

**FILED**  
KING COUNTY, WASHINGTON

JUL 22 2015

SUPERIOR COURT CLERK

EXP07

**STATE OF WASHINGTON  
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

ALTIUS MANAGEMENT, LLC,  
EDWARD J. POLCHLOPEK III,

Defendants.

NO. 14-2-12425-2 SEA

~~[PROPOSED]~~ DEFAULT  
JUDGMENT

CLERK'S ACTION REQUIRED

**I. JUDGMENT SUMMARY**

- |      |   |  |
|------|---|--|
| 1.1. | Judgment Creditor   | State of Washington  |
| 1.2. | Judgment Debtors  | Altius Management, LLC<br>Edward J. Polchlopek III               |
| 1.3. | Principal Judgment Amount:                                  | <u>\$54,851.29</u>   |
|      | a. Costs and Fees:  | \$23,183.29  |
|      | b. Civil Penalties:   | \$31,000.00  |
|      | c. Restitution:   | \$668.00   |
| 1.4. | Unpaid principal Judgment<br>amount shall bear interest at: | 12 percent per annum   |
| 1.5. | Attorney for Judgment Creditor:                             | Daniel Davies, Assistant Attorney General<br>State of Washington |
| 1.6. | Attorney for Judgment Debtor:                               | No appearance entered  |

1 **II. ORDER**

2 This matter came before the Court on Plaintiff State of Washington's Motion for Entry  
3 of Default Judgment. The Court examined the following documents and other evidence before  
4 entering the Default Judgment herein: Order of Default; Motion for Entry of Default Judgment  
5 with accompanying Declarations of Daniel Davies and Exhibits thereto; and the papers and  
6 pleadings on file in this case.

7 Having considered the pleadings and the evidence listed above,

8 **IT IS HEREBY ORDERED** that Default Judgment is granted, and the following  
9 Order is entered as follows:

10 **III. FINDINGS OF FACT**

11 3.1 Defendant Altius Management, LLC ("Altius Management" or "Altius") is a  
12 Tennessee limited liability company with its principal place of business located at 1102 17<sup>th</sup>  
13 Avenue South, Suite 303, Nashville, TN 37212.

14 3.2 At all times relevant to this action, Defendant Edward J. Polchlopek III, also  
15 known as Ed Nash, was and is the President of Altius Management, LLC. As such, Defendant  
16 Polchlopek III controlled Altius Management's policies, activities and practices, including  
17 those alleged in the Complaint herein.

18 3.3 This Court has personal jurisdiction over Defendants pursuant to the Consumer  
19 Protection Act, Chapter 19.86 RCW, RCW 19.86.160 and RCW 4.28.180 and RCW 4.28.185  
20 because Defendants have purposely acted or consummated transactions in the State of  
21 Washington, including soliciting and receiving funds from Washington consumers. The  
22 violations of RCW 19.86 alleged herein arise from or are connected with those transactions.  
23 Venue is proper in King County pursuant to RCW 4.12.020.

24 3.4 Defendants created, marketed and managed the Asylum Playing Cards  
25 Kickstarter Campaign ("Asylum Playing Cards Campaign") during September and October  
26 2012.

1           3.5     Kickstarter is a crowdfunding website that allows project creators to pitch ideas to  
2 the general public with the goal of obtaining enough cash funding to produce whatever item or  
3 work of art is the focus of the funding campaign.

4           3.6     When a Kickstarter campaign begins, the creator must set a funding goal measured  
5 in dollars (or any supported foreign currency). The amount of this goal is entirely at the discretion  
6 of the project creator, but should be enough to allow the project to be completed if the funding  
7 goal is reached.

8           3.7     The Asylum Playing Cards Kickstarter campaign was given a \$15,000 goal by  
9 Defendants and this goal was reached prior to the October 31, 2012 ending date of the campaign.

10          3.8     During the Asylum Playing Cards Campaign, Defendants induced 810  
11 consumers to pay them a total of \$25,146 but, despite over two years passing since the  
12 completion of the Kickstarter campaign and transmission of the funds, not a single consumer  
13 has received the goods they paid for.

14          3.9     Of the 810 backers, approximately 31 reported that they lived in Washington when  
15 they chose to back Respondent's playing card project on Kickstarter. Those 31 Washington  
16 backers paid \$668 to Defendants' Kickstarter campaign.

