

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS**

TO: Allied Cash Advance California, LLC dba Allied Cash Advance
File # 100-1854 and 39 locations
200 S.E. 1st Street, Suite 800
Miami, FL 33131

DESIST AND REFRAIN ORDER

(For violations of California Financial Code sections 23024, 23035 and 23036)

CITATIONS

(California Financial Code sections 23058)

The California Corporations Commissioner (“Commissioner”) finds that:

1. The Commissioner of the Department of Corporations (“Department”) is responsible for enforcing the California Deferred Deposit Transaction Law (“CDDTL”) found in California Financial Code section 23000 *et seq.*

2. The Commissioner issues CDDTL licenses to engage in the business of deferred deposit transactions pursuant to California Financial Code section 23005. A deferred deposit transaction is a written transaction whereby one person gives funds to another person upon receipt of a personal check and it is agreed that the personal check shall not be deposited until a later date. These transactions are sometimes referred to as “payday advances” or “payday loans.”

3. Allied Cash Advance California, LLC doing business as Allied Cash Advance (hereinafter “Allied Cash” or “payday lenders”) is licensed by the Commissioner and has multiple locations throughout California. The file numbers for Allied Cash include the following: 100-1854 through 100-1884, inclusive; 100-2199 and 100-2200, 100-2551 through 100-2553, inclusive, 100-2652 and 100-2653, 100-2706 through 100-2708 inclusive, 100-3176 and 100-3177 and 100-3611. These payday lenders are subject to examination pursuant to the CDDTL’s licensing requirements.

4. Since at least 2009, the foregoing payday lenders have engaged in the business of deferred deposit transactions by offering, originating and making deferred deposit transactions.

1 5. Allied Cash advertised their payday loans to California consumers from its
2 locations and websites. The above payday lenders offered California consumers payday loans but
3 failed to maintain adequate books and records in violation of Financial Code section 23024.
4 Allied Cash collected excess amounts in violation of Financial Code section 23036(a); charged
5 multiple and unauthorized fees in violation of Financial Code section 23036(e); and failed to
6 provide the disclosures required by Financial Code sections 23035(i) and 23036(f).

7 6. The payday lenders arrange for an electronic deposit of funds to the consumer’s
8 respective bank account and have access to the consumer’s account to withdraw funds to repay
9 Allied Cash on the due date of the deferred deposit transaction.

10 7. A regulatory examination that commenced on February 17, 2009, disclosed that
11 Allied Cash charged excessive amounts aggregating approximately \$11,000. The excessive
12 amounts resulted from Allied Cash charging multiple Non-Sufficient Funds (“NSF”) fees
13 totaling \$840 on 56 deferred deposit transactions, and collecting unauthorized NSF fees totaling
14 \$255 on 17 deferred deposit transactions. Allied Cash also collected excess amounts totaling
15 \$9,840.13 on 48 deferred deposit transactions by either depositing the customers' checks into the
16 bank for repayment of the loans, then accepting cash payments from the customers or accepting
17 partial payments from the customers, then depositing the customer's checks. The Department
18 directed Allied Cash to cease these violations and refund the excess amounts. In October 2010
19 Allied Cash falsely reported to the Department that it had made the necessary refunds.
20 Additionally, Allied Cash failed to take corrective action to prevent the violations from
21 continuing and failed to provide proof of refunds that had been made as requested during the
22 previous regulatory examination.

23 8. A subsequent regulatory examination started in November 2010 revealed that
24 Allied Cash from at least February 17, 2009, through at least March 9, 2011, collected excess
25 amounts or excess NSF fees totaling \$146,968.74 on 609 deferred deposit transactions by
26 electronically debiting the customers' bank accounts for repayment of the loans, then accepting
27 cash payments from the customers. During the same period, Allied Cash collected excess
28 amounts or excess NSF fees totaling \$82,742.36 on 337 deferred deposit transactions by

1 depositing the customers' checks into the bank for repayment of the loans, then accepting cash
2 payments from the customers. Allied Cash refunded the excess amounts collected from 946
3 customers totaling \$229,711.10. The books and records of Allied Cash disclosed 61 deferred
4 deposit transactions appeared to have excess amounts collected, but the records were not
5 sufficient to determine the amount of the overcharges and if any overcharges had been refunded
6 to the customers. After the regulatory examination in February 2009, Allied Cash continued to
7 violate Financial Code sections 23024, 23035 and 23036.

