

Terms Completed

ORDER SUMMARY – Case Number: C-13-1254

Name(s): Albert R. Vasquez

Order Number: C-13-1254-15-CO02

Effective Date: July 8, 2015

License Number: N/A
Or NMLS Identifier [U/L]

License Effect: N/A

Not Apply Until: N/A

Not Eligible Until: N/A

Prohibition/Ban Until: N/A

Investigation Costs	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments: _____

**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-13-1254-15-CO02

**CONSENT ORDER FOR
ALBERT R. VASQUEZ**

**AHORITA, INC. d/b/a COLORTYME,
MARK W. CHILDERS, President and 100%
Owner,
PATRICE A. CHILDERS, Vice President,
HAROLD L. RIGGLE, Compliance Officer,
ALBERT R. VASQUEZ, Vice President, and
LORENA RAMIREZ-ZAPATA, Financial
Service Manager,**

Respondent.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Charles E. Clark, Division Director, Division of Consumer Services, and Albert R. Vasquez, (Respondent Vasquez), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.45 of the Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent Vasquez have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-13-1254-14-SC01 (Statement of Charges), entered May 19, 2014, (copy attached hereto), solely as to Respondent Vasquez. Pursuant to chapter 31.45 RCW, the Check Cashers and Sellers (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent Vasquez hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the

**CONSENT ORDER
C-13-1254-15-CO02
Albert R. Vasquez**

**DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703**

1 above-captioned matter may be economically and efficiently settled by entry of this Consent Order.
 2 The parties intend this Consent Order to fully resolve the Statement of Charges solely as to
 3 Respondent Vasquez. Respondent Vasquez is agreeing not to contest the Statement of Charges in
 4 consideration of the terms of this Consent Order.

5 Based upon the foregoing:

6 **A. Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter
 7 of the activities discussed herein.

8 **B. Waiver of Hearing.** It is AGREED that Respondent Vasquez has been informed of the
 9 right to a hearing before an administrative law judge, and hereby waives his right to a hearing and
 10 any and all administrative and judicial review of the issues raised in this matter, or of the resolution
 11 reached herein. Accordingly, Respondent Vasquez, by his signature below, withdraws his appeal to
 12 the Office of Administrative Hearings.

13 **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the
 14 Statement of Charges and agree that Respondent Vasquez does not admit to any wrongdoing by its
 15 entry.

16 **D. Cease and Desist.** Respondent Vasquez has represented to the Department that he has not
 17 participated in the business of a check casher or seller since September 23, 2013.

18 **E. Non-Compliance with Order.** It is AGREED that Respondent Vasquez understands that
 19 failure to abide by the terms and conditions of this Consent Order may result in further legal action
 20 by the Director. In the event of such legal action, Respondent Vasquez may be responsible to
 21 reimburse the Director for the cost incurred in pursuing such action, including but not limited to,
 22 attorney fees.

1 F. **Voluntarily Entered.** It is AGREED that Respondent Vasquez has voluntarily entered
2 into this Consent Order, which is effective when signed by the Director's designee.

3 G. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent Vasquez
4 has read this Consent Order in its entirety and fully understands and agrees to all of the same.

5 H. **Counterparts.** This Consent Order may be executed by the Respondent Vasquez in any
6 number of counterparts, including by facsimile or e-mail of a .pdf or similar file, each of which shall
7 be deemed to be an original, but all of which, taken together, shall constitute one and the same
8 Consent Order.

9 **RESPONDENT:**

10 Albert R. Vasquez

11 [Redacted Signature]

12 Albert R. Vasquez
13 Individually

14 7/8/15
Date

14 DO NOT WRITE BELOW THIS LINE

15 THIS ORDER ENTERED THIS 8th DAY OF July, 2015.



16 [Redacted Signature]

17 CHARLES E. CLARK
18 Director
19 Division of Consumer Services
20 Department of Financial Institutions

21 Presented by:

22 [Redacted Signature]

23 DEBORAH TAEELLIUS
Financial Legal Examiner Supervisor

24 CONSENT ORDER
C-13-1254-15-CO02
Albert R. Vasquez

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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:

AHORITA, INC. d/b/a COLORTYME,
MARK W. CHILDERS, President and 100%
Owner,
PATRICE A. CHILDERS, Vice President,
HAROLD L. RIGGLE, Compliance Officer,
ALBERT R. VASQUEZ, Vice President, and
LORENA RAMIREZ-ZAPATA, Financial
Service Manager,

Respondents.

