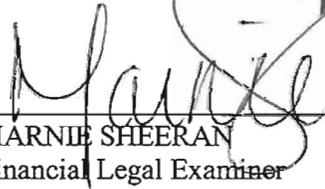
Dated this 27<sup>th</sup> day of May, 2010.



  
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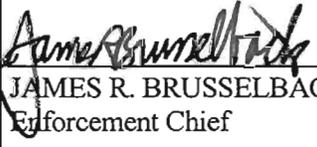
DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

  
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MARNIE SHEERAN  
Financial Legal Examiner

Approved by:

  
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JAMES R. BRUSSELBACK  
Enforcement Chief