17          3.10    As of July 20, 2015, no Washington consumer has received any of his or her  
18 promised rewards. All backers were charged on October 31, 2012 when the project successfully  
19 funded in accordance with Kickstarter policy.

20          3.11    According to Kickstarter's Terms and Conditions, project creators are legally  
21 bound to fulfill backer rewards if funding is successful.

22          3.12    Defendants' conduct affects the public interest and has the capacity to mislead a  
23 substantial number of Washington consumers because Defendants activities were advertised to  
24 numerous consumers in Washington, and constitute unfair or deceptive acts or practices in  
25 trade or commerce in violation of RCW 19.86.020. Defendants' conduct also affects the  
26 public interest because it involved purchases made by dozens of Washington consumers.

1 **IV. CONCLUSIONS OF LAW**

2 4.1 The Court has jurisdiction of the subject matter of this action and of the parties  
3 hereto, and Plaintiff's Complaint states claims upon which relief may be granted.

4 4.2 The Attorney General has jurisdiction to bring this action under  
5 RCW 19.86.080.

6 4.3 Defendants' conduct as described in Findings of Fact Nos. 3.1 through 3.12  
7 constitutes violations of the Consumer Protection Act, RCW 19.86 *et seq.*

8 4.4 Plaintiff is entitled to a Decree ordering Defendants to pay the amounts as  
9 described herein.

10 4.5 Plaintiff is entitled to a Decree enjoining Defendants from the acts and practices  
11 described herein.

12 The Court having made the foregoing Finding of Fact and Conclusions of Law, and in  
13 accordance therewith, the Court enters the following:

14 **V. JUDGMENT AND DECREE**

15 5.1 Defendants shall inform all officers, agents, servants, employees,  
16 representatives, and all other persons in active concert or participation with Defendants of the  
17 terms and conditions of this Judgment.

18 5.2 Defendants and all successors, assigns, transferees, officers, agents, servants,  
19 employees, representatives, and all other persons in active concert or participation with the  
20 Defendant are hereby enjoined and permanently restrained in the State of Washington, or from  
21 a location outside of the State of Washington directed to a Washington resident (including  
22 internet sales where Defendant's advertising is available online in Washington And mailing  
23 and telephone calls into Washington), from directly or indirectly engaging in any of the  
24 following conduct:

- 25 a. Creating, administering, or running, a crowd-funding campaign to generate  
26 income;

- 1           b. Directly or indirectly engaging in any act, system, scheme, or plan that  
2           involves misrepresentations or omissions of material fact in order to sell or  
3           market online goods or services relating to crowd-funding campaigns.  
4           c. Making misrepresentations in the context of any advertising of products or  
5           services in online commerce.  
6           d. Violating any provisions of the Unfair-Business Practices—Consumer  
7           Protection Act, RCW 19.86.

8           5.3 Pursuant to RCW 19.86.140, Defendant is ordered to pay Plaintiff, State of  
9 Washington, a civil penalty of \$31,000, representing 31 violations of RCW 19.86.020,  
10 provided that if additional consumers are identified within 18 months of the entry of this  
11 Judgment as being subject to Defendant's unfair and deceptive practices, Plaintiff may, at its  
12 discretion, award restitution to those consumers from the sum received as a civil penalty  
13 pursuant to the Court's award herein.

14           5.4 Pursuant to RCW 19.86.080, the aggrieved Washington consumers are entitled  
15 to restitution in the amount of \$668.

16           5.5 Pursuant to RCW 19.86.080, Defendant is ordered to pay Plaintiff, State of  
17 Washington, costs for this action, including a reasonable attorneys' fee of \$23,183.29.

18           5.6 All payments made to satisfy this Judgment shall be in the form of a valid check  
19 paid to the order of the "Attorney General—State of Washington." Payments shall be sent to  
20 the Office of the Attorney General, Administrative Office Manager, 800 Fifth Avenue, Suite  
21 2000, Seattle, Washington, 98104-3188.

22           5.7 Nothing in this Judgment shall be construed as to limit or bar any other  
23 governmental entity or any consumer in the pursuit of other remedies against Defendants.

24           5.8 Representatives of the Office of Attorney shall be permitted, upon reasonable  
25 notice to Defendants, to access and inspect all business records or documents under the control  
26 of Defendants to monitor compliance with the terms of this Judgment.

