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8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:)
12) CFL LICENSE NO.: 603-B441
13 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,)
14) ACCUSATION
Complainant,)
15)
16 v.)
17 CASH AMERICA ADVANCE, INC.,)
18 Respondent.)
19 _____)

20 The Complainant is informed and believes, and based upon such information and belief,
21 alleges and charges Respondents as follows:

22 **I.**

23 **Introduction**

24 1. Respondent Cash America Advance, Inc. (Cash America) is a finance lender and
25 broker licensed by the Commissioner of Business Oversight (Commissioner) pursuant to the
26 California Financing Law of the State of California (Fin. Code § 22000 et seq.) (CFL). Cash
27 America currently has one license under the CFL which is located at 1600 W. 7th Street, Fort Worth,
28 Texas 76102. Prior to May 2018, Cash America had 12 licensed branch offices located in

1 California.

2 2. On or about September 2, 2015, the Commissioner, by and through staff, commenced
3 a regulatory examination of the books and records of Cash America (regulatory examination). The
4 CFL provides interest rate limits on loans under \$2,500.00 pursuant to the provisions of Financial
5 Code section 22302 and 22303. The CFL does not contain similar provisions for loans of \$2,500.00
6 or more.

7 **II.**

8 **Material Misrepresentations and/or Omissions to Consumers**

9 3. The regulatory examination disclosed that Cash America, with the intent to induce
10 members of the public to enter into unregulated personal loans, advertised, published, distributed or
11 broadcasted, or caused or permitted to be advertised, published, distributed, or broadcast, statements
12 and/or representations regarding the terms and conditions of the loans that were false, misleading or
13 deceptive and/or omitted material information that were necessary to make the statements and/or
14 representations made not false, misleading, or deceptive in violation of Financial Code section
15 22161, subdivision (a)(2) as follows:

16 a. Cash America does not make CFL installment loans for less than \$2,600.00 but did
17 not disclose this minimum loan amount in its advertising. Cash America routinely represented,
18 when consumers stated they wanted a loan for less than \$2,600.00, that on the day of funding or
19 shortly thereafter, they could just give back whatever amount they did not want (prepayment), which
20 would reduce the principal balance and also result in interest savings. However, Cash America
21 failed to inform the consumers that because the loan was for \$2,600.00, Cash America was not
22 subject to the interest rate limitations (approximately 30%) set forth in Financial Code sections
23 22032 and/or 22303. Cash America charged an average interest rate of 164% between August 24,
24 2012 and April 29, 2017 on its CFL installment loans.

25 4. Cash America made approximately 13,241 CFL installment loans in California in the
26 amount of \$2,600.00 between August 24, 2012 and April 29, 2017. A CFL installment loan report
27 prepared by Cash America disclosed that borrowers made a payment prior to the first scheduled
28 payment in 5,767 of the 13,241 loans (43.5%) made by Cash America during that time-period. Of

1 the 5,767 loans, 2,601 loans (45.1%) disclosed that borrowers had made a payment on the day of
2 funding or within three days thereafter.

3 **III.**

4 **Unfair Business Act or Practice**

5 5. Further investigation disclosed that Cash America engaged in unfair business acts or
6 practices in violation of Financial Code section 22161, subdivision (a)(4) and Business and
7 Professions Code section 17200 by requiring new customers seeking a CFL installment loan to take
8 out one or more deferred deposit transaction loans (payday loan) prior to allowing the new customer
9 to apply for a CFL installment loan. Cash America was, during all times relevant herein, also
10 licensed by the Commissioner under the California Deferred Deposit Transaction Law (Fin. Code §
11 23000 et seq.) (CDDTL).

12 **IV.**

13 **Prepayment Prohibition**

14 6. Financial Code section 22337, subdivision (c) provides in pertinent part:

15 Each licensed finance lender shall:

16 (c) Permit payment to be made in advance in any amount on any contract of loan at
17 any time.

18 Although Cash America repeatedly instructed numerous consumers to just give back
19 whatever amount of the \$2,600.00 CFL installment loan they did not want on the day of funding or
20 shortly thereafter when consumers stated they wanted a loan for less than \$2,600.00, Cash America
21 on numerous occasions informed consumers seeking lesser loan amounts that they could give back
22 whatever amount they did not want, but the consumer would have to wait at least one day before
23 giving back unwanted funds. This practice not only violated Financial Code section 22337,
24 subdivision (c), but resulted in the affected borrowers incurring unnecessary interest charges.

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V.

Revocation Statute

Financial Code section 22714 provides in pertinent part:

(a) The commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

(2) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

VI.

Conclusion

Complainant finds that, by reason of the foregoing, Respondent Cash America Advance, Inc., has violated Financial Code sections 22161, subdivisions (a)(2) and (a)(4) and 22337, subdivision (c), and based thereon, grounds exist to revoke the finance lender and broker license of Respondent Cash America Advance, Inc.

VII.

Prayer

WHEREFORE, IT IS PRAYED that the finance lender and broker license of Cash America Advance, Inc. be revoked.

Dated: August 31, 2018
Los Angeles, CA

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
Judy L. Hartley
Senior Counsel