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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:

CLOUD 9 MARKETING, LLC, and  
CHRISTOPHER HODES, Sole Member,

Respondents.

NO. C-13-1355-14-SC01

STATEMENT OF CHARGES AND  
NOTICE OF INTENTION TO ENTER AN  
ORDER TO CEASE AND DESIST, PROHIBIT  
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 this  
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 Respondents.**

**A. Cloud 9 Marketing, LLC** is a Delaware Limited Liability Company with its  
principle place of business believed to be at 1000 North West Street, Suite 1224, Wilmington,  
Delaware 19801. Cloud 9 Marketing, LLC has never had a license and small loan endorsement  
under the Act. Cloud 9 Marketing, LLC is not registered with the Washington State Secretary of  
State or the Washington State Department of Revenue.

**B. Christopher Hodes** is, or was at all relevant times, the sole member of Cloud 9  
Marketing, LLC.

1 **1.2 Unlicensed Activity.** For at least the period from February 2012 through September  
2 2013, Respondents provided small loans to Washington residents physically located in  
3 Washington State. Throughout this period, Respondents did not have a license and small loan  
4 endorsement under the Act.

5 **1.3 Unlicensed Location.** Respondents have operated websites at [www.cloud9mktg.com](http://www.cloud9mktg.com)  
6 and [www.cashoncloud9.com](http://www.cashoncloud9.com) from a location or locations that are not licensed by the  
7 Department.

8 **1.4 Unauthorized Advertisements.** Respondents have advertised at [www.cloud9mktg.com](http://www.cloud9mktg.com)  
9 and [www.cashoncloud9.com](http://www.cashoncloud9.com) that they were able to make small loans to Washington consumers  
10 when they did not have a license and small loan endorsement under the Act.

11 **1.5 Unauthorized Interest or Fees in Excess of the Statutory Maximum.** Respondents  
12 charged interest and fees in the aggregate exceeding 15 percent of the first \$500 and 10 percent  
13 of the next \$200 dollars of aggregated principal of small loans outstanding at any one time.

14 **1.6 Failure to Comply with the Department's Investigative Authority.** The Department  
15 issued a subpoena to Respondents, which was served on or about September 19, 2013. The  
16 subpoena required production of certain documents. To date, Respondents have not produced  
17 those documents.  
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19 **1.7 Making Small Loans in Excess of the Eight Loan Limit.** Respondents made a small  
20 loan to a borrower when making that loan resulted in the borrower receiving more than eight  
21 small loans from all licensees in a twelve-month period.

22 **1.8 Failure to Set Timely Termination Date.** Respondents set the termination date of a  
23 small loan more than forty-five days after the loan's origination date.  
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1 **1.9 On-Going Investigation.** The Department’s investigation into the alleged violations of  
2 the Act by Respondents 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  
5 defined as an individual, partnership, unincorporated association, or corporation that, for  
6 compensation, engages, in whole or in part, in the business of cashing checks, drafts, money  
7 orders, or other commercial paper serving the same purpose.

8 **2.2 Definition of Licensee.** Pursuant to RCW 31.45.010(13), a “Licensee” is defined as a  
9 check casher or seller licensed by the director to engage in business in accordance with the Act.  
10 For the purpose of the enforcement powers of the Act, including the power to issue cease and  
11 desist orders under RCW 31.45.110, “licensee” also means a check casher or seller who fails to  
12 obtain the license required by the Act.

13 **2.3 Definition of Small Loan.** Pursuant to RCW 31.45.010(21), a “Small Loan” is defined  
14 as a loan up to the maximum amount and for a period of time up to the maximum term specified  
15 in RCW 31.45.073.

16 **2.4 Requirement to Obtain a Check Casher or Check Seller License.** Based on the  
17 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW  
18 31.45.030(1) for engaging in the business of a check casher and seller without first obtaining a  
19 license from the Director.

20 **2.5 Requirement to Obtain a Small Loan Endorsement.** Based on the Factual Allegations  
21 set forth in Section I above, Respondents are in apparent violation of RCW 31.45.070(1), RCW  
22 31.45.073(1), and RCW 31.45.105(1)(d) for making a small loan to a person physically located  
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1 in Washington through use of the internet, telephone, or other means without first obtaining a  
2 small loan endorsement.

3 **2.6 Advertising Requirements.** Based on the Factual Allegations set forth in Section I  
4 above, Respondents are in apparent violation of RCW 31.45.105(2)(a) for advertising in a  
5 manner that is false, misleading, deceptive, or omits material information.

6 **2.7 Statutory Maximum Interest or Fees on Small Loans.** Based on the Factual  
7 Allegations set forth in Section I above, Respondents are in apparent violation of RCW  
8 31.45.073(5) for charging interest or fees in the aggregate exceeding 15 percent of the first \$500  
9 of principal and 10 percent of the next \$200 of principal of the small loans.

