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10 BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

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12 In the Matter of the Request for a Hearing on the)
Desist and Refrain Order issued by the)
13 California Corporations Commissioner,)
Complainant,) Statement in Support of the
14) Desist and Refrain Order
15 v.)
16 Broadmore Ventures et al.,)
17 Respondents.)
18

19 Complainant, the California Corporations Commissioner, (“Commissioner”) is informed and
20 believes, and based upon such information and belief, alleges and charges Respondents as follows:

21 **INTRODUCTION**

22 1. The Commissioner of the California Department of Corporations (“Department”) is
23 responsible for enforcing all provisions of the California Deferred Deposit Transaction Law
24 (“CDDTL”) set forth in California Financial Code sections 23000 et seq. (All future section
25 references are to the Financial Code unless indicated otherwise.) Respondents, Broadmore
26 Ventures, The Loan Shop, Express Cash, Xpress Cash, Westbury Ventures, Plaza Processing,
27 ASAP, PD6 Ventures, DMS Marketing, and LTS Management engaged in multiple CDDTL
28 violations.

1 On July 27, 2007, the Commissioner issued a Desist and Refrain Order to Respondents pursuant to
2 section 23050 for violations of the legal standards required of all deferred deposit transaction
3 originators. Respondents requested a hearing concerning the Department’s action.

4 **I**

5 **FACTS AND PROCEDUAL BACKGROUND**

6 2. Broadmore Ventures, The Loan Shop, Express Cash, Xpress Cash, Westbury
7 Ventures, Plaza Processing, ASAP, PD6 Ventures, DMS Marketing, LTS Management and its
8 affiliates (all hereinafter referred to as “Broadmore”) operate at 2756 N. Green Valley Parkway,
9 Suite 871, Henderson, Nevada 99014 and at 10120 S. Eastern Avenue, Suite 200, Henderson,
10 Nevada 89052.

11 3. The Commissioner has not issued a license to Broadmore to engage in the business of
12 deferred deposit transactions pursuant to California Financial Code section 23005. Broadmore is
13 not exempt from the licensing requirement of the CDDTL.

14 4. Since at least April 2005 Broadmore has engaged in the business of deferred deposit
15 transactions by offering, originating and making deferred deposit transactions as described below.

16 5. A deferred deposit transaction is a written transaction whereby one person gives
17 funds to another person upon receipt of a personal check with the agreement that the personal
18 check shall not be deposited until a later date. These transactions are sometimes referred to as
19 “payday advances” or “payday loans.”

20 6. California consumers received unsolicited advertisements from Broadmore offering
21 potential customers funds of approximately \$300 until their next payday.

22 7. Broadmore would arrange for an electronic deposit of funds to the consumer’s
23 respective bank account and Broadmore had access to withdraw the \$300 plus their fee on the
24 due date of the deferred deposit transaction.

25 8. However, when the day due on the deferred deposit transaction came due Broadmore
26 would not withdraw the agreed upon repayment from the consumer’s bank account, even though
27 adequate funds were available to do so. Instead Broadmore would withdraw \$90, which they
28 stated consisted of their \$45 fee and a \$45 interest charge.

1 9. Broadmore would then make successive withdrawals of \$90 from the consumer’s
2 account. In some cases Broadmore would take \$90 twice in the same day from customers. One
3 customer had 16 withdrawals made from his bank account for a total of \$1,440 during a three-
4 month period. A customer who obtained two \$300 payday loans from Broadmore repaid them a
5 total of \$2,040. It was necessary for Broadmore’s customers to close their bank account to
6 prevent repeat unauthorized withdrawals. Broadmore would not respond to consumer complaints
7 and continued to overcharge them. Broadmore’s representatives including, but not limited to,
8 Kiria Cummings, Michelle Hargrove, William Mashburn, Tom Rothrock, and William Schlappi,
9 would contact consumers or their employers, impose deadlines for payment via Money Gram or
10 Automatic Clearing House (ACH) and threaten consumers with legal action.

11 10. To date the Department has no record of Broadmore or anyone else ever filing on
12 Broadmore’s behalf for a CDDTL license from the Department.

13 11. Broadmore engaged in deferred deposit business without a license from the
14 Commissioner and engaged in deferred deposit transactions that violated various statutory
15 provisions of the CDDTL including charging excessive fees in violation of California Financial
16 Code sections 23036 and 23037.

17 **II**
18 **DEFERRED DEPOSIT TRANSACTION LAW**

19 12. Respondents are within the definition of a “licensee” under the CDDTL found in section
20 23001, subdivision (d). All CDDTL licensees are required to comply with basic legal requirements
21 imposed on all persons so defined concerning notices and advertisements.

22 13. Section 23050 provides in pertinent part:

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

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14. Section 23036, subdivisions (a), (c), (e) and (f), limit fees and transactions stating:

(a) A fee for a deferred deposit transaction shall not exceed 15 percent of the face amount of the check.

(c) A licensee shall not enter into an agreement for a deferred deposit transaction with a customer during the period of time that an earlier written agreement for a deferred deposit transaction for the same customer is in effect.

(e) A fee not to exceed fifteen dollars (\$15) may be charged for the return of a dishonored check by a depository institution in a deferred deposit transaction. A single fee charged pursuant to this subdivision is the exclusive charge for a dishonored check. No fee may be added for late payment.

(f) No amount in excess of the amounts authorized by this section shall be directly or indirectly charged by a licensee pursuant to a deferred deposit transaction.

15. Section 23037 limits a licensee’s transactions and activities and in relevant part states:

In no case shall a licensee do any of the following:

(a) Accept or use the same check for a subsequent transaction, or permit a customer to pay off all or a portion of one deferred deposit transaction with the proceeds of another.

...

(f) engage in any unfair, unlawful, or deceptive conduct, or make any statement that is likely to mislead in connection with the business of deferred deposit transaction.

16. Pursuant to section 23050, the Commissioner ordered Respondents to desist and refrain from engaging in the business of deferred deposit transactions in the State of California in violation of sections 23005, 23036 and 23037. The Commissioner’s Desist and Refrain Order was properly issued and necessary for the protection of consumers and consistent with the purposes, policies and provisions of the CDDTL.

CONCLUSION

Complainant finds that Respondents, Broadmore Ventures, The Loan Shop, Express Cash, Xpress Cash, Westbury Ventures, Plaza Processing, ASAP, PD6 Ventures, DMS Marketing, and LTS Management violated sections 23005, 23036, and 23037. The Commissioner is justified in issuing a Desist and Refrain Order to Respondents pursuant to section 23050.

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WHEREFORE, Complainant, the California Corporations Commissioner prays that

The Desist and Refrain Order issued pursuant to Financial Code section 23050 be affirmed to prohibit Respondents from violating Financial Code sections 23005, 23036, and 23037.

Dated: August 28, 2007
San Francisco, California

Respectfully submitted,

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____

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