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9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

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12 In the Matter of:)	DESIST AND REFRAIN ORDER PURSUANT
)	TO FINANCIAL CODE SECTION 12103;
13 THE COMMISSIONER OF BUSINESS)	
14 OVERSIGHT OF THE STATE OF)	ANCILLARY RELIEF PURSUANT TO
15 CALIFORNIA,)	FINANCIAL CODE SECTION 12105(b); and
)	
16 Complainant,)	CITATIONS PURSUANT TO FINANCIAL
)	CODE SECTION 12107
17 v.)	
)	
18 PREMIER CONSUMER CREDIT)	
19 COUNSELING, INC.,)	
)	
20 Respondent.)	

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22 The Complainant is informed and believes and based on such information and belief, alleges
23 and charges the Respondent as follows:

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I.

25

FACTUAL BACKGROUND

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1. Premier Consumer Credit Counseling, Inc. ("PCCC") is a Florida Not For Profit Corporation with a business address at 5201 Blue Lagoon Drive, Suite 800, Miami Florida 33126, since on or around October 23, 2002.

1 2. PCCC's Articles of Incorporation filed with the Florida Department of State
2 Division of Corporations on October 23, 2002 provides that its primary purpose was "[t]o provide
3 a Family Credit Counseling Service for members of the public and to advise persons seeking
4 credit, budget or financial advice; to cooperate with public and private agencies, organizations
5 and associations; to assist families and persons with their financial problems"

6 3. From around March 2008 to at least September 2015, Juan G. Glen ("Glen") is the
7 president, secretary, treasurer, and director of PCCC.

8 4. On November 25, 2008, PCCC filed its Articles of Incorporation as a California
9 Nonprofit Public Benefit Corporation with the California Secretary of State, with a principal place
10 of business at 6080 Center Drive, 6th Floor, Los Angeles, California 90045, citing the same
11 purpose as stated in Paragraph 2 above.

12 5. On or around February 24, 2009, PCCC submitted an application to the
13 Department of Business Oversight ("Department") for a license under the Check Sellers, Bill
14 Payers and Proraters Law found in Financial Code section 12000 et seq. ("CSBPPL").

15 6. On October 29, 2010, PCCC was notified that its application had numerous
16 deficiencies, including, but not limited to, failing to indicate what license PCCC was seeking
17 ("Notice of Deficiency"). PCCC was also notified in the Notice of Deficiency that, as an
18 alternative to filing an application for a license, it may consider the option of filing for an
19 exemption from licensing under Financial Code section 12104. PCCC had 90 days from October
20 29, 2009, or by no later than January 27, 2010, to respond to the Notice of Deficiency, or else its
21 application would be abandoned.

22 7. As of January 29, 2010, PCCC had not responded to the Department's Notice of
23 Deficiency or filed for an exemption from licensing under Financial Code section 12104.
24 Therefore, on January 29, 2010, PCCC was notified that its application filed on February 24, 2009
25 was withdrawn.

26 8. On or around August 25, 2011, PCCC filed a Certificate of Dissolution with the
27 California Secretary of State.

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1 9. Despite lacking a license and failing to comply with the requirements for an
2 exemption from the CSBPPL, from around March 2009 through at least September 2015, PCCC
3 engaged in the business of a prorater, which is defined in Financial Code section 12002.1 as a
4 person who “engages in whole or in part in the business of receiving money or evidences thereof
5 for the purpose of distributing the money or evidences thereof among creditors in payment or
6 partial payment of the obligations of the debtor,” for compensation, as follows:

7 a. In or around March 2009, PCCC entered into an agreement with a
8 California resident (“MA”) whereby PCCC, for compensation of approximately \$30 per month,
9 has received payments from MA and distributed payments to MA’s creditor(s) during the period
10 of March 2009 through September 2015.

11 b. In or around October 2012, PCCC entered into an agreement with a
12 California resident (“JC”) whereby PCCC, for a “contribution” and/or ongoing service charge of
13 approximately \$35.00 per month, has received payments from JC and distributed payments to
14 JC’s creditors during the period of November 2013 through September 2015.