No.: C-13-1254-14-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER AN
ORDER TO REVOKE LICENSE, BAN
FROM INDUSTRY, 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). 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:

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Ahorita, Inc. (Ahorita) is a Nevada corporation registered with the Washington Secretary of State. Respondent Ahorita was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a check casher with a small loan endorsement and a

1 check seller on September 26, 2005, and continues to be licensed to date.¹ Respondent Ahorita is
2 licensed to conduct the business of a check casher with a small loan endorsement and a check seller
3 at its main office in Sunnyside, Washington, and its branch office in Pasco, Washington.

4 **B. Mark W. Childers (M. Childers)** is President and 100% owner of Respondent Ahorita.

5 **C. Patrice A. Childers (P. Childers)** is Vice President of Respondent Ahorita.

6 **D. Harold L. Riggle (Riggle)** is Compliance Officer for Respondent Ahorita.

7 **E. Albert R. Vasquez (Vasquez)** is Vice President of Operations of Respondent Ahorita.

8 **F. Lorena Ramirez-Zapata (Ramirez)** is the Financial Service Manager of Respondent
9 Ahorita's main office.

10 **1.2 Examination.** The Department conducted an on-site examination of Respondent Ahorita on
11 or about April 22, 2013. The scope of this examination included a review of Respondent Ahorita's
12 business practices regarding Washington borrowers from June 8, 2009, through April 19, 2013. The
13 examination uncovered violations as follows:

14 **A. Falsifying Small Loan Database Entries.** Beginning at least in July 2010, Respondents
15 created secondary borrower accounts in the small loan database for existing borrowers. For at least
16 57 borrowers, Respondents created accounts with incorrect or altered social security numbers or
17 identification card numbers. Respondents' creation of these alternate accounts resulted in
18 Respondents making loans in violation of the Act's restrictions.

19 **B. Improperly Closing Loans in the Small Loan Database.** Respondents administratively
20 closed at least 216 loans in the small loan database. These loans did not meet the criteria for
21 administrative closure. Respondents' closure of these loans resulted in Respondents making loans in
22 violation of the Act's restrictions.

23 ¹ In October 2013, Respondent Ahorita submitted documents to the Department to close and surrender its licenses, which
24 have not yet been accepted.

1 **C. Failure to Limit Borrowers to Eight Loans in a Twelve-Month Period.** Respondents
2 provided at least 57 borrowers with a total of at least 315 loans in excess of the eight loan limit.
3 Respondents extended over \$71,000 in loans beyond the eight loan limit, earning over \$10,000 in
4 fees for these loans.

5 **D. Failure to Limit Borrowers to Maximum Allowable Principal.** Respondents provided at
6 least four borrowers with small loans with aggregated principal exceeding \$700 or 30% of the
7 borrower's gross monthly income.

8 **E. Failure to Provide for an Adequate Installment Plan Length.** In at least 12 instances,
9 Respondents failed to provide borrowers with an installment plan length of not less than 90 days on
10 loan amounts of \$400 or less.

11 **F. Failure to Provide Small Loan Database Denial Letter to Borrowers.** In at least 60
12 instances, Respondents failed to provide borrowers with a copy of the small loan database's denial
13 letter.

14 **G. Failure to Correctly Disclose Right of Rescission and Installment Plan to Borrowers.**
15 Between at least January 1, 2010, and April 22, 2013, Respondents did not provide borrowers with
16 the required disclosures explaining their rights to convert a loan to an installment plan or to cancel the
17 loan by the close of business the day following the date of the loan. During this same period,
18 Respondents also failed to conspicuously post a notice disclosing these rights.

19 **H. Failure to Disclose Small Loan Database Transaction Number to Borrowers.**
20 Respondents did not disclose the small loan database number on all small loan agreements provided
21 to borrowers.

22 **I. Failure to File Accurate Annual Assessment Reports.** Respondents filed incomplete
23 annual assessment reports in 2010, 2011, and 2012 by failing to include Respondent Ahorita's annual
24 financial statements.

1 **1.3 Failure to Comply with the Department's Investigative Authority.** On or about May 30,
2 2013, the Department issued a subpoena to Respondent Ahorita, compelling it to produce records
3 related to Respondent Ahorita's lending and training practices. Respondent Ahorita was required to
4 provide its response to the Department on or before June 13, 2013. On or about June 12, 2013, the
5 Department received an incomplete response from Respondent Ahorita. The Department requested
6 that Respondent Ahorita provide a complete response and an explanation regarding missing and
7 apparently altered documents. On or about August 30, 2013, the Department received an additional
8 response from Respondent Ahorita.

