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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:

EMERALD MARKETING GROUP LLC,

Respondent.

NO. C-10-172-10-FO01

FINAL ORDER

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 September 3, 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, Prohibit 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 September 3, 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 and Respondent's Registered Agent on September 3, 2010, by United States Postal Service First-Class mail (First-Class mail) and Federal Express overnight delivery. On September 7, 2010, the documents sent via Federal Express overnight delivery were delivered to both Respondent and Respondent's

1 Registered Agent. The documents sent via First-Class mail were not returned to the Department by the
2 United States Postal Service.

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

6 B. Record Presented. The record presented to the Director's designee for her review and
7 for entry of a final decision included the following: Statement of Charges, cover letter, Notice of
8 Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for
9 Respondent Emerald Marketing Group LLC with documentation of service.

10 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.440(1), the
11 Director's designee hereby adopts the Statement of Charges, which is attached hereto.
12

13 II. FINAL ORDER

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

16 A. IT IS HEREBY ORDERED, That:

- 17 1. Respondent Emerald Marketing Group LLC cease and desist offering check casher,
18 check seller, and payday loan services or otherwise conducting the business of a check
19 casher, check seller, or payday loan provider in the state of Washington; and
- 20 2. Respondent Emerald Marketing Group LLC is banned from participation in the
21 conduct of the affairs of any check casher or check casher with a small loan
22 endorsement or check seller subject to licensure by the Director, in any manner, for a
23 period of five (5) years; and
- 24 3. Respondent Emerald Marketing Group LLC refund all fees and monies it collected
25 from the borrowers listed in the attached Restitution Schedule, and notify all
consumer collection and consumer reporting agencies to delete all references to the
transactions between Respondent Emerald Marketing Group LLC and the borrower
from their records; and

- 1 4. Respondent Emerald Marketing Group LLC pay a fine totaling \$30,000; and
- 2 5. Respondent Emerald Marketing Group LLC pay an investigation fee in the amount of
- 3 \$1,380; and
- 4 6. Respondent Emerald Marketing Group LLC maintain records in compliance with the
- 5 Act and provide the Department with the location of the books, records, and other
- 6 information relating to Respondent Emerald Marketing LLC and the name, address,
- and telephone number of the individual responsible for maintenance of such records in
- compliance with the Act.

7 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a

8 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition

9 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150

10 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,

11 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The

12 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for

13 Reconsideration a prerequisite for seeking judicial review in this matter.

14 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the date

15 the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written

16 notice specifying the date by which it will act on a petition.

17 C. Stay of Order. The Director's designee has determined not to consider a Petition

18 to Stay the effectiveness of this order. Any such requests should be made in connection with a Petition

19 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

20 D. Judicial Review. Respondent has the right to petition the superior court for judicial

21 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing

22 a Petition for Judicial Review, see RCW 34.05.510 and sections following.

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

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

7
8 DATED this 21st day of October, 2010.



9 STATE OF WASHINGTON
10 DEPARTMENT OF FINANCIAL INSTITUTIONS

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12 _____
13 DEBORAH BORTNER
14 DIRECTOR
15 DIVISION OF CONSUMER SERVICES

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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:

EMERALD MARKETING GROUP LLC,

Respondent.

NO. C-10-172-10-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO CEASE AND DESIST, PROHIBIT
FROM INDUSTRY, ORDER RESTITUTION,
IMPOSE FINE, AND COLLECT INVESTIGATION
FEE

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. Emerald Marketing Group LLC (Respondent) is a Nevada 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 238 borrowers located in the state of Washington from at least January 1, 2007, through December 31, 2009. To date the Department has not issued a check seller or check cashier's license or small loan endorsement to Respondent.

1.3 Charging Interest or Fees in Excess of Statutory Maximum. Respondent charged interest or fees for small loans exceeding the aggregate of fifteen percent of the first five hundred dollars of principal.

1 **1.4 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 Licensee.** Pursuant to RCW 31.45.010(12), a “Licensee” is defined as a check casher or
9 seller licensed by the director to engage in business in accordance with the Act. For the purpose of the
10 enforcement powers of the Act, including the power to issue cease and desist orders under RCW 31.45.110,
11 “licensee” also means a check casher or seller who fails to obtain the license required by the Act.

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

14 **2.4 Requirement to Obtain a Check Casher or Seller License.** Based on the Factual Allegations set
15 forth in Section I above, Respondent is in apparent violation of RCW 31.45.030(1) for engaging in the business
16 of a check casher or seller without first obtaining a license from the Director.