10 **2.8 Requirement to Comply with the Department's Investigative Authority.** Based on  
11 the Factual Allegations set forth in Section I above, Respondents are in apparent violation of  
12 RCW 31.45.100 for not responding to a subpoena duces tecum requiring the production of the  
13 books, accounts, records, files, or other information required by the director or the director's  
14 designee. In the alternative, Respondents are in apparent violation of RCW 31.45.060(2) for  
15 failing to keep and maintain such business books, accounts, and records to fulfill the purposes of  
16 the Act or failing to preserve such books, accounts, and records for at least two years from the  
17 completion of the transaction.

18 **2.9 Requirement to Not Exceed Eight Loan Limit.** Based on the Factual Allegations set  
19 forth in Section I above, Respondents are in apparent violation of RCW 31.45.073(4) for making  
20 a small loan to a borrower when making that small loan resulted in the borrower receiving more  
21 than eight small loans from all licensees in any twelve-month period.  
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1 **2.10 Requirement to Set Timely Termination Date.** Based on the Factual Allegations set  
2 forth in Section I above, Respondent are in apparent violation of RCW 31.45.073(2) for setting  
3 the termination date on a small loan more than forty-five days after the loan's origination date.

### 4 **III. AUTHORITY TO IMPOSE SANCTIONS**

5 **3.1 Authority to Issue Cease and Desist Order.** Pursuant to RCW 31.45.110(2)(b), the  
6 Director may order a licensee to cease and desist from practices in violation of the Act.

7 **3.2 Authority to Ban from the Industry.** Pursuant to RCW 31.45.110(2)(e), the Director  
8 may ban from participation in the conduct of the affairs of any licensee any sole proprietor,  
9 partner, or controlling person of a licensee that is violating or has violated the Act including rules  
10 and orders.

11 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a  
12 fine, not to exceed one hundred dollars per day for each day's violation of the Act, on any  
13 licensee or applicant, or any director, officer, sole proprietor, partner, controlling person, or  
14 employee of a licensee or applicant, that is violating or has violated the Act including rules and  
15 orders, or commits any act or engages in conduct that demonstrates incompetence or  
16 untrustworthiness, or is a source of injury or loss to the public.

17 **3.4 Authority to Order Restitution.** Pursuant to RCW 31.45.110(2)(d), the Director may  
18 order restitution to borrowers damaged by the licensee's violation of this chapter.

19 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 31.45.050(1), RCW 31.45.100,  
20 WAC 208-630-380, and WAC 209-630-390, the Director shall collect from the licensee the actual  
21 cost of an investigation at the hourly rate of \$69 per person per hour expended, plus actual expenses.  
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1 **IV. NOTICE OF INTENT TO ENTER ORDER**

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

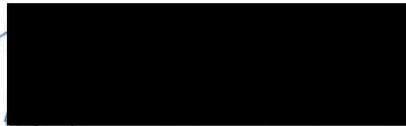
- 6 **4.1** Respondent Christopher Hodes and Respondent Cloud 9 Marketing, LLC cease and  
7 desist from offering or making small loans to Washington State consumers;
- 8 **4.2** Respondent Christopher Hodes and Respondent Cloud 9 Marketing, LLC be banned  
9 from participating, in any manner, in the conduct of the affairs of any person  
10 requiring licensure under the Act for a period of five years;
- 11 **4.3** Respondent Christopher Hodes and Respondent Cloud 9 Marketing, LLC jointly and  
12 severally pay a fine of \$18,500;
- 13 **4.4** Respondent Christopher Hodes and Respondent Cloud 9 Marketing, LLC jointly and  
14 severally pay restitution to those borrowers who paid interest or fees in an amount to  
15 be determined at hearing;
- 16 **4.5** Respondent Christopher Hodes and Respondent Cloud 9 Marketing, LLC jointly and  
17 severally pay an investigation fee, which totals \$2,866.95 as of the date of these  
18 charges.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist,  
3 Impose Fine, Order Restitution, Ban from Industry, and Collect Investigation Fee entered  
4 pursuant to the provisions of RCW 31.45.110 and RCW 31.45.200, and is subject to the  
5 provisions of chapter 34.05 RCW (the Administrative Procedure Act). Respondents may make  
6 a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND  
7 AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.  
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9 Dated this 28<sup>th</sup> day of February, 2014.  
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13 **DEBORAH BORTNER**  
14 Director  
15 Division of Consumer Services  
16 Department of Financial Institutions

17 Presented by:



18 **AMANDA J. HERNDON**  
19 Financial Legal Examiner

20 Approved by:



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22 **CHARLES E. CLARK**  
23 Enforcement Chief