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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-10-225-10-FO01

POWER FUNDING INC,  
Respondent.

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 July 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, Impose Fine, Order Restitution, 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 July 27, 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 July 27, 2010, by both United States Postal Service First-Class mail and certified mail. On August 2, 2010, the documents sent via certified mail 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 July 27, 2010, Notice of  
6 Opportunity to Defend and Opportunity for Hearing, and blank Application for Adjudicative Hearing for  
7 Respondent, 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 Power Funding Inc cease and desist offering check casher, check seller,  
16 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
- 17 2. Respondent Power Funding Inc is banned from participation in the conduct of the  
18 affairs of any check casher, check casher with a small loan endorsement, or check  
19 seller subject to licensure by the Director, in any manner, for a period of five (5) years;  
and
- 20 3. Respondent Power Funding Inc pay a fine of \$6,000; and
- 21 4. Respondent Power Funding Inc pay an investigation fee of \$931.50; and
- 22 5. Respondent Power Funding Inc maintain records in compliance with the Act and  
23 provide the Department with the location of the books, records, and other information  
24 relating to Respondent Power Funding Inc, and the name, address, and telephone  
25 number of the individual responsible for the maintenance of such records in  
compliance with the Act.

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

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

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

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

18           E.     Non-compliance with Order. If you do not comply with the terms of this order, the  
19 Department may seek its enforcement by the Office of Attorney General to include the collection of the  
20 fines and fees imposed herein.  
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1 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for  
2 Judicial Review, service is effective upon deposit of this order in the U.S. mail, declaration of service  
3 attached hereto.

4 DATED this 17<sup>th</sup> day of September, 2010.



6 STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS

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8 DEBORAH BORTNER  
9 DIRECTOR  
10 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:

POWER FUNDING INC,

Respondent.

NO. C-10-225-10-SC01

STATEMENT OF CHARGES and NOTICE OF  
INTENTION TO ENTER AN ORDER TO CEASE  
AND DESIST, BAN FROM INDUSTRY, 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 the date of the Statement of Charges, the Director, 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.** Power Funding Inc. (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 one borrower located in the State of Washington from at least February 2008 through the date of this Statement of Charges. To date, the Department has not issued a check seller or check casher's license or small loan endorsement to Respondent.

**1.3 Failure to comply with a Department investigation.** On or about March 19, 2010, the Department issued a subpoena to Respondent, which required Respondent to provide certain information and documents on

1 or before April 3, 2010. The subpoena was delivered via Federal Express overnight mail and U.S. First-Class  
2 mail. Respondent did not respond.

3 **1.4** On or about April 15, 2010, the Department issued a subpoena to Respondent, which required  
4 Respondent to provide certain information and documents on or before April 25, 2010. The subpoena was sent  
5 via U.S. First-Class mail and was not returned to the Department.

6 **1.5** On or about April 29, 2010, the Department received a letter via facsimile from Respondent's  
7 representative. The representative stated he was in the process of reviewing documentation provided to him by  
8 Respondent. To date, Respondent has not complied with the subpoena.

9 **1.6 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
10 Respondents continues to date.

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

12 **2.1 Definition of Check Casher.** Pursuant to RCW 31.45.010(5), a "Check Casher" is defined as an  
13 individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or  
14 in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same  
15 purpose.

16 **2.2 Definition of Licensee.** Pursuant to RCW 31.45.010(12), a "Licensee" is defined as a check casher or  
17 seller licensed by the director to engage in business in accordance with the Act. For the purpose of the  
18 enforcement powers of the Act, including the power to issue cease and desist orders under RCW 31.45.110,  
19 "licensee" also means a check casher or seller who fails to obtain the license required by the Act.

20 **2.3 Definition of Small Loan.** Pursuant to RCW 31.45.010(19), a "Small Loan" is defined as a loan up to  
21 the maximum amount and for a period of time up to the maximum term specified in RCW 31.45.073.

22 **2.4 Requirement to Obtain a Check Casher and Seller License.** Based on the Factual Allegations set  
23 forth in Section I above, Respondent is in apparent violation of RCW 31.45.030(1) for engaging in the business  
24 of a check casher and seller without first obtaining a license from the Director.

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1 **2.5 Requirement to Obtain a Small Loan Endorsement.** Based on the Factual Allegations set forth in  
2 Section I above, Respondents are in apparent violation of RCW 31.45.070 and RCW 31.45.073 for engaging in  
3 the business of making small loans without first obtaining a small loan endorsement from the Director.

4 **2.6 Requirement to Comply with Investigation.** Based on the Factual Allegations set forth in Section I  
5 above, Respondent is in apparent violation of RCW 31.45.100, WAC 208-630-320, and WAC 208-630-370 for  
6 failing to comply with the Department's investigation authority.

