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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:

No.: C-10-045-11-FO01

CASH ON THE SPOT, INC., Licensee, and  
SHELLISE B. MONTGOMERY, Owner and  
President,  
  
Respondents.

FINAL ORDER

I. DIRECTOR'S CONSIDERATION

A. Procedural History. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director) pursuant to RCW 34.05.464. On April 1, 2010, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Revoke or Suspend License, Ban from Industry, Impose Fine, Collect Examination Fee, and Collect Investigation Fee (Statement of Charges). The Statement of Charges was accompanied by a cover letter dated April 2, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Cash On The Spot Inc. and Shellise B. Montgomery. The Department served the Statement of Charges, cover letter dated April 2, 2010, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Cash On The Spot Inc. and Shellise B. Montgomery on Respondents on April 2, 2010, by First-Class mail and Federal Express overnight delivery.

On April 7, 2010, Respondents filed an Application for Adjudicative Hearing. On June 22, 2010, the Department made a request to the Office of Administrative Hearings (OAH) to assign an Administrative Law Judge (ALJ) to schedule and conduct a hearing on the Statement of Charges. On

1 or about July 15, 2010, ALJ Anita Davidson issued a Notice of Prehearing Conference by Telephone  
2 scheduling a prehearing conference on July 27, 2010, at 3:45 p.m.

3 On July 27, 2010, all parties attended a telephonic prehearing conference. On or about August  
4 20, 2010, ALJ Davidson issued a Prehearing Conference Order and Notice of Hearing scheduling a  
5 hearing on October 14, 2010. On or about October 5, 2010, ALJ Davidson issued a Notice of Status  
6 Conference scheduling a hearing on October 13, 2010, at 1:00 p.m.

7 On October 13, 2010, Respondents did not appear timely for the hearing. ALJ Davidson did  
8 speak with Respondents later that same day and agreed to continue the hearing to December 9, 2010.

9 On December 9, 2010, the hearing was continued to December 20, 2010. On December 20,  
10 2010, all parties attended the hearing. On or about April 18, 2011, ALJ Davidson issued an Initial  
11 Order affirming the Statement of Charges in its entirety. This Initial Order

- 12 • ordered Cash on the Spot, Inc. and Shellise B. Montgomery to cease and desist from  
conducting the business of a check casher and check seller;
- 13 • revoked Cash on the Spot, Inc. and Shellise B. Montgomery's license to conduct the  
business of a check casher or check seller;
- 14 • banned Cash on the Spot, Inc. and Shellise B. Montgomery from participation in the  
conduct of the affairs of any check casher or check seller subject to licensure by the  
15 Director, in any manner, for a period of five years;
- 16 • ordered Cash on the Spot, Inc. and Shellise B. Montgomery to jointly and severally pay an  
examination fee of \$678.00;
- 17 • ordered Cash on the Spot, Inc. and Shellise B. Montgomery to jointly and severally pay a  
fine of \$1,400.00; and
- 18 • ordered Cash on the Spot, Inc. and Shellise B. Montgomery to jointly and severally pay an  
investigation fee of \$414.00.;

19 On April 18, 2010, ALJ Davidson mailed the Initial Order to Respondents at the addresses  
20 Respondents previously provided.

21 Pursuant to RCW 34.05.464 and WAC 10-08-211, Respondents had 20 days from the date of  
22 service of the Initial Order to file a Petition for Review of the Initial Order. Respondents did not file a  
23 Petition for Review during the statutory period.

1 B. Record Presented. The record presented to the Director for his review and for entry of a  
2 final decision included the following:

- 3 1. Statement of Charges, cover letter dated April 2, 2010, and Notice of Opportunity to  
4 Defend and Opportunity for Hearing, with documentation of service;
- 5 2. Applications for Adjudicative Hearing for Cash on the Spot, Inc. and Shellise B.  
6 Montgomery;
- 7 3. Notice of Prehearing Conference by Telephone dated July 15, 2010, with  
8 documentation of service;
- 9 4. Prehearing Order and Notice of Hearing dated August 20, 2010, with documentation  
10 of service;
- 11 5. Notice of Status Conference dated October 5, 2010, with documentation of service;  
12 and
- 13 6. Initial Order dated April 18, 2011, with documentation of service;

14 C. Factual Findings and Grounds For Order. Pursuant to RCW 34.05.461, the Director  
15 hereby adopts the Initial Order, which is attached hereto.

