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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)
Citations and Desist and Refrain Order issued by) OAH No. 2008020258
13 the California Corporations Commissioner,)
14 Complainant,) STATEMENT IN SUPPORT OF CITATIONS
AND DESIST AND REFRAIN ORDER
15 v.)
16 Nadia K. Haddad doing business as Cash It)
17 Quick,)
18 Respondent.)
19)

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

22 INTRODUCTION

23 The Commissioner of the California Department of Corporations (“Department”) is
24 responsible for enforcing all provisions of the of the California Deferred Deposit Transaction Law
25 (“CDDTL”) set forth in California Financial Code sections 23000 *et seq.* (All future section
26 references are to the Financial Code unless indicated otherwise.)

27 A deferred deposit transaction is a written transaction whereby one person gives funds to
28 another person upon receipt of a personal check with an agreement that the personal check shall

1 not be deposited until a later date. These transactions are also referred to as “payday advances”
2 or “payday loans.”

3 On December 28, 2007, the Commissioner issued Citations and Desist and Refrain Order
4 pursuant to section 23058 to Nadia K. Haddad (hereinafter referred to as “Respondent”), a
5 California sole proprietor doing business as Cash It Quick (hereinafter referred to as “Cash It
6 Quick”), for multiple CDDTL violations. Respondent has requested a hearing concerning the
7 Department’s action.

8 I

9 **FACTS AND PROCEDUAL BACKGROUND**

10 The Respondent was previously issued a Desist and Refrain Order in 2005. On June 2,
11 2005, the Commissioner ordered Respondent to desist and refrain from engaging in the business of
12 offering, originating, and making deferred deposit transactions without possessing a license, in
13 violation of section 23005. Respondent was not exempt from the licensing requirement of the
14 CDDTL.

15 On or about July 15, 2005, the Respondent first applied for a license from the Department
16 to engage in the business of deferred deposit transactions pursuant to section 23005. On or about
17 October 27, 2005, Respondent was issued two deferred deposit transaction licenses. License
18 Number 100-2682 was issued to Respondent’s principal place of business located at 43535 North
19 Gadsden Avenue, #F, Lancaster, California 93534. License Number 100-2683 was issued for
20 Respondent’s additional Cash It Quick store located at 18503 Victory Boulevard, Reseda,
21 California 91335.

22 The application that Respondent filed with the Department for a license to make deferred
23 deposit transactions included a signed Declaration, designated as “Exhibit K” to the application,
24 wherein Respondent attested under penalty of perjury:

25 **I (we) have obtained and read copies of the California Deferred Deposit**
26 **Transaction Law (Division 10 of the California Financial Code) and the Rules**
27 **(Chapter 3, Title, 10, California Code of Regulations) and am familiar with**
28 **their content: and,**

I (we) agree to comply with all the provision[s] of the California Deferred

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Deposit Transaction Law, including any rules or orders of the Commissioner of Corporations.

Respondent’s Declaration to the application also states, in pertinent part, that “by signing this declaration”, “the applicant hereby agrees (or attests) or declares understanding of the following items listed below:”

1. That the applicant will submit to periodic examinations by the Commissioner of Corporations as required by the California Deferred Deposit Transaction Law.
2. That the applicant will keep and maintain all records for 2 years following the last entry on a deferred deposit transaction and will enable an examiner to review the record keeping and reconcile each consumer deferred deposit transaction with documentation maintained in the consumer’s file records.
3. That the applicant understands the examination process involving the reconciliation of records will be facilitated if the applicant maintains, at minimum, a ledger or listing of the following current and undated information for each deferred deposit transaction (as specified in Financial Code section 23035): customer’s name and address, account number, check number, amount provided, fee, amount of check, corresponding annual percentage rate (e.g. 14-day or 30-day) and the deferred due date. . . .

Respondent also signed under penalty of perjury another required Declaration, designated as “Exhibit L” to the application, which states:

1. The applicant will comply with all federal and state laws and regulations (including Division 10, commencing with Section 23000, of the Financial Code), if it offers, arranges, acts as an agent for, or assists a deferred deposit originator in the making of a deferred deposit transaction (Financial Code Section 23037(i).)

Moreover, the letters that were enclosed with the licenses that the Department sent Respondent informed of the following facts:

[T]here are certain obligations and responsibilities that a licensee must comply with. The following information about a licensee’s obligations and responsibilities regarding certain requirements of the California Deferred Deposit Transaction Law is provided for your reference . . . a licensee should review and become familiar with all provisions of the law and rules and regulations. . . .

1 Despite the Respondent’s ample provision, and acknowledgment, of the CDDTL licensing
2 requirements, Respondent willfully violated several sections of that law.

3 On October 17, 2007, the Department conducted a noticed regulatory examination of the
4 licensee’s primary Cash It Quick store in Lancaster. The licensee’s Reseda Cash It Quick store was
5 inspected on October 18, 2007. During the examinations of both business locations, an examiner
6 acting on behalf of the Commissioner found that Respondent violated section 23035, subdivision
7 (c), by failing to include required disclosures in the written notices that the licensee must separately
8 distribute before entering into deferred deposit transaction agreements with customers.

9 Additionally, the Commissioner’s examiner discovered that Respondent violated subdivision
10 (e) of section 23035 by using written agreements that lacked the required disclosures concerning the
11 use of the criminal process against a consumer to collect deferred deposit transactions and the
12 prohibition against making a deferred deposit transaction contingent on the purchase of another
13 product or service.

14 The multiple violations of the CDDTL that were discovered during the review of
15 Respondent’s business warranted the Commissioner’s issuance of Citations and a Desist and
16 Refrain Order on December 28, 2007. The Commissioner seeks to have his actions upheld and
17 provides the following legal authority in support thereof.

