ORDER SUMMARY – Case Number: C-13-1254

Name(s): Lorena Ramirez-Zapata

Order Number: C-13-1254-15-CO03

Effective Date: July 8, 2015

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

License Effect: N/A

Not Apply Until: July 9, 2018

Not Eligible Until: July 9, 2018

Prohibition/Ban Until: July 9, 2018

Investigation Costs	$	Due	Paid ☐ Y ☐ N	Date
Fine	$	Due	Paid ☐ Y ☐ N	Date
Assessment(s)	$	Due	Paid ☐ Y ☐ N	Date
Restitution	$	Due	Paid ☐ Y ☐ N	Date
Judgment	$	Due	Paid ☐ Y ☐ N	Date
Satisfaction of Judgment Filed?		☐ Y ☐ 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: 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-13-1254-15-CO03 CONSENT ORDER FOR LORENA RAMIREZ-ZAPATA

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Charles E. Clark, Division Director, Division of Consumer Services, and Lorena Ramirez-Zapata (Respondent Ramirez-Zapata), 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 Ramirez-Zapata 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 Ramirez-Zapata. Pursuant to chapter 31.45 RCW, the Check Cashers and Sellers Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent Ramirez-Zapata hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above-captioned matter may be economically and

efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges solely as to Respondent Ramirez-Zapata. Respondent Ramirez-Zapata is agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

Based upon the foregoing:

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

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

C. **Prohibition from Industry**. It is AGREED that, for a period of three years from the date of entry of this Consent Order, Respondent Ramirez-Zapata is prohibited from participating, in any capacity, in the conduct of the affairs of any check casher or seller licensed by the Department or subject to licensure or regulation by the Department.

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

E. **Voluntarily Entered**. It is AGREED that Respondent Ramirez-Zapata has voluntarily entered into this Consent Order, which is effective when signed by the Director's designee.

F. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent Ramirez-Zapata has read this Consent Order in its entirety and fully understands and agrees to all of the same.

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

RESPONDENT:
Lorena Ramirez-Zapata

[redacted]

Lorena Ramirez-Zapata
Individually

6/8/15
Date

DO NOT WRITE BELOW THIS LINE

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

[redacted]

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

Presented by:
[redacted]

DEBORAH TAELLIOUS
Financial Legal Examiner

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

II. GROUNDS FOR ENTRY OF ORDER

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

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

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

2.3 Requirement to Comply with the Regulations Related to the Small Loan Database. Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.45.093 and WAC 208-630-556(9) for administratively closing loans that did not qualify for closure pursuant to the small loan database instructions.

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

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

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

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

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

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

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

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

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

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

III. AUTHORITY TO IMPOSE SANCTIONS

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

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

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

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

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

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

IV. NOTICE OF INTENTION TO ENTER ORDER

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

4.1 Respondent Ahorita, Inc.'s license to conduct the business of a check seller and check casher with a small loan endorsement be revoked;

4.2 Respondents Ahorita, Inc., Mark W. Childers, and Patrice A. Childers be banned from participation in the conduct of the affairs of any check casher, check casher with a small loan endorsement, or check seller subject to licensure by the Director, in any manner, for a period of five (5) years;

4.3 Respondents Harold Riggle, Albert Vasquez, and Lorena Ramirez-Zapata be banned from participation in the conduct of the affairs of any check casher, check casher with a small loan endorsement, or check seller subject to licensure by the Director, in any manner, for a period of three (3) years;

4.4 Respondents Ahorita, Inc., Mark W. Childers, and Patrice A. Childers jointly and severally pay restitution to all affected borrowers for any interest or fees collected on small loans originated beyond the eight-loan limit from January 1, 2010, through the date of this order, including at least $10,806.05 collected from borrowers between January 2010 and April 19, 2013, as discussed in paragraph 1.2C.

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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V. AUTHORITY AND PROCEDURE

This 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 (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 34.05 RCW (the Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

Dated this 19th day of May, 2014.

[redacted]

DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

[redacted]

SHANA L. OLIVER
Financial Legal Examiner

Approved by:

[redacted]

CHARLES E. CLARK
Enforcement Chief