## 16 II. FINAL ORDER

17 Based upon the foregoing, and the Director having considered the record and being  
18 otherwise fully advised, NOW, THEREFORE:

19 A. IT IS HEREBY ORDERED, that:

- 20 1. The license of Respondents CASH ON THE SPOT, INC. and SHELLISE B.  
21 MONTGOMERY to conduct the business of a check casher and check seller is  
22 revoked;
- 23 2. Respondents CASH ON THE SPOT, INC. and SHELLISE B. MONTGOMERY  
24 are banned from participation in the conduct of the affairs of any check casher or  
check seller subject to licensure by the Director, in any manner, for a period of five  
(5) years;
3. Respondents CASH ON THE SPOT, INC. and SHELLISE B. MONTGOMERY  
shall jointly and severally pay a fine of One Thousand Four Hundred Dollars  
(\$1,400.00);

- 1 4. Respondents CASH ON THE SPOT, INC. and SHELLISE B. MONTGOMERY  
2 shall jointly and severally pay to Washington State Department of Financial  
3 Institutions an examination fee of Six Hundred Seventy-Eight Dollars (\$678.00);
- 4 5. Respondents CASH ON THE SPOT, INC. and SHELLISE B. MONTGOMERY  
5 shall jointly and severally pay to Washington State Department of Financial  
6 Institutions an investigation fee of Four Hundred Fourteen Dollars (\$414.00); and
- 7 6. Respondents CASH ON THE SPOT, INC. and SHELLISE B. MONTGOMERY  
8 shall maintain records in compliance with the Act and provide the Department with  
9 the location of the books, records and other information relating to Respondent Cash  
10 On The Spot's check casher and check seller business, and the name, address and  
11 telephone number of the individual responsible for maintenance of such records in  
12 compliance with the Act.

13 B. Reconsideration. Pursuant to RCW 34.05.470, Respondents have the right to file a  
14 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition  
15 must be filed in the Office of the Director of the Department of Financial Institutions by courier at 150  
16 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,  
17 Washington 98504-1200, within ten days of service of the Final Order upon Respondents. The Petition  
18 for Reconsideration shall not stay the effectiveness of this order nor is a Petition for Reconsideration a  
19 prerequisite for seeking judicial review in this matter.

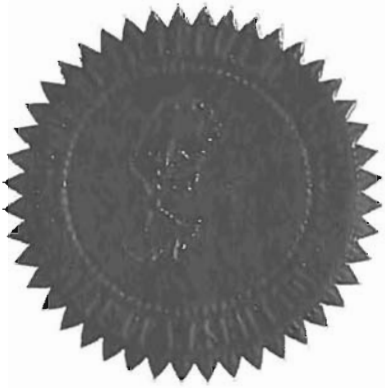
20 A timely Petition for Reconsideration is deemed denied if, within 20 days from the date the  
21 petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a written  
22 notice specifying the date by which it will act on a petition.

23 C. Stay of Order. The Director has determined not to consider a Petition to Stay the  
24 effectiveness of this order. Any such requests should be made in connection with a Petition for Judicial  
Review made under chapter 34.05 RCW and RCW 34.05.550.

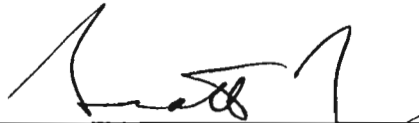
D. Judicial Review. Respondents have the right to petition the superior court for judicial  
review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for filing  
a Petition for Judicial Review, see RCW 34.05.510 and sections following.

1 E. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial  
2 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service attached  
3 thereto.

