

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

**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:

CNU OF WASHINGTON, LLC, d/b/a  
CashNetUSA.com,

Respondent.

No. C-15-1746-16-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENT TO ENTER AN  
ORDER TO CEASE AND DESIST, 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). Having conducted an examination and investigation pursuant to RCW 31.45.100, and based upon the facts available on the date of this Statement of Charges, the Director, through his designee, Division of Consumer Services Director Charles E. Clark, institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondent CNU of Washington, LLC (Respondent)** was first licensed by the Washington State Department of Financial Institutions (Department) to conduct business as a check casher and seller with a small loan endorsement on or about August 24, 2006, and continues to be licensed to date.<sup>1</sup> Respondent conducts its business in Washington solely over the Internet through its d/b/a, CashNetUSA.com.

**1.2 Examination.** In April 2015, Respondent's business practices were examined by a team of Financial Examiners from the Department's Division of Consumer Services (Division). The on-site

<sup>1</sup> The small loan endorsement is required to make small loans in Washington. Licensees are required to set the due date for repayment of small loans to a date on or after the borrower's next pay day, hence "payday" loans. Throughout this Statement of Charges the Department uses the phrase "payday loans" in lieu of "small loans," as they mean the same.

1 examination was conducted in Chicago, and examined payday loans made to Washington borrowers  
2 between December 10, 2008, and April 29, 2015. The examination revealed numerous violations of  
3 the Act, including improperly closing more than 4,800 open payday loans, and failing to record that  
4 more than 6,000 payday loans Respondent had made were in default. As a result, numerous  
5 ineligible Washington borrowers obtained more than 200 subsequent payday loans from other  
6 Washington-licensed payday lenders.

7 **1.3 Prohibited Payday Loans.** Respondent made more than 2,300 prohibited payday loans to  
8 more than 840 Washington borrowers, in the process collecting more than \$162,000 in loan and  
9 default fees.<sup>2</sup>

10 **A. Statutory Loan Limit:** Respondent made more than 2,000 prohibited payday loans  
11 to more than 700 Washington borrowers who had met or exceeded their statutory  
12 loan limit of eight loans in a rolling 12 month period. Respondent collected more  
13 than \$145,000.00 in loan and default fees making the prohibited payday loans.

14 **B. Principal Amount/Balance Limit:** Respondent made more than 300 prohibited  
15 payday loans to more than 140 Washington borrowers resulting in their loan  
16 principal amount or balance exceeding the statutory limit of \$700 or 30% of the  
17 borrowers' gross monthly income. Respondent collected more than \$17,100.00 in  
18 loan and default fees making the prohibited payday loans.

19 **1.4 Omissions and False Statements.** The Act was amended in 2009 to include disclosures  
20 relating to a borrowers' ability to repay a loan. Both disclosures were required to appear on the  
21 payday loan application. Respondent failed to update its Washington loan application to comply with  
22 these amendments. Consequentially, when Respondent distributed payday loan applications to  
23 Washington borrowers it omitted the required disclosures and included false, misleading, or  
24 deceptive statements concerning the new installment repayment plan.

//

---

<sup>2</sup> Respondent has offered to refund some of the fees paid by borrowers who received prohibited payday loans.

1 **1.5 Failure to Obtain Declaration of Income Status.** With respect to payday loans made without  
2 independent verification of a borrowers' gross monthly income, Respondent failed to obtain a  
3 written declaration of change, or no change, in the borrowers' gross monthly income.<sup>3</sup>

4 **1.6 On-Going Investigation.** The Department's investigation into the alleged violations of the  
5 Act by Respondent continues to date.

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

7 **2.1 Definition of Small Loan.** Pursuant to RCW 31.45.010(21), "Small Loan" means a loan up to  
8 the maximum amount and for the maximum term specified in RCW 31.45.073.

9 **2.2 Definition of Borrower.** Pursuant to RCW 31.45.010(2), "Borrower" means a natural person  
10 who receives a payday loan.

11 **2.3 Definition of Default.** Pursuant to RCW 31.45.010(9), "Default" means, in part, a borrower's  
12 failure to repay the payday loan in compliance with the payday loan agreement or note or failure to  
13 make any installment plan payment as agreed.

14 **2.4 Definition of Installment Plan.** Pursuant to RCW 31.45.010(12), "Installment plan" means a  
15 contract between a licensee and borrower that provides that the payday loan will be repaid in  
16 substantially equal installments scheduled on or after a borrower's pay dates.

17 **2.5 Definition of Principal.** Pursuant to RCW 31.45.010(19), "Principal" means the loan proceeds  
18 advanced for the benefit of the borrower in a payday loan, excluding any fee or interest charge.