9 **1.4 Providing Altered Documents to the Department.** Respondent Ahorita's initial response to
10 the subpoena contained at least two documents which were apparently altered prior to delivery to the
11 Department.

12 **1.5 Failure to Comply with Recordkeeping Requirements.** Respondents failed to keep and
13 maintain the business books and records required by the Act. In at least 11 borrower files,
14 Respondents failed to retain the approval printout from the small loan database. In at least 15
15 borrower files, Respondents failed to keep records relating to specific loans. In multiple instances for
16 at least 45 borrowers, Respondents failed to provide denial of application forms. In at least 107
17 denials for at least 45 borrowers, Respondents failed to retain decline printouts from the small loan
18 database.

19 **1.6 On-going Investigation.** The Department's investigation into the alleged violations of the
20 Act by Respondents continues to date.

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

22 **2.1 Prohibited Acts and Practices.** Based on the Factual Allegations set forth in Section I
23 above, Respondents are in apparent violation of RCW 31.45.105(1)(a), (b), and (c) and WAC 208-
24 630-8201(a), (b), (c), (g), and (m) for directly or indirectly employing any scheme, device, or artifice

1 to defraud or mislead any person; directly or indirectly engaging in any unfair or deceptive practice
2 toward any person; directly or indirectly obtaining property by fraud or misrepresentation; directly or
3 indirectly structuring a loan transaction in order to exceed the loan limit in RCW 31.45.073; and
4 engaging in any device or subterfuge to evade the requirements of the Act.

5 **2.2 Forgery.** Based on the Factual Allegations set forth in Section I above, Respondents are in
6 apparent violation of RCW 31.45.070(5) for failing to comply with all applicable state statutes
7 relating to the activities governed by the Act; specifically, Respondents put off as true written
8 instruments which they knew to have been forged in violation of RCW 9A.60.020.

9 **2.3 Requirement to Comply with the Regulations Related to the Small Loan Database.**

10 Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation
11 of RCW 31.45.093 and WAC 208-630-556(9) for administratively closing loans that did not qualify
12 for closure pursuant to the small loan database instructions.

13 **2.4 Statutory Maximum Number of Small Loans.** Based on the Factual Allegations set forth in
14 Section I above, Respondents are in apparent violation of RCW 31.45.073(4) and WAC 208-630-463
15 for making small loans to borrowers when making those small loans resulted in a borrower receiving
16 more than eight small loans from all licensees in any twelve-month period.

17 **2.5 Statutory Maximum Principal Amount of Small Loan.** Based on the Factual Allegations
18 set forth in Section I above, Respondents are in apparent violation of RCW 31.45.073(2) and WAC
19 208-630-461 for making small loans with aggregated principal exceeding \$700 or 30% of the
20 borrower's gross income at any one time.

21 **2.6 Inaccurate Small Loan Database Reporting.** Based on the Factual Allegations set forth in
22 Section I above, Respondents are in apparent violation of RCW 31.45.093(3) for not accurately
23 entering information about a borrower or a loan into the small loan database.

1 **2.7 Statutory Requirement for Length of Installment Plan.** Based on the Factual Allegations
2 set forth in Section I above, Respondents are in apparent violation of RCW 31.45.084 and WAC 208-
3 630-530(3) for making installment plans of shorter than 90 days on loan amounts of \$400 or less.

4 **2.8 Requirement to Provide Small Loan Database Denial Letter to Borrower.** Based on the
5 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
6 31.45.093 and WAC 208-630-556(8) for not providing the small loan database denial letter to at least
7 60 borrowers who were deemed ineligible due to restrictions of the Act.

8 **2.9 Requirement to Provide Complete and Accurate Disclosures to Borrowers.** Based on the
9 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
10 31.45.084, RCW 31.45.086, WAC 208-630-560, and WAC 208-630-570 for not providing accurate
11 disclosures to borrowers regarding their rights to convert to an installment plan or to rescind the small
12 loan. Respondents are also in apparent violation of WAC 208-630-580 for not conspicuously posting
13 the disclosure of the right to convert to an installment plan and the right to rescind the small loan.

14 **2.10 Requirement to Provide Small Loan Database Number to Borrower.** Based on the
15 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
16 31.45.093 and WAC 208-630-566(7)(b) for not disclosing the small loan database transaction
17 authorization number on the small loan agreement.