4 DATED this 27<sup>th</sup> day of December, 2011.



5  
6 STATE OF WASHINGTON  
7 DEPARTMENT OF FINANCIAL INSTITUTIONS

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9 \_\_\_\_\_  
10 SCOTT JARVIS  
11 DIRECTOR

MAILED

APR 18 2011

STATE OF WASHINGTON  
BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
FOR THE DEPARTMENT OF FINANCIAL INSTITUTIONS **SEATTLE-OAH**

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

CASH ON THE SPOT, INC. Licensee,  
and SHELLISE B. MONTGOMERY,  
Owner and President,

Respondents.

Docket No. 2010-DFI-0049 **RECEIVED**  
No. C-10-045-10-SC01

APR 19 2011

ENFORCEMENT UNIT  
DIVISION OF CONSUMER SERVICES  
DEPT OF FINANCIAL INSTITUTIONS

INITIAL ORDER

Division of Consumer Services

An in-person hearing in this matter was held by Administrative Law Judge Anita T. Davidson on December 20, 2010 at the Seattle offices of the Washington State Office of Administrative Hearings. The Washington State Department of Financial Institutions (the Department) was represented by Assistant Attorney General Jennifer Elias. The Department witnesses were William Halstead and James Brusselback. Respondents Cash on the Spot, Inc. and Shellise B. Montgomery were represented by Shellise B. Montgomery.

**STATEMENT OF THE CASE**

Whether the Department's April 1, 2010 Statement of Charges and Notice of Intention should be affirmed:

Whether Respondents Cash on the Spot, Inc. and Shellise B. Montgomery should cease and desist from conducting the business of a check casher and check seller;

Whether Respondents' license to conduct the business of check casher and check seller should be revoked;

Whether Respondents are banned from participation in the conduct of the affairs of any check casher or check seller subject to licensure by the Director, in any manner, for a period of five years;

Whether Respondents Cash on the Spot, Inc. and Shellise B. Montgomery should jointly and severally pay an examination fee in the amount of \$878.00, calculated at \$69.00 per hour for 12 hours, with no interest, less \$150.00 previously paid by Respondents;

Whether Respondents Cash on the Spot, Inc. and Shellise B. Montgomery should jointly and severally pay a fine for violating the Act in the amount of \$1,400.00, calculated at \$100.00 per day for 14 days; and

Whether Respondents Cash on the Spot, Inc. and Shellise B. Montgomery should jointly and severally pay an investigation fee in the amount of \$414, calculated at \$69.00 per hour for six staff hours devoted to investigating Respondents' violation of the Act.

### FINDINGS OF FACT

1. Respondent Cash On The Spot Inc. was licensed by the Washington State Department of Financial Institutions (the Department) to conduct business as a check casher with a small loan endorsement and a check seller on December 21, 2004, and continues to be licensed to date. Shellise B. Montgomery is the owner and president of Cash On The Spot, Inc.

2. The Check Cashers and Sellers Act, RCW 31.45 (the "Act") and Chapter 208-630 WAC regulate the check cashers and sellers and small loans industry. The primary policy of the Act is to protect borrowers. See RCW 31.45.010(Legislative Notes). To this end, the industry is highly regulated.

3. On August 26, 2009 the Department conducted an on-site examination of Respondents' books and records in accordance with RCW 31.45.050(1), incurring examination expenses of \$828.00. An invoice for that amount was mailed to Respondents on September 16, 2009 to be paid in full no later than October 16, 2009.

4. On October 27, 2009 the Department received a letter from Respondent Montgomery dated October 22, 2009 in which she requested "a reduction of the fee or forbearance due to the fact that I am not currently [sic] business is really slow due to the medical issues of my children:"

I recently gave birth to my son Josiah on March 29, 2009. It was a complicated pregnancy which led to him being born preterm. I have not conducted much business during my pregnancy or after. Currently, I am not doing any business and preparing for my son's surgery scheduled for November 2, 2009. In addition I have a son who is a 12 year old diabetic who needs constant monitoring.

Exhibit D-2.

5. On November 3, 2009 the Department issued a letter to Respondents denying the request, with instructions to pay the invoice as soon as possible "as there is a 12% APR interest assessed on all past due invoices." Exhibit D-3.

6. The Department does not have a practice of making payment arrangements with licensees or allowing licensees additional time to meet their financial obligations under the Act. That is because the Department's administration of the Act is financed by these payments, and payments over time (with the opportunity for licensees to delay payment, or issue checks with insufficient funds) places an added administrative burden on the Department.