19 **2.6 Statutory Loan Limit.** Based on the Factual Allegations set forth in Section I above,  
20 Respondent is in apparent violation of RCW 31.45.073(4) for making payday loans to Washington  
21 borrowers that resulted in those borrowers receiving more than eight payday loans from all licensees  
22 in any twelve-month period.

23 \_\_\_\_\_  
24 <sup>3</sup> Respondent has offered to change its Payday Loan Agreement to include the required disclosure, accurate information  
about the Installment Plan, and to update its policies with respect to verification of a borrowers' gross monthly income.

1 **2.7 Statutory Maximum Principal Amount/Balance of Payday Loans.** Based on the Factual  
2 Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.45.073(2)  
3 and (5) for making payday loans to Washington borrowers that resulted in those borrowers receiving  
4 more than the maximum principal amount or more than the maximum principal balance of all  
5 payday loans made by all licensees to a single borrower at any one time, which may not exceed \$700  
6 or 30% of the gross monthly income of the borrower, whichever is lower.

7 **2.8 Statutory Prohibition against Omissions of Material Fact.** Based on the Factual Allegations  
8 set forth in Section I above, Respondent is in apparent violation of RCW 31.45.105(2)(a) for printing  
9 and distributing, or causing to be printed and distributed, payday loan applications that omitted the  
10 disclosures required by RCW 31.45.085(1)(a) and WAC 208-630-560.

11 **2.9 Statutory Prohibition against False Statements.** Based on the Factual Allegations set forth  
12 in Section I above, Respondent is in apparent violation of RCW 31.45.105(2)(a) for printing and  
13 distributing, or causing to be printed and distributed, payday loan applications that included false,  
14 deceptive, or misleading statements concerning the installment plan required by RCW 31.45.084,  
15 WAC 208-630-510 through 531, and WAC 208-630-570.

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

17 **3.1 Authority to Order Cease and Desist.** Pursuant to RCW 31.45.110(2)(b), the Director may  
18 order a licensee to cease and desist from practices that violate the Act.

19 **3.2 Authority to Order Restitution.** Pursuant to RCW 31.45.110(2)(d), the Director may order  
20 payment of restitution to Washington borrowers damaged by a licensee's violation of the Act.

21 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a  
22 fine on a license if a licensee is violating or has violated the Act, including the rules promulgated  
23 thereunder, is a source of injury or loss to the public, or commits any act, or engages in conduct, that  
24

demonstrates incompetence or untrustworthiness. The fine may not exceed one hundred dollars per day, per violation, for each violation of the Act.

**3.4 Authority to Collect Investigation Fee.** Pursuant to RCW 31.45.050(1) and RCW 31.45.100, the Director shall collect from the licensee the actual cost of an investigation of a licensee. Pursuant to WAC 208-630-380, the investigation fees will be calculated at the rate of sixty-nine dollars (\$69) per hour that each staff person devoted to the investigation, plus actual costs.

#### **IV. NOTICE OF INTENT TO ENTER ORDER**

Respondent's violations of the Act, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under the Act. Therefore, it is the Director's intent to ORDER that:

- 4.1** Respondent CNU of Washington, LLC, immediately cease and desist violations of the Act.
- 4.2** Respondent CNU of Washington, LLC, pay restitution to Washington borrowers damaged by Respondent's violations of the Act. As of the date of this Statement of Charges the amount of restitution due is \$162,100.00; but as the Department's investigation into Respondent's alleged violations of the Act continues the amount of restitution may increase.
- 4.3** Respondent CNU of Washington, LLC, pay a fine to the Department. As of the date of this Statement of Charges the amount of the fine is \$ 50,000.00; but as the Department's investigation into Respondent's alleged violations of the Act continues the amount of the fine may increase.
- 4.4** Respondent CNU of Washington, LLC, pay an investigation fee to the Department. As of the date of this Statement of Charges the amount of the investigative fee is \$1,890.60; but as the Department's investigation into Respondent's alleged violations of the Act continues the amount of the investigative fee may increase.

#### **V. AUTHORITY AND PROCEDURE**

This Statement of Charges and Notice of Intent to Enter an Order to Cease and Desist, Order Restitution, Impose Fine, 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

1 34.05 RCW, the Administrative Procedures Act. Respondent may make a written request for a  
2 hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR  
3 HEARING accompanying this Statement of Charges.

4  
5 Dated this 17<sup>th</sup> day of February, 2016.



11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

[Redacted Signature]

CHARLES E. CLARK  
Director, Division of Consumer Services  
Department of Financial Institutions

Presented by:

Approved by:

[Redacted Signature]

ANTHONY W. CARTER  
Financial Legal Examiner

[Redacted Signature]

STEVEN C. SHERMAN  
Enforcement Chief