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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:

C-12-0880-13-TD01

A1 PREMIUM BUDGET, INC., d/b/a
CASH IN A WINK,
PAUL H. SILVERMAN, President, and
VICKI M. SILVERMAN, Secretary,

TEMPORARY ORDER TO
CEASE AND DESIST

Respondents.

THE STATE OF WASHINGTON TO: A1 PREMIUM BUDGET, INC., d/b/a CASH IN A WINK

COMES NOW the Director of the Washington State Department of Financial Institutions (Director), by and through his designee Deborah Bortner, Division Director, Division of Consumer Services, and finding that the public is likely to be substantially injured by delay in issuing a cease and desist order, the Director, through his designee, enters this temporary cease and desist order pursuant to chapter 31.45 RCW, the Check Cashers and Sellers Act (Act), based on the following findings:

I. FACTUAL FINDINGS

1.1 Respondent A1 Premium Budget, Inc., d/b/a Cash in a Wink (Respondent Cash in a Wink) is a Delaware corporation with offices located in Wilmington, Delaware, and Kansas City, Missouri. Respondent Cash in a Wink is not licensed by the Department as a check casher or check seller with a small loan endorsement under the Act.

1 **1.2 Unlicensed Small Loan Activity.** For at least the period beginning April 2011 through
2 October 2012, Respondents have provided small loans as defined by the Act to at least seven
3 Washington borrowers without licensure by the Department as required under the Act.

4 **1.3 Failure to Comply with Director's Authority.** On March 1, 2012, March 26, 2012, and
5 March 7, 2013, the Department issued subpoenas compelling Respondents to provide the
6 Department with information regarding its lending activity in Washington. As of the date of this
7 Order, Respondents have failed to comply with the subpoenas issued under the Director's authority.

8 **1.4 Charging Interest or Fees on Small Loans in Excess of Statutory Maximum.**
9 Respondents have charged interest or fees in excess of those permitted by the Act. Loan documents
10 provided by a borrower disclose the principal amount of the loan as \$200 and the "finance charge" as
11 \$60, which constitutes 30% of the principal amount of the loan.

12 **1.5 Failure to Obtain and Maintain Surety Bond.** Respondents did not obtain and maintain a
13 surety bond or bonds, or acceptable alternative, as required by the Act.

14 **1.6 Substantial Injury to Public.** The effects of the above-described conduct are:

- 15 **A.** Borrowers are not protected by the surety bond requirement of the Act;
- 16 **B.** Borrowers are not protected from exceeding the statutory limits on the amount of
17 payday loans, the amount of interest on the payday loans, or the number of payday loans
18 allowed in a 12-month period;
- 19 **C.** Respondents' failure to provide lists of all Washington borrowers prevents the
20 Department from providing regulatory oversight into Respondents' transaction with
21 Washington borrowers; and
- 22 **D.** Licensees that comply with the Act are unfairly disadvantaged by Respondent Cash in a
23 Wink's non-compliance with the Act.

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

2 **2.1 Unlicensed Activity.** Based on the Factual Allegations set forth in Section I above,
3 Respondents are in apparent violation of RCW 31.45.030 and WAC 208-630-120 for making small
4 loans to Washington borrowers without a license from the Department. Respondents are also in
5 apparent violation of RCW 31.04.105(1)(c) for making small loans to any person physically located in
6 Washington through use of the internet, facsimile, telephone, kiosk, or other means without first
7 obtaining a small loan endorsement.

8 **2.2 Statutory Maximum Interest or Fees on Small Loans.** Based on the Factual Allegations set
9 forth in Section I above, Respondents are in apparent violation of RCW 31.45.073(5) for charging
10 interest or fees in the aggregate exceeding fifteen percent (15%) of the first five hundred dollars
11 (\$500.00) of principal and ten percent (10%) of the next two hundred dollars (\$200.00) of principal of
12 the small loans.

13 **2.3 Requirement to Comply with the Department’s Investigative Authority.** Based on the
14 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
15 31.45.100 and RCW 31.45.110(k) for failing to comply with the Director’s investigative authority and
16 for failing, upon demand by the Director or the Director’s designee, to disclose any information within
17 his or her knowledge to, or to produce any document, book, or record in his or her possession for
18 inspection of, the Director or Director’s designee.