7. When the Department did not receive Respondents' payment by December 2, 2009, a second letter was mailed to Respondents indicating that the payment of examination expenses was overdue, and further, that failing to comply with the obligation to pay could result in a penalty of \$100.00 per day, an examination of the company, and administrative action to revoke their license. The letter indicated that payment was to be made by December 16, 2009. Exhibit D-5.

8. On or about December 12, 2009 the Respondents mailed the Department a payment of \$100.00. The Department accepted the payment.

9. When Respondents did not make full payment by December 16, Financial Legal Examiner William Halstead telephoned Respondent Montgomery on January 4, 2010. Mr. Halstead took notes during their conversation which indicate that Respondent Montgomery talked about her personal problems, mentioning her children and domestic violence. Mr. Halstead does not recall that she informed him that domestic violence had prevented her from conducting her business. Respondent Montgomery's circumstances notwithstanding, Mr. Halstead told her that a new invoice would be mailed to her that included interest with a payment due date of February 1, 2010. Exhibit D-9.

Respondent Montgomery maintains that she explained to Mr. Halstead that she had been unable to work with any consistency in her place of business since the end of July or early August 2009, when her boyfriend fired gunshots into her office when she was not present. Her office was no longer a safe place to work. And she recalls explicitly telling Mr. Halstead that she could not make the payment to the Department prior to mid-February 2010 because that was when her business volume was highest - from making anticipatory loans to customers who were expecting to receive federal tax returns.

10. On January 5, 2010 Mr. Halstead mailed a letter to Respondent Montgomery confirming their discussion, specifically, that her payment was to be made no later than February 1, 2010. Respondent Montgomery did not make the payment by February 1, 2010.

11. When no payment was forthcoming, the Department issued a subpoena to Respondents on February 3, 2010, requiring them to pay the outstanding invoice within 10 days of receiving the subpoena. On February 9, 2010 Respondents replied to the Department's subpoena requesting (1) any administrative action against her company be stayed; and (2) seeking other remedies to prevent the revocation of her license. Exhibit D-10, p.2.



12. On or about February 12, 2010 the Department received a letter and \$50.00 money order from Respondent Montgomery. In the letter she stated that she could not pay the examination fee because she had conducted no business since July or August 2009, but did not mention the gun shot incident, or her inability to work safely in her office.

13. When the claimant failed to make payment, the Department issued on April 01, 2010 the Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Revoke or Suspend License, Ban from Industry, Impose Fine, Collect Examination Fee, and Collect Investigation Fee (the "Statement of Charges"). In the Statement of Charges the Director indicated an intention to order: (1) Respondents to cease and desist from conducting business as a check cashed and check seller; (2) the revocation or suspension of the Respondents' license to conduct the business of check cashed and check seller; (3) Respondents to be banned from participation in the conduct of the affairs of any check cashed or check seller subject to licenser by the Director, in any manner, for a period of five years; (4) Respondents to jointly and severally pay a *fine*, which totals \$1,400.00; (5) Respondents to jointly and severally pay an *examination fee* in the amount of \$678, plus accrued interest; and (6) Respondents to jointly and severally pay an *investigation fee* totaling \$1400.00, calculated ay \$69.00 per hour for the six staff hours devoted to the investigation.

14. To date Respondents have not paid outstanding fees and fines.

15. Though the Department does not have a policy of extending credit to licensees (that are unable to timely pay fees), in this case, the Department effectively did so, since it allowed Respondents six months from the initial request for payment in September 2009 to resolve the financial issues before taking any administrative action.

16. Respondents argue that (1) the Department has the ability to seek "discretionary remedies" other than revoking a license, and should do so here because of (a) the special circumstances which prevented Respondent Montgomery from promptly paying the examination fee, that is, her inability to conduct business after gunshots were fired into her office, and the medical condition of at least one of her children; (b) her commitment to carrying out the financial and other responsibilities of her business as evidenced by her decision not to seek discharge of her fees and fines through personal bankruptcy, which she filed in July 2010; and (c) her capability of operating a successful business in light of her advanced education (a BS in Physics and a masters in engineering management) and prior experience (10 years working in finance); and (2) her failure to timely pay her examination and investigation fees and fine should be considered a "paperwork violation" within the meaning of RCW 34.05.110.