8 9. Moreover, after the February 17, 2009 regulatory examination Allied Cash failed to
9 pay 72 identified consumers refunds totaling \$3,709.29. After the November 2010 regulatory
10 examination Allied Cash failed to determine if 61 identified consumers have been refunded any
11 amount Allied Cash overcharged them.

12 10. Allied Cash engaged in deferred deposit transactions that violated various statutory
13 provisions of the CDDTL including lack of the requisite disclosures, charging excessive fees and
14 failure to maintain adequate books and records in violation of California Financial Code sections
15 23024, 23035 and 23036.

16 By reason of the foregoing, Allied Cash has engaged in the business of deferred deposit
17 transactions in violation of California Financial Code sections 23024, 23035 and 23036.

18 California Financial Code section 23050 states:

19 Whenever, in the opinion of the commissioner, any person is engaged in
20 the business of deferred deposit transactions, as defined in this division,
21 without a license from the commissioner, or any licensee is violating any
22 provision of this division, the commissioner may order that person or
23 licensee to desist and to refrain from engaging in the business or further
24 violating this division. If within 30 days, after the order is served, a
25 written request for a hearing is filed and no hearing is held within 30 days
26 thereafter, the order is rescinded.

27 11. Pursuant to Financial Code section 23050, Allied Cash Advance California, LLC
28 doing business as Allied Cash Advance is hereby ordered to desist and refrain from violations of
Financial Code sections 23024, 23035 and 23036, ordered to pay 72 identified consumers refunds
totaling \$3,709.29 and ordered to determine if 61 identified consumers have received refunds.

1 **CITATIONS**

2 For the 72 violations of Allied Cash discovered during the Department’s examinations,
3 the Commissioner is issuing Citation 1 through 72, inclusive. The Citations are being issued for
4 overcharging consumers pursuant to Financial Code section 23058 which states:

5 (a) If, upon inspection, examination or investigation, based upon a complaint
6 or otherwise, the department has cause to believe that a person is engaged in
7 the business of deferred deposit transactions without a license, or a licensee
8 or person is violating any provision of this division or any rule or order
9 thereunder, the department may issue a citation to that person in writing,
10 describing with particularity the basis of the citation. Each citation may
11 contain an order to desist and refrain and an assessment of an administrative
12 penalty not to exceed two thousand five hundred dollars (\$2,500). All
13 penalties collected under this section shall be deposited in the State
14 Corporations Fund.

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

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

20 (d) Any hearing under this section shall be conducted in accordance with
21 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title
22 2 of the Government Code, and in all states the commissioner has all the
23 powers granted therein.

24 (e) After the exhaustion of the review procedures provided for in this section,
25 the department may apply to the appropriate superior court for a judgment in
26 the amount of the administrative penalty and order compelling the cited
27 person to comply with the order of the department. The application, which
28 shall include a certified copy of the final order of the department, shall
constitute a sufficient showing to warrant the issuance of the judgment and
order.

12. Pursuant to Financial Code section 23058, Allied Cash Advance California,
LLC doing business as Allied Cash Advance is hereby ordered to pay to the Commissioner within
30 days from the date, as shown below, for these Citations, an administrative penalty of two
thousand five hundred dollars (\$2,500) for each of the 72 citations for a total amount of one
hundred eighty thousand dollars (\$180,000).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This Order is necessary for the protection of consumers and consistent with the purposes, policies and provisions of the CDDTL.

This Order shall remain in full force and effect until further order of the Commissioner.

Dated: July 29, 2011
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
ALAN S. WEINGER
Deputy Commissioner
Enforcement Division