19 **2.4 Requirement to Maintain Surety Bond.** Based on the Factual Allegations set forth in
20 Section I above, Respondents are in apparent violation of RCW 31.45.030(5)(b) and WAC 208-630-
21 180 for failing to file and maintain a surety bond or approved alternative with the Department.

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III. AUTHORITY TO ISSUE TEMPORARY ORDER TO CEASE AND DESIST

3.1 Authority to Issue Temporary Order to Cease and Desist. Pursuant to RCW 31.45.120, whenever the director determines that a violation of the Act or Rules, or their continuation, is likely to cause substantial injury to the public, the director may issue a temporary cease and desist order requiring the licensee to cease and desist from the violation or practice. The order becomes effective upon service upon the licensee and remains effective unless set aside, limited, or suspended by a court under RCW 31.45.130 pending the completion of the administrative proceedings under the notice and until such time as the director dismisses the charges specified in the notice or until the effective date of the cease and desist order issued against the licensee under RCW 31.45.110. Pursuant to RCW 31.45.010(13), for purposes of the enforcement powers of the Act, including the power to issue cease and desist orders, “licensee” means a check casher or seller who fails to obtain the license required by this chapter. Pursuant to RCW 31.45.030 and WAC 208-630-120, only a licensed check casher/seller with a small loan endorsement may make payday loans to Washington residents. Pursuant to RCW 31.45.010(4), a “check” includes any electronic form of payment, including internet transfers.

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1 **IV. ORDER**

2 Based on the above Factual Findings, Grounds for Entry of Order, and Authority to Issue
3 Temporary Order to Cease and Desist, and pursuant to RCW 31.45.120 and RCW 31.45.110(1)(b), the
4 Director determines the acts and conduct of Respondents, and the continuation of such conduct, is
5 likely to cause substantial injury to the public. Therefore, the Director ORDERS that:

6 **4.1** Respondents shall immediately cease and desist from making payday loans to Washington
7 residents.

8 **4.2** Respondents shall immediately cease and desist from failing to provide the subpoenaed records
9 to the Department, specifically the list of all Washington borrowers.

10 **4.3** This order shall take effect immediately upon service and shall remain in effect unless set
11 aside, limited, or suspended by a court under RCW 31.45.130.

12 **NOTICE**

13 YOU ARE ENTITLED TO A HEARING PURSUANT TO CHAPTER 31.45 RCW TO
14 DETERMINE WHETHER THIS ORDER SHALL BECOME PERMANENT. IF YOU DESIRE A
15 HEARING, THEN YOU MUST RETURN THE ATTACHED APPLICATION FOR ADJUDICATIVE
16 HEARING INCORPORATED HEREIN BY THIS REFERENCE. FAILURE TO COMPLETE AND
17 RETURN THE APPLICATION FOR ADJUDICATIVE HEARING FORM SO THAT IT IS
18 RECEIVED BY THE DEPARTMENT OF FINANCIAL INSTITUTIONS WITHIN 20 DAYS OF THE
19 DATE THAT THIS ORDER WAS SERVED ON YOU WILL CONSTITUTE A DEFAULT AND
20 WILL RESULT IN THE LOSS OF YOUR RIGHT TO A HEARING. SERVICE ON YOU IS
21 DEFINED AS POSTING IN THE U.S. MAIL, POSTAGE PREPAID, TO YOUR LAST KNOWN
22 ADDRESS. BE ADVISED THAT DEFAULT WILL RESULT IN THIS ORDER TO CEASE AND

1 DESIST BECOMING PERMANENT ON THE 21ST DAY FOLLOWING SERVICE OF THIS
2 ORDER UPON YOU.

3 WITHIN TEN DAYS AFTER YOU HAVE BEEN SERVED WITH THIS TEMPORARY
4 CEASE AND DESIST ORDER, YOU MAY APPLY TO THE SUPERIOR COURT IN THE
5 COUNTY OF YOUR PRINCIPAL PLACE OF BUSINESS FOR AN INJUNCTION SETTING
6 ASIDE, LIMITING, OR SUSPENDING THIS ORDER PENDING THE COMPLETION OF THE
7 ADMINISTRATIVE PROCEEDINGS PURSUANT TO THIS NOTICE.

8 DATED this 5th day of March, 2013.



9 [Redacted signature]

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

14 Presented by:

15 [Redacted signature]

16 SHANA L. OLIVER
17 Financial Legal Examiner

18 Approved by:

19 [Redacted signature]

20 CHARLES E. CLARK
21 Enforcement Chief