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## CONCLUSIONS OF LAW

1. Pursuant to 34.05 RCW (the Administrative Procedure Act) and RCW 31.45.110 (the Check Cashers and Sellers Act), the Statement of Charges issued under RCW 31.34.110 in this matter is appealable to an administrative law judge. The decision of the administrative law judge is an initial order, subject to review by the Department in accordance with RCW 34.05.464 and WAC 10-08-211. The Respondents' appeal rights are set forth at the end of this Initial Order.
2. Under RCW 31.45.100 the director "may at any time examine and investigate the business and examine the books, accounts, records, and files, or other information . . . of any licensee or person who . . . is engaging in the business governed by [the Act]."
3. Under RCW 31.45.050(1) the licensee "shall pay to the director an . . . examination fee . . . in an amount determined by rule as necessary to cover the operation of the program." The cost of examining and supervising each licensed place of business is calculated at the hourly rate of \$69.00 per hour, plus actual expenses. WAC 208-630-350.
4. Here, the Department has established that its examination involved 12 staff hours at a hourly rate of \$69.00 totaling \$828.00, to be paid within 30 days. Though the Department is permitted to charge interest on the amount owing at the rate of 12 percent, it charged Respondents no interest. Respondents' failure to pay the Department's invoice within the required time period represents a violation of the Check Cashers and Sellers Act.
5. Under RCW 31.45.110(2)(c) the Director may impose a fine, not to exceed \$100.00 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 order, or commits any act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury or loss to the public.
6. In light of the Respondents' failure to pay its examination fee within a 30-day period, and its inability or unwillingness to resolve that issue to date, the Department may impose a fine of \$100.00 per day for each day the fees are not paid.
7. The undersigned is unaware of any statute, regulation or policy that permits an administrative law judge to challenge the Department's decisions regarding fees and fines, if the decisions are *not* arbitrary and capricious. The Department's decisions regarding the Respondents' fees and fines are not arbitrary and capricious. Rather, the Department's decisions take into consideration some of the personal problems that disrupted Respondents ability to conduct business. For example, the Department decided not to charge the Respondents any interest on the initial examination fee of \$828.00. The Department could have charged Respondents a fine of \$100.00 per day after the initial due date of October 16, 2009,

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Seattle, WA 98101-3126  
(206) 389-3400 1-800-845-8830  
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but limited its fine to 14 days based on the time and effort expended in its attempts to collect the examination fee.

8. Under RCW 31.45.110(2)(b), the Department Director may order a licensee to cease and desist from practices in violation of the Act or practices that constitute unsafe and unsound financial practices in the sale of checks.

9. Under RCW 31.45.110(2)(a) the Director may revoke a license if a licensee 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.

10. Under RCW 31.45.110(2)(3) 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 demonstrated incompetence or untrustworthiness, or is a source of injury or loss to the public.

11. In this case, Respondents have violated the Act by failing to pay examination and investigation fees (and the resulting fine). They are therefore subject to the penalties set forth above.

12. Respondents argue that the Director should use his broad administrative discretion in this matter, and seek less draconian remedies because:

(1) there were special circumstances preventing Respondents from conducting business, namely, gunshots fired into workplace and Respondent Montgomery's infant son's medical condition.

(2) Respondent Montgomery is committed to meeting her financial responsibilities to the Department as evidenced by her decision not to discharge those responsibilities through personal bankruptcy; and

(3) Respondent Montgomery is capable of meeting those financial responsibilities and operating a successful business in light of her advanced training and prior experience.

13. The undersigned recognizes that Respondent Montgomery faced many personal difficulties during 2009 and 2010. Unfortunately, the Act contains no provisions for a "good cause" defense to the requirement that licensees must pay for the examination that is part of the licensing program.

14. Moreover, Respondent's pattern of failing to pay its examination fee over a six-month period calls into question its financial responsibility and fitness to operate in a highly regulated business environment. In the application stage, the Director is charged with ensuring that

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licensees must be financially responsible and of good character and fitness. And that "financial fitness" should be maintained after the initial application stage.

15. Nor can Respondents argue that their failure to timely pay examination and investigation fees and fine should be considered a "paperwork violation" within the meaning of RCW 34.05.110. RCW 34.05.110 states in pertinent part:

(1) . . . [Agencies shall waive any fines, civil penalties, or administrative sanctions for first-time paperwork violations by a small business.

16. "Paperwork violation" means

the violation of any statutory or regulatory requirement that mandates the collection of information by the agency, or the collection, posting or retention of information by a small business. This includes but is not limited to requirements in the Revised Code of Washington, the Washington Administrative Code, the Washington State Register, or any other agency directive.

RCW 34.05.110(7)(b). Failing to pay statutorily required fees and fines does not fall under the definition of "paperwork violation."

17. RCW 34.05.110(3) sets forth exceptions to the waiver requirement for several reasons, including

**[t]he violation is of a requirement concerning the assessment, collection, or administration of any tax, tax program, debt, revenue, receipt, a regulated entity's financial filings, or insurance rate or form filing . . . .**

RCW 34.05.110(3)(c)(emphasis added).

18. Moreover, nothing in the "paperwork violation" statute "may be construed to diminish the responsibility of any citizen or business to apply for and obtain a permit, license, or authorizing document that is required to engage in a regulated activity, or otherwise comply with state or federal law." RCW 34.05.110 (5).

19. In this case, the Respondents failed to pay the examination fees for an examination of its books, accounts, records, and files - an examination that is an essential part of the Check Cashers and Sellers Act, and an examination fee that is, by statute, "necessary to cover the operation of the regulatory program." RCW 31.45.050(1). The seriousness of this violation is signaled by the fact that the Washington State Legislature has legislated that any violation of the Act is also a misdemeanor.

20. By failing to pay, the Respondents have not simply committed a paperwork violation, but have violated a regulatory provision of the Act. As the statute states, nothing in this section may be construed to diminish the responsibility for any business to comply with state law. RCW 34.05.110(5).

21. The undersigned has considered all Respondents' arguments set forth in Paragraph 16 in the above Findings of Fact. Those not specifically addressed are deemed without merit in light of my analysis of the requirements of the statutory scheme.

### ORDER

The Department's Statement of Charges and Notice of Intention To Enter an Order To Cease and Desist, Revoke or Suspend License, Ban from Industry, Impose Fine, Collect Examination Fee, and Collect Investigation Fee is AFFIRMED in all respects.

Respondents Cash on the Spot, Inc. and Shellise B. Montgomery shall cease and desist from conduction the business of a check cashed and check seller.

Respondents license to conduct the business of check cashed and check seller is revoked.

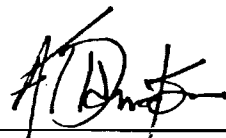
Respondents shall be banned from participation in the conduct of the affairs of any check cashed or check seller subject to licensure by the Director, in any manner, for a period of five years.

Respondents Cash on the Spot, Inc. and Shellise M. Montgomery shall jointly and severally pay an examination fee in the amount of \$678.

Respondents Cash on the Spot, Inc. and Shellise M. Montgomery shall jointly and severally pay a fine totaling \$1,400.00.

Respondents Cash on the Spot, Inc. and Shellise M. Montgomery shall jointly and severally pay an investigation fee in the amount of \$414.

SERVED on the date of mailing.



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Anita T. Davidson  
Administrative Law Judge

Office of Administrative Hearings  
600 University St., Suite 1500  
Seattle, WA 98101-3126  
(206) 389-3400 1-800-845-8830  
FAX (206) 587-5135

## NOTICE OF APPEAL RIGHTS

Pursuant to RCW 34.05.464 and WAC 10-08-211, any party to this proceeding may file a petition for review of this initial order. You must file your petition for review with the Director of the Department of Financial Institutions, PO Box 41200, Olympia, WA 98501-1200 (mailing address) or Department of Financial Institutions, 150 Israel Rad SW, Tumwater, WA 98501 (physical address). The petition for review must be mailed within twenty (20) days from the date this initial order was mailed to you. A copy of the petition for review must be sent to all parties of record. Your petition for review must specify the portions of the initial order with which you disagree, and must refer to the evidence in the record which supports your position.

Any party to this proceeding may file a reply to a petition for review. The reply must be filed with the Director of the Department of Financial Institutions at the address(es) above within ten (10) days from the date the petition for review was mailed, and copies of the reply shall be mailed to all other parties or their representatives at the time the reply is mailed.

ATD:dfs

A copy was mailed to the following:

**Department Representative:**

Jennifer Elias  
Assistant Attorney General  
Government Compliance & Enforcement  
Division  
1125 Washington St SE  
PO box 40100  
Olympia, WA 98504-0100

**Department Contact:**

James R. Brusselback  
Program Mgr & Enforcement Chief  
Dept. of Financial Institutions  
Consumer Service Division  
PO Box 41200  
Olympia, WA 98504-1200

**Respondent:**

Shellise B. Montgomery  
Cash on the Spot Inc.  
1105 23<sup>rd</sup> Ave  
Seattle, WA 98122

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STATE OF WASHINGTON     )  
                                          ) ss.  
COUNTY OF KING         )

I hereby certify that I have this day served a copy of this document upon all parties of record in this proceeding by mailing a copy thereof, properly addressed with postage prepaid, to each party to the proceeding or his or her attorney or authorized agent.

DATED at Seattle, Washington, this 18<sup>th</sup> day of April, 2011.

  
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Representative, Office of Administrative Hearings

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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:

CASH ON THE SPOT, INC., Licensee, and  
SHELLISE B. MONTGOMERY, Owner  
and President,

Respondents.

NO. C-10-045-10-SC01

STATEMENT OF CHARGES and NOTICE OF  
INTENTION TO ENTER AN ORDER TO CEASE  
AND DESIST, REVOKE OR SUSPEND  
LICENSE, BAN FROM INDUSTRY, IMPOSE  
FINE, COLLECT EXAMINATION FEE, 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. **Cash On The Spot Inc. (Respondent Cash)** 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 December 21, 2004, and has continued to be licensed to date. Respondent Cash is licensed to conduct the business of a check casher with a small loan endorsement and a check seller at 1105 23<sup>rd</sup> Ave. Seattle, Washington. Respondent Cash surrendered its small loan endorsement on November 21, 2008.

B. **Shellise B. Montgomery (Respondent Montgomery)** is the Owner and President of Respondent Cash.



1 **1.2 Examination Fees and Failure to Comply with Department's Investigatory Authority.** On or  
2 about August 26, 2009, the Department conducted an on-site examination of the books and records of the  
3 Respondents. As a result of the examination, the Department incurred examination expenses totaling \$828.  
4 On September 16, 2009, the Department sent Respondents an invoice for the examination expenses. The  
5 invoice was to be paid in full by October 16, 2009. On October 27, 2009, the Respondents sent the  
6 Department \$100 and a letter requesting the examination fee be reduced or due date be delayed due to  
7 personal circumstances. On November 3, 2009, the Department issued a letter to the Respondents denying  
8 the request and instructing them to pay the invoice.

9 On December 2, 2009, the Department sent Respondents another letter informing them the payment  
10 is overdue and failing to comply could result in a \$100 per day penalty and possible administrative action to  
11 revoke their license. Payment was to be made by December 16, 2009. The Respondents did not make  
12 payment by the deadline.

13 On January 4, 2010, the Department called the Respondents and it was agreed that payment would  
14 be made no later than February 1, 2010. On January 5, 2010, the Department issued a letter to the  
15 Respondents reminding them that payment was overdue and must be paid no later than February 1, 2010.  
16 Respondents did not make the payment by February 1, 2010.

17 On February 3, 2010, the Department issued a subpoena to Respondents requiring the invoice be  
18 paid within 10 days of receiving the subpoena. On or about February 12, 2010, the Department received a  
19 letter and \$50 money order from the Respondent. The February 12, 2010, letter from the Respondents  
20 indicates they have conducted no business and therefore have no revenue to pay the examination fee. As of  
21 the date of this Statement of Charges, the Respondents continue to owe examination fees totaling \$678 plus  
22 accruing interest.