17 **2.5 Requirement to Obtain a Small Loan Endorsement.** Based on the Factual Allegations set forth in
18 Section I above, Respondent is in apparent violation of RCW 31.45.040(1), RCW 31.45.073(1), RCW
19 31.45.079, and RCW 31.45.105(1)(d) for engaging in the business of making small loans without first obtaining
20 a small loan endorsement from the Director.

21 **2.6 Statutory Maximum Interest or Fees on Small Loan.** Based on the Factual Allegations set forth in
22 Section I above, Respondent is in apparent violation of RCW 31.45.073(3) for charging interest or fees for
23 small loans exceeding in the aggregate fifteen percent of the first five hundred dollars of principal or ten
24 percent on the next two hundred dollars of principal of the small loan.

25 **2.7 Requirement to Maintain Business Books and Records.** Based on the Factual Allegations set forth
in Section I above, Respondent is in apparent violation of RCW 31.45.060(2) for failing to keep and maintain

1 the business books, accounts and records as required by the Director for at least two years from the completion
2 of a transaction.

3 III. AUTHORITY TO IMPOSE SANCTIONS

4 **3.1 Authority to Issue Cease and Desist Order.** Pursuant to RCW 31.45.110(2)(b), the Director may
5 order a licensee to cease and desist from practices in violation of the Act or practices that constitute unsafe and
6 unsound financial practices in the sale of checks.

7 **3.2 Authority to Remove and Ban from the Industry.** Pursuant to RCW 31.45.110(2)(e), the Director
8 may remove from office or ban from participation in the conduct of the affairs of any licensee any director,
9 officer, sole proprietor, partner, controlling person, or employee of a licensee that is violating or has violated the
10 Act including rules and orders, or commits any act or engages in conduct that demonstrates incompetence or
11 untrustworthiness, or is a source of injury or loss to the public.

12 **3.3 Authority to Order Restitution.** Pursuant to RCW 31.45.105(2) and RCW 31.45.110(2)(d), the
13 Director may order restitution to borrowers damaged by the licensee's violation of this chapter.

14 **3.4 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a fine, not to
15 exceed one hundred dollars per day for each day's violation of the Act, on any licensee or applicant, or any
16 director, officer, sole proprietor, partner, controlling person, or employee of a licensee or applicant, that is
17 violating or has violated the Act including rules and orders, or commits any act or engages in conduct that
18 demonstrates incompetence or untrustworthiness, or is a source of injury or loss to the public.

19 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 31.45.050(1), RCW 31.45.100, WAC 208-
20 630-320, WAC 208-630-360, WAC 208-630-380, the Director shall collect from the licensee the actual cost of an
21 examination or investigation of the business, books, accounts, records, files, or other information of a licensee or
22 person who the Director has reason to believe is engaging in the business governed by the Act. The investigation
23 charge will be calculated at the rate of sixty-nine dollars (\$69) per hour that each staff person devoted to the
24 investigation, plus actual expenses.

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IV. NOTICE OF INTENTION TO ENTER ORDER

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

- 4.1 Respondent Emerald Marketing Group LLC cease and desist offering check casher, check seller, and payday loan services or otherwise conducting the business of a check casher, check seller, or payday loan provider in the state of Washington; and
- 4.2 Respondent Emerald Marketing Group LLC be banned from participation in the conduct of the affairs of any check casher or check casher with a small loan endorsement or check seller subject to licensure by the Director, in any manner, for a period of five (5) years; and
- 4.3 Respondent Emerald Marketing Group LLC refund all fees or monies it collected from the borrowers listed in paragraphs 1.2 and 1.3 above and notify all consumer collection and consumer reporting agencies to delete all references to the transactions between Respondent Emerald Marketing Group LLC and the borrower from their records; and
- 4.4 Respondent Emerald Marketing Group LLC pay a fine, which as of the date of this Statement of Charges totals \$30,000; and
- 4.5 Respondent Emerald Marketing Group LLC pay an investigation fee in the amount of \$1,380, calculated at \$69 per hour for the twenty hours (20) staff hours, as of the date of these charges, devoted to the investigation; and
- 4.6 Respondent Emerald Marketing Group LLC shall maintain records in compliance with the Act and provide the Department with the location of the books, records, and other information relating to Respondent Emerald Marketing Group LLC and the name, address, and telephone number of the individual responsible 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, Prohibit from Industry, Order Restitution, Impose Fine and Collect Investigation Fees (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.

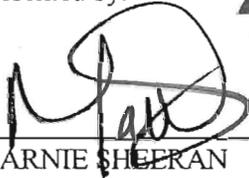
Dated this 3rd day of September, 2010.





DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



MARNIE SHEERAN
Financial Legal Examiner

Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief