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3 **STATE OF WASHINGTON**
4 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
5 **CONSUMER SERVICES DIVISION**

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

C-10-182-10-TD01

9 CASH ADVANCE NOW,

TEMPORARY ORDER TO
CEASE AND DESIST

Respondent.

10 THE STATE OF WASHINGTON TO: CASH ADVANCE NOW

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

16 **I. FACTUAL FINDINGS**

17 **1.1 Respondent Cash Advance Now** is an online payday lender with a web site address of
18 www.cashadvancenow.com. Cash Advance Now is believed to be physically located in San Jose, Costa
19 Rica. Cash Advance Now has never been licensed by the Washington State Department of Financial
20 Institutions (Department) to conduct business as a check casher and check seller with a small loan
21 endorsement (payday lender) in Washington.

22 **1.2 Unlicensed Activity.** From at least April 17, 2008, to present, Cash Advance Now has
23 made payday loans to at least two Washington borrowers.
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1.3 Unlawful Collections Practices. In at least one loan, Cash Advance Now attempted to collect the payday loan debt by making multiple faxes and telephone calls to the borrower's employer, in violation of state and federal collections laws.

1.4 Substantial Injury to Public. The effects of the above-described conduct are:

A. Borrowers are not protected by the surety bond requirement of the Act;

B. Borrowers are not protected from unlawful collections practices;

C. Borrowers are not protected from exceeding the statutory limits on the amount of payday loans, the amount of interest on the payday loans, or the number of payday loans allowed in a 12-month period.

D. Licensees that comply with the Act are unfairly disadvantaged by Cash Advance Now's non-compliance with the Act.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Unlicensed Activity. Based on the Factual Allegations set forth in Section I above, Cash Advance Now is in apparent violation of RCW 31.45.030 and WAC 208-630-120 for making payday loans to Washington borrowers without a license from the Department.

2.2 Prohibited Practices. Based on the Factual Allegations set forth in Section I above, Cash Advance Now is in apparent violation of RCW 31.45.082 for using collections tactics which violate state and federal collection laws.

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

1 31.45.130 pending the completion of the administrative proceedings under the notice and until such time
2 as the director dismisses the charges specified in the notice or until the effective date of the cease and
3 desist order issued against the licensee under RCW 31.45.110. Pursuant to RCW 31.45.010(13), for
4 purposes of the enforcement powers of the Act, including the power to issue cease and desist orders,
5 "licensee" means a check casher or seller who fails to obtain the license required by this chapter. Pursuant
6 to RCW 31.45.030 and WAC 208-630-120, only a licensed check casher/seller with a small loan
7 endorsement may make payday loans to Washington residents. Pursuant to RCW 31.45.010(4), a "check"
8 includes any electronic form of payment, including internet transfers.

9 10 **IV. ORDER**

11 Based on the above Factual Findings, Grounds for Entry of Order, and Authority to Issue
12 Temporary Order to Cease and Desist, and pursuant to RCW 31.45.120 and RCW 31.45.110(1)(b), the
13 Director determines the acts and conduct of Cash Advance Now, and the continuation of such conduct, is
14 likely to cause substantial injury to the public. Therefore, the Director ORDERS that:

15 **4.1** Respondent Cash Advance Now shall immediately cease and desist from making payday
16 loans to Washington residents.

17 **4.2** Respondent Cash Advance Now, shall immediately cease and desist from using unlawful
18 collections practices to collect outstanding payday loans.

19 **4.3** This order shall take effect immediately upon service and shall remain in effect unless set
20 aside, limited, or suspended by a court under RCW 31.45.130.

21 **NOTICE**

22 YOU ARE ENTITLED TO A HEARING PURSUANT TO CHAPTER 31.45 RCW TO
23 DETERMINE WHETHER THIS ORDER SHALL BECOME PERMANENT. IF YOU DESIRE A
24 HEARING, THEN YOU MUST RETURN THE ATTACHED APPLICATION FOR ADJUDICATIVE
25 HEARING INCORPORATED HEREIN BY THIS REFERENCE. FAILURE TO COMPLETE AND

1 RETURN THE APPLICATION FOR ADJUDICATIVE HEARING FORM SO THAT IT IS RECEIVED
2 BY THE DEPARTMENT OF FINANCIAL INSTITUTIONS WITHIN 20 DAYS OF THE DATE THAT
3 THIS ORDER WAS SERVED ON YOU WILL CONSTITUTE A DEFAULT AND WILL RESULT IN
4 THE LOSS OF YOUR RIGHT TO A HEARING. SERVICE ON YOU IS DEFINED AS POSTING IN
5 THE U.S. MAIL, POSTAGE PREPAID, TO YOUR LAST KNOWN ADDRESS. BE ADVISED THAT
6 DEFAULT WILL RESULT IN THIS ORDER TO CEASE AND DESIST BECOMING PERMANENT ON
7 THE 21ST DAY FOLLOWING SERVICE OF THIS ORDER UPON YOU.

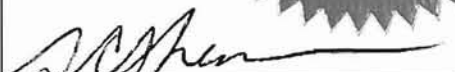
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9 WITHIN TEN DAYS AFTER YOU HAVE BEEN SERVED WITH THIS TEMPORARY
10 CEASE AND DESIST ORDER, YOU MAY APPLY TO THE SUPERIOR COURT IN THE
11 COUNTY OF YOUR PRINCIPAL PLACE OF BUSINESS FOR AN INJUNCTION SETTING
12 ASIDE, LIMITING, OR SUSPENDING THIS ORDER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

14 DATED this 6th day of October, 2010.



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16 
17 DEBORAH BORTNER
18 Director
19 Division of Consumer Services
20 Department of Financial Institutions

21 Presented by:

22 
23 STEVEN C. SHERMAN
24 Financial Legal Examiner

25 Approved by:

26 
27 JAMES R. BRUSSELBACK
28 Enforcement Chief