23 **1.3 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by  
24 Respondents continues to date.

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**II. GROUNDS FOR ENTRY OF ORDER**

**2.1 Requirement to Pay Examination Fees.** Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 31.45.050(1) for failing to pay to the Director examination fees within 30 days of receiving an invoice.

**2.2 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 and WAC 208-630-370 and -380 for not producing requested documents to the Department and for not assisting the Department, as necessary, with a pending investigation.

**III. AUTHORITY TO IMPOSE SANCTIONS**

**3.1 Authority to Issue Cease and Desist Order.** Pursuant to RCW 31.45.110(2)(b), the Director may order a licensee to cease and desist from practices in violation of the Act or practices that constitute unsafe and unsound financial practices in the sale of checks.

**3.2 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.

**3.3 Authority to Suspend License.** Pursuant to RCW 31.45.110(2)(a), the Director may deny a license application if an applicant 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.

**3.4 Authority to 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.

1 **3.5 Authority to Impose Fine.** Pursuant to RCW 31.45.110(2)(c), the Director may impose a fine, not to  
2 exceed one hundred dollars per day for each day's violation of the Act, on any licensee or applicant, or any  
3 director, officer, sole proprietor, partner, controlling person, or employee of a licensee or applicant, that is  
4 violating or has violated the Act including rules and orders, or commits any act or engages in conduct that  
5 demonstrates incompetence or untrustworthiness, or is a source of injury or loss to the public.

6 **3.6 Authority to Collect Examination and Investigation Fee(s).** Pursuant to RCW 31.45.050(1), RCW  
7 31.45.100, and WAC 208-630-350 and WAC 208-630-380, the Director shall collect from the licensee the  
8 actual cost of an examination or investigation of the business, books, accounts, records, files, or other  
9 information of a licensee or person who the Director has reason to believe is engaging in the business governed  
10 by the Act. The charge will be calculated at the rate of sixty-nine dollars (\$69) per hour that each staff person  
11 devoted to the examination or investigation, plus actual expenses.

#### 12 **IV. NOTICE OF INTENTION TO ENTER ORDER**

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

- 16 **4.1** Respondents Cash on the Spot, Inc. and Shellise B. Montgomery cease and desist from conducting the  
17 business of a check casher and check seller;
- 18 **4.2** Respondent Cash on the Spot, Inc.'s license to conduct the business of a check casher and check seller  
19 be revoked or suspended;
- 20 **4.3** Respondents Cash on the Spot, Inc. and Shellise B. Montgomery be banned from participation in the  
21 conduct of the affairs of any check casher or check seller subject to licensure by the Director, in any  
22 manner, for a period of 5 years;
- 23 **4.4** Respondents Cash on the Spot, Inc. and Shellise B. Montgomery jointly and severally pay a fine, which  
24 as of this date, totals \$1,400;
- 25 **4.5** Respondents Cash on the Spot, Inc. and Shellise B. Montgomery jointly and severally pay an  
examination fee in the amount of \$678, plus accrued interest;
- 4.6** Respondents Cash on the Spot, Inc. and Shellise B. Montgomery jointly and severally pay an  
investigation fee, which as of this date, totals \$414, calculated at \$69 per hour for the 6 staff hours  
devoted to the investigation.

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Cease and Desist, Revoke or  
3 Suspend License, Ban from Industry, Impose Fine, Collect Examination Fee, and Collect Investigation Fee  
4 (Statement of Charges) is entered pursuant to the provisions of RCW 31.45.110 and RCW 31.45.200, and is  
5 subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may  
6 make a 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 1 <sup>April 25</sup> day of ~~March~~, 2010.



*Deborah Bortner*

DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

10 Presented by:

*William Halstead*

11  
12 WILLIAM HALSTEAD  
13 Financial Legal Examiner

14  
15  
16 Approved by:

*James R. Brusselback*

17 JAMES R. BRUSSELBACK  
18 Enforcement Chief