15 c. In or around September 2013, PCCC entered into an agreement with a
16 California resident (“LT”) whereby PCCC, for an ongoing service charge of approximately
17 \$35.00-\$45.00 per month, has received payments from LT and distributed payments to LT’s
18 creditors during the period of November 2013 through November 2014. PCCC also received a
19 one-time payment of \$99.00 in October 2013.

20 d. In or around November 2013, PCCC entered into an agreement with a
21 California resident (“RHP”) whereby PCCC, for a “contribution” and/or ongoing service charge
22 of approximately \$35.00-\$55.00 per month, has received payments from RHP and distributed
23 payments to RHP’s creditors during the period of December 2013 through September 2015.

24 e. In or around November 2014, PCCC entered into an agreement with a
25 California resident (“TC”) whereby PCCC, for a “contribution” of approximately \$45.00 per
26 month, received payments from TC and distributed payments to TC’s creditors during the period
27 of in or around December 2014 through in or around July 2015.

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1 f. In or around January 2015, PCCC entered into an agreement with a
2 California resident (“AM”) whereby PCCC, for a “contribution” of approximately \$45.00 per
3 month, received payments from AM and distributed payments to AM’s creditors during the
4 period of January 2015 through in or around July 2015. PCCC also received a one-time payment
5 of \$99.00 in January 2015.

6 10. At all relevant times, PCCC offered its services on the internet via its websites
7 located at www.librededeudas.com and www.premierconsumer.org, where a consumer could fill
8 out an application for debt management services. PCCC would then contact the consumer to
9 enter into an agreement for debt management services, obtain the consumer’s account statements
10 or bills from creditors, and obtain authorization for PCCC to make automatic debits from the
11 consumer’s checking or savings accounts. PCCC would also provide the consumer with a graph
12 purportedly comparing the amount of time it would take to pay off their debts with PCCC’s
13 services versus without PCCC’s services.

14 11. PCCC has never obtained a license from the Commissioner of Business Oversight
15 (“Commissioner”) under the CSBPPL to engage in the business of a prorater.

16 12. PCCC has never filed with the Department any claim of exemption under the
17 CSBPPL or fulfilled the requirements for any exemption, including, but not limited to, the
18 exemption requirements found in Financial Code section 12104 relating to nonprofit
19 organizations, to exempt it from the licensing requirements of the CSBPPL.

20 II.

21 **DESIST AND REFRAIN ORDER**

22 The Commissioner is authorized to pursue administrative actions and remedies against
23 persons who engage in violations of the CSBPPL.

24 Financial Code section 12103 provides, in pertinent part:

25 Whenever in the opinion of the commissioner any person is . . . violating
26 any provision of this division, the commissioner may order the person or
27 licensee to desist and to refrain from engaging in such business or further
28 violating this division. If, after such an order is made, a request for a
hearing is filed in writing and no hearing is held within 30 days thereafter,
the order shall be deemed to have been rescinded.

1 Financial Code section 12200 provides, in pertinent part:

2 No person shall engage in the business, for compensation, of . . . acting as
3 a prorater, nor shall any person, without direct compensation and not as an
4 authorized agent for a utility company, accept money for the purpose of
5 forwarding it to others in payment of utility bills, without first obtaining a
6 license from the commissioner.

7 Financial Code section 12002.1 defines “prorater” as follows:

8 A prorater is a person who, for compensation, engages in whole or in part
9 in the business of receiving money or evidences thereof for the purpose of
10 distributing the money or evidences thereof among creditors in payment or
11 partial payment of the obligations of the debtor.

12 The requirements to claim an exemption from licensure as a nonprofit organization are set
13 forth in Financial Code section 12104, which provides, in pertinent part:

14 (f) The nonprofit community service organization . . . shall provide the
15 commissioner the following **prior to engaging in business in this state**
16 **and claiming this exemption**: (1) A written notice with the name,
17 address, and telephone number of the bank, savings bank, savings and loan
18 association, or credit union where the trust account is maintained, and the
19 name of the account and the account number . . . (2) An irrevocable
20 written consent providing that upon the commissioner taking possession of
21 the property and business of the nonprofit community service
22 organization, all books, records, property and business, including trust
23 accounts and any other accounts holding debtors’ funds, shall be
24 immediately turned over to the commissioner or receiver appointed
25 pursuant to this division . . .