18 **2.11 Requirement to File Accurate Annual Assessment Reports.** Based on the Factual
19 Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.45.090
20 and WAC 208-630-830(1) for not filing complete annual assessment reports with the Department.

21 **2.12 Requirement to Comply with the Department's Investigative Authority.** Based on the
22 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
23 31.45.100 for not providing a complete response to the Department's subpoena and for providing
24 apparently altered documents in their response.

1 **2.13 Requirement to Maintain Business Books and Records.** Based on the Factual Allegations
2 set forth in Section I above, Respondents are in apparent violation of RCW 31.45.060(2) for failing to
3 keep and maintain the business books, accounts, and records as required by the Director.

4 **III. AUTHORITY TO IMPOSE SANCTIONS**

5 **3.1 Authority to Revoke License.** Pursuant to RCW 31.45.110(2)(a), the Director may revoke a
6 license if a licensee is violating or has violated the Act including rules and orders, or commits any act
7 or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury
8 or loss to the public.

9 **3.2 Authority to Remove and Ban from the Industry.** Pursuant to RCW 31.45.110(2)(e), the
10 Director may remove from office or ban from participation in the conduct of the affairs of any
11 licensee any director, officer, sole proprietor, partner, controlling person, or employee of a licensee
12 that is violating or has violated the Act including rules and orders, or commits any act or engages in
13 conduct that demonstrates incompetence or untrustworthiness, or is a source of injury or loss to the
14 public.

15 **3.3 Authority to Order Restitution.** Pursuant to RCW 31.45.110(2)(d), the Director may order
16 restitution to borrowers damaged by the licensee's violation of this chapter.

17 **3.4 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a
18 fine, not to exceed one hundred dollars per day for each day's violation of the Act, on any licensee or
19 applicant, or any director, officer, sole proprietor, partner, controlling person, or employee of a
20 licensee or applicant, that is violating or has violated the Act including rules and orders, or commits
21 any act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of
22 injury or loss to the public.

23 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 31.45.050(1), RCW 31.45.100,
24 WAC 208-630-360, WAC 208-630-370, and WAC 208-630-380, the Director shall collect from the

1 licensee the actual cost of an investigation of the business, books, accounts, records, files, or other
2 information of a licensee. The investigation charge will be calculated at the rate of sixty-nine dollars
3 (\$69) per hour that each staff person devoted to the investigation, plus actual expenses.

4 **IV. NOTICE OF INTENTION TO ENTER ORDER**

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

- 9 **4.1** Respondent Ahorita, Inc.'s license to conduct the business of a check seller and check
10 cashier with a small loan endorsement be revoked;
- 11 **4.2** Respondents Ahorita, Inc., Mark W. Childers, and Patrice A. Childers be banned from
12 participation in the conduct of the affairs of any check cashier, check cashier with a
13 small loan endorsement, or check seller subject to licensure by the Director, in any
14 manner, for a period of five (5) years;
- 15 **4.3** Respondents Harold Riggle, Albert Vasquez, and Lorena Ramirez-Zapata be banned
16 from participation in the conduct of the affairs of any check cashier, check cashier with
17 a small loan endorsement, or check seller subject to licensure by the Director, in any
18 manner, for a period of three (3) years;
- 19 **4.4** Respondents Ahorita, Inc., Mark W. Childers, and Patrice A. Childers jointly and
20 severally pay restitution to all affected borrowers for any interest or fees collected on
21 small loans originated beyond the eight-loan limit from January 1, 2010, through the
22 date of this order, including at least \$10,806.05 collected from borrowers between
23 January 2010 and April 19, 2013, as discussed in paragraph 1.2C.
- 24 **4.5** Respondents Ahorita, Inc., Mark W. Childers, and Patrice A. Childers jointly and
severally pay a fine of \$75,000.
- 4.6** Respondents Ahorita, Inc., Mark W. Childers, and Patrice A. Childers jointly and
severally pay investigation fee in the amount of \$5,595.90.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Ban
3 from Industry, Order Restitution, Impose Fine, and Collect Investigation Fee (Statement of Charges)
4 is entered 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 a
6 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND
7 OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

8
9 Dated this 19th day of May, 2014.



10 [Redacted signature]

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

15 Presented by:

16 [Redacted signature]

17 SHANA L. OLIVER
18 Financial Legal Examiner

19 Approved by:

20 [Redacted signature]

21 CHARLES E. CLARK
22 Enforcement Chief