7 **2.7 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above, Respondent is in  
8 apparent violation of RCW 31.45.105(1)(a) and (b) for directly or indirectly employing any scheme, device, or  
9 artifice to defraud or mislead any borrower, or to defraud or mislead any person, or directly or indirectly  
10 engaging in any unfair or deceptive practice toward any person.

11 **2.8 Requirement to Maintain Business Books and Records.** Based on the Factual Allegations set forth in  
12 section I above, Respondent is in apparent violation of RCW 31.45.060(2) for failing to keep and maintain the  
13 business books, accounts, and records as required by the Director for at least two years from the completion of a  
14 transaction.

### 15 III. AUTHORITY TO IMPOSE SANCTIONS

16 **3.1 Authority to Issue Cease and Desist Order.** Pursuant to RCW 31.45.110(2)(b), the Director may  
17 order a licensee to cease and desist from practices in violation of the Act or practices that constitute unsafe and  
18 unsound financial practices in the sale of checks.

19 **3.2 Authority to Remove and Ban from the Industry.** Pursuant to RCW 31.45.110(2)(e), the Director  
20 may remove from office or ban from participation in the conduct of the affairs of any licensee any director,  
21 officer, sole proprietor, partner, controlling person, or employee of a licensee that is violating or has violated the  
22 Act including rules and orders, or commits any act or engages in conduct that demonstrates incompetence or  
23 untrustworthiness, or is a source of injury or loss to the public.

24 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a fine, not to  
25 exceed one hundred dollars per day for each day's violation of the Act, on any licensee or applicant, or any  
director, officer, sole proprietor, partner, controlling person, or employee of a licensee or applicant, that is

1 violating or has violated the Act including rules and orders, or commits any act or engages in conduct that  
2 demonstrates incompetence or untrustworthiness, or is a source of injury or loss to the public.

3 **3.4 Authority to Order Restitution.** Pursuant to RCW 31.45.105(2) and RCW 31.45.110(2)(d), the  
4 Director may order restitution to borrowers damaged by the licensee's violation of this chapter.

5 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 31.45.050(1), RCW 31.45.100, WAC 208-  
6 630-320, WAC 208-630-360, WAC 208-630-380, the Director shall collect from the licensee the actual cost of an  
7 examination or investigation of the business, books, accounts, records, files, or other information of a licensee or  
8 person who the Director has reason to believe is engaging in the business governed by the Act. The investigation  
9 charge will be calculated at the rate of sixty-nine dollars per person per hour expended, plus actual expenses.

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

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

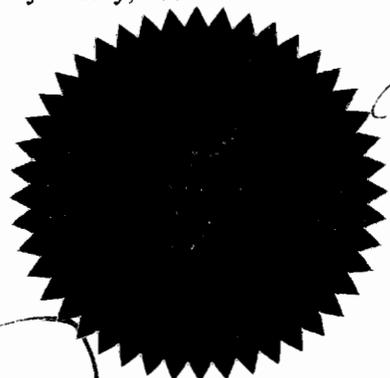
- 14 **4.1** Respondent Power Funding Inc. cease and desist offering check casher, check seller, and payday  
15 loan services or otherwise conducting the business of a check casher, check seller, or payday loan  
16 provider in the state of Washington; and
- 17 **4.2** Respondent Power Funding Inc. be banned from participation in the conduct of the affairs of any check  
18 casher or check casher with a small loan endorsement or check seller subject to licensure by the  
19 Director, in any manner, for a period of five (5) years; and
- 20 **4.3** Respondent Power Funding Inc. pay a fine, which as of the date of these charges totals, \$6,000; and
- 21 **4.4** Respondent Power Funding Inc. refund all fees or monies it collected from the borrowers listed in  
22 paragraphs 1.2 and notify all consumer reporting agencies to delete all references to the transactions  
23 between Respondent Power Funding Inc and the borrower from their records; and
- 24 **4.5** Respondent Power Funding Inc. pay an investigation fee in the amount of \$931.50, calculated at  
25 \$69.00 per hour for the thirteen and one-half hours (13.5) staff hours, as of the date of these charges,  
devoted to the investigation.
- 4.6** Respondent Power Funding Inc. 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  
Power Funding Inc., and the name, address, and telephone number of the individual responsible for  
maintenance of such records in compliance with the Act

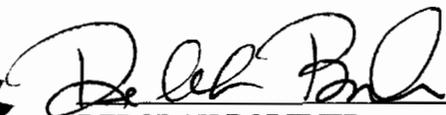
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**IV. AUTHORITY AND PROCEDURE**

This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Ban from Industry, Impose Fine, Order Restitution, 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.

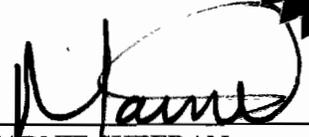
Dated this 27<sup>th</sup> day of July, 2010.





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