26 (i) The nonprofit community service organization submits to the
27 commissioner, at the organization’s expense, an audit report containing
28 audited financial statements covering the calendar year or, if the
organization has an established fiscal year, then for that fiscal year, within
120 days after the close of the calendar or fiscal year.

(j) The nonprofit community service organization submits with the annual
financial statements required under subdivision (i) a declaration that
conforms to Section 2015.5 of the Code of Civil Procedure, is executed by
an official authorized by the board of the organization, and that states that
the organization complies with this section. The annual financial
statements shall also include a separate written statement that identifies the
name, address, contact person, and telephone number of the organization .
. . . (Emphasis added).

1 The foregoing facts establish that Premier Consumer Credit Counseling, Inc. violated
2 Financial Code section 12200 by engaging in the business of acting as a prorater as defined in the
3 CSBPPL without a license from the Commissioner and without an exemption. Pursuant to Financial
4 Code section 12103 Premier Consumer Credit Counseling, Inc. is hereby ordered to desist and refrain
5 from violating Financial Code section 12200. This Order is necessary for the protection of
6 consumers and consistent with the purposes, policies, and provisions of the CSBPPL. This Order
7 shall remain in full force and effect until further order of the Commissioner.

8 III.

9 ANCILLARY RELIEF

10 Financial Code section 12105, subdivision (b) provides, in pertinent part:

11 If the commissioner determines it is in the public interest, the
12 commissioner may include in any action under this division a claim for
13 ancillary relief, including, but not limited to, a claim for restitution or
14 disgorgement or damages on behalf of the persons injured by the act or
15 practice constituting the subject matter of the action, and the
16 administrative or civil court shall have jurisdiction to award an additional
17 relief.

16 Based on the foregoing, the Premier Consumer Credit Counseling, Inc. has engaged in the
17 business of a prorater, in violation of Financial Code section 12200.

18 WHEREFORE, good cause showing, the Commissioner hereby enters an order of ancillary
19 relief and disgorgement pursuant to Financial Code section 12105, subdivision (b), to disgorge to
20 each of six California consumers all fees, contributions, profits, and any other remuneration, derived
21 directly or indirectly, from the actions or practices which constitute violations of Financial Code
22 section 12200, as follows:

23 a. Disgorge to MA all fees, contributions, profits, and any other remuneration, derived
24 directly or indirectly, from the actions or practices which constitute violations of Financial Code
25 section 12200, for the period of March 2009 through September 2015, in the amount of at least
26 \$2,340.00, or according to proof,

27 b. Disgorge to JC all fees, contributions, profits, and any other remuneration, derived
28 directly or indirectly, from the actions or practices which constitute violations of Financial Code

1 section 12200, for the period of November 2013 through September 2015, in the amount of at least
2 \$770.00, or according to proof,

3 c. Disgorge to LT all fees, contributions, profits, and any other remuneration, derived
4 directly or indirectly, from the actions or practices which constitute violations of Financial Code
5 section 12200, for the period of November 2013 through November 2014, in the amount of at least
6 \$639.00, or according to proof,

7 d. Disgorge to RHP all fees, contributions, profits, and any other remuneration, derived
8 directly or indirectly, from the actions or practices which constitute violations of Financial Code
9 section 12200, for the period of December 2013 through September 2015, in the amount of at least
10 \$1,155.00, or according to proof,

11 e. Disgorge to TC all fees, contributions, profits, and any other remuneration, derived
12 directly or indirectly, from the actions or practices which constitute violations of Financial Code
13 section 12200, for the period of December 2014 through in or around July 2015, in the amount of at
14 least \$360.00, or according to proof, and

15 f. Disgorge to AM all fees, contributions, profits, and any other remuneration, derived
16 directly or indirectly, from the actions or practices which constitute violations of Financial Code
17 section 12200, for the period of January 2015 through in or around July 2015, in the amount of at
18 least \$414.00, or according to proof,

19 For a total disgorgement of at least \$5,678.00, or according to proof.

20 **IV.**

21 **CITATIONS**

22 Financial Code section 12107 states:

23 (a) If, upon inspection or investigation, based upon a complaint or
24 otherwise, the department has cause to believe that a person is engaged in
25 business without a license, or a person or licensee is violating any
26 provision of this division or any rule or order promulgated pursuant to this
27 division, the department may issue a citation to that person in writing
28 describing with particularity the basis of the citation. Each citation may
contain an order to desist and refrain and an assessment of an
administrative penalty not to exceed two thousand five hundred dollars
(\$2,500). All penalties collected under this section shall be deposited in

1 the State Corporations Fund.

2 (b) The sanctions authorized under this section shall be separate from, and
3 in addition to, all other administrative, civil, or criminal remedies.

4 (c) If within 30 days from the receipt of the citation, the person cited fails
5 to notify the department that the person intends to request a hearing as
6 described in subdivision (d), the citation shall be deemed final.

7 (d) Any hearing under this section shall be conducted in accordance with
8 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
9 Title 2 of the Government Code.

10 (e) After the exhaustion of the review procedures provided for in this
11 section, the department may apply to the appropriate superior court for a
12 judgment in the amount of the administrative penalty and order
13 compelling the cited person to comply with the order of the department.
14 The application shall include a certified copy of the final order of the
15 department and shall constitute a sufficient showing to warrant the
16 issuance of the judgment and order.

17 For the violations of Financial Code section 12200 by Premier Consumer Credit Counseling,
18 Inc. during the period of March 2009 through at least September 2015, the Commissioner herein
19 issues six citations (Citations A through F) as part of this single document:

20 **CITATION A** – In or around March 2009, PCCC, without a license or an exemption under the
21 CSBPPL, entered into an agreement with MA whereby PCCC, for compensation of approximately
22 \$30 per month, has received payments from MA and distributed payments to MA’s creditor(s) during
23 the period of March 2009 through September 2015, in violation of Financial Code section 12200.

24 **CITATION B** – In or around October 2012, PCCC, without a license or an exemption under the
25 CSBPPL, entered into an agreement with JC whereby PCCC, for a “contribution” and/or ongoing
26 service charge of approximately \$35.00 per month, has received payments from JC and distributed
27 payments to JC’s creditors during the period of November 2013 through September 2015, in violation
28 of Financial Code section 12200.

CITATION C – In or around September 2013, PCCC, without a license or an exemption under the
CSBPPL, entered into an agreement with LT whereby PCCC, for an ongoing service charge of
approximately \$35.00-\$45.00 per month, has received payments from LT and distributed payments to

1 LT’s creditors during the period of November 2013 through November 2014. PCCC also received a
2 one-time payment of \$99.00 in October 2013, in violation of Financial Code section 12200.

3 **CITATION D** – In or around November 2013, PCCC, without a license or an exemption under the
4 CSBPPL, entered into an agreement with RHP whereby PCCC, for a “contribution” and/or ongoing
5 service charge of approximately \$35.00-\$55.00 per month, has received payments from RHP and
6 distributed payments to RHP’s creditors during the period of December 2013 through September
7 2015, in violation of Financial Code section 12200.

8 **CITATION E** – In or around November 2014, PCCC, without a license or an exemption under the
9 CSBPPL, entered into an agreement with TC whereby PCCC, for a “contribution” of approximately
10 \$45.00 per month, received payments from TC and distributed payments to TC’s creditors during the
11 period of in or around December 2014 through in or around July 2015, in violation of Financial Code
12 section 12200.

13 **CITATION F** – In or around January 2015, PCCC, without a license or an exemption under the
14 CSBPPL, entered into an agreement with a California resident (“AM”) whereby PCCC, for a
15 “contribution” of approximately \$45.00 per month, received payments from AM and distributed
16 payments to AM’s creditors during the period of January 2015 through in or around July 2015.
17 PCCC also received a one-time payment of \$99.00 in January 2015, in violation of Financial Code
18 section 12200.

19 Pursuant to Financial Code section 12107, Premier Consumer Credit Counseling, Inc. is
20 hereby ordered to pay the Commissioner a total amount of five thousand dollars (\$5,000.00) for
21 the six citations (Citations A through F) within thirty (30) days from the date these citations are
22 deemed final pursuant to Financial Code section 12107, subdivision (c).

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The payment shall be made in the form of a cashier’s check payable to the “Department of Business Oversight” and mailed to the attention of Counsel Sophia C. Kim at the Department of Business Oversight, Enforcement Division, 320 West 4th Street, Suite 750, Los Angeles, California 90013.

Dated: November 12, 2015
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
MARY ANN SMITH
Deputy Commissioner