18 **II**
19 **DEFERRED DEPOSIT TRANSACTION LAW**

20 Respondent, who possesses two deferred deposit transaction licenses issued by the
21 Department in 2005, is within the definition of a “licensee” under section 23001, subdivision (d).
22 All CDDTL licensees are required to comply with basic legal requirements imposed on all persons
23 so defined concerning notices and advertisements.

24 Section 23035, subdivision (c), states in part:

25 (c) Before entering into a deferred deposit transaction, licensees shall
26 distribute to customers a notice that shall include, but not be limited to, the
27 following:

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. . . (3) That the customer cannot be prosecuted in a criminal action in conjunction with a deferred deposit transaction for a returned check or be threatened with prosecution.

(4) The department's toll-free telephone number for receiving calls regarding customer complaints and concerns.

. . . (6) That the check is being negotiated as part of a deferred deposit transaction made pursuant to Section 23035 of the Financial Code and is not subject to the provisions of Section 1719 of the Civil Code. No customer may be required to pay treble damages if this check does not clear.

Section 23035, subdivision (e), states in pertinent part:

(e) An agreement to enter into a deferred deposit transaction shall be in writing and shall be provided by the licensee to the customer. The written agreement shall authorize the licensee to defer deposit of the personal check, shall be signed by the customer, and shall include all of the following:

. . . (9) That the customer cannot be prosecuted or threatened with prosecution to collect.

. . . (11) That the licensee cannot make a deferred deposit transaction contingent on the purchase of another product or service.

III
DEFERRED DEPOSIT TRANSACTION LAW VIOLATIONS

On October 17, 2007, the Commissioner, through his examiner, conducted an examination of the Respondent's principal place of business in Lancaster, California. Multiple violations of the CDDTL were discovered by the Commissioner's examiner during the onsite inspection of the Respondent's premises and business records.

On December 28, 2007, the Commissioner issued to Respondent "Citations and Desist and Refrain Order", citing violations of five provisions of the CDDTL for each of Respondent's two business locations. The five Citations issued are set forth below:

Citation A. Respondent failed to disclose in a notice distributed to the customer prior to entering into the agreement that customers cannot be prosecuted in a criminal action in conjunction with a deferred deposit transaction and cannot be threatened with criminal prosecution, in violation of section 23035, subdivision (c)(3);

1 **Citation B.** Respondent failed to disclose in a notice distributed to the customer prior to
2 entering into the agreement the Department of Corporations’ toll-free number, which is (866) Ask-
3 Corp (275-2677), in violation of section 23035, subdivision (c)(4);

4 **Citation C.** Respondent failed to disclose in a notice distributed to the customer prior to
5 entering into the agreement that the customer’s check is being negotiated as part of a deferred
6 deposit transaction pursuant to section 23035 and is not subject to the provisions of Civil Code
7 section 1719 and that no customer shall be required to pay treble damages if the check does not
8 clear, in violation of section 23035, subdivision (c)(6);

9 **Citation D.** Respondent failed to disclose in the written agreement entered into with the
10 customer that the customers cannot be prosecuted or threatened with prosecution to collect a
11 deferred deposition transaction, in violation of section 23035, subdivision (e)(9);

12 **Citation E.** Respondent failed disclose in the written agreement entered into with the
13 customer that a deferred deposition transaction cannot be made contingent upon the purchase of
14 another product or service, in violation of section 23035, subdivision (e)(11).

15 **CITATIONS**

16 Pursuant to Financial Code section 23058, Nadia K. Haddad doing business as Cash It
17 Quick is hereby ordered to pay to the Commissioner within 30 days from the date of these
18 Citations an administrative penalty of one thousand five dollars (\$1,500) for each of five
19 violations discovered at Respondent’s two business locations (Lancaster and Reseda), equaling
20 three thousand dollars (\$3000) per Citation, as listed below for the total amount of fifteen
21 thousand dollars (\$15,000).

22 CITATION A. - \$1,500 (Lancaster); \$1,500 (Reseda)

23 CITATION B. - \$1,500 (Lancaster); \$1,500 (Reseda)

24 CITATION C. - \$1,500 (Lancaster); \$1,500 (Reseda)

25 CITATION D. - \$1,500 (Lancaster); \$1,500 (Reseda)

26 CITATION E. - \$1,500 (Lancaster); \$1,500 (Reseda)

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IV

COMMISSIONER’S AUTHORITY TO ISSUE CITATIONS

Section 23058 gives the Commissioner authority to issue citations and states:

(a) If, upon inspection, examination or investigation, based upon a complaint or otherwise, the department has cause to believe that a person is engaged in the business of deferred deposit transactions without a license, or a licensee or person is violating any provision of this division or any rule or order thereunder, the department may issue a citation to that person in writing, 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 the State Corporations Fund.

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

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

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

(e) After the exhaustion of the review procedures provided for in this section, the department may apply to the appropriate superior court for a judgment in the amount of the administrative penalty and order compelling the cited person to comply with the order of the department. The application, which 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.

V

COMMISSISONER’S AUTHORITY TO ISSUE A DESIST AND REFRAIN ORDER

Respondent engaged in the business of deferred deposit transactions in violation of the above-cited provisions of the CDDTL. Section 23050 provides in pertinent part:

Whenever, in the opinion of the commissioner, any person is engaged in the business of deferred deposit transactions, as defined in this division,

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without a license from the commissioner, or any licensee is violating any provision of this division, the commissioner may order that person or licensee to desist and to refrain from engaging in the business or further violating this division.

Pursuant to sections 23050 and 23058, the Commissioner ordered Respondent to desist and refrain from engaging in the business of deferred deposit transactions in the State of California in violation of section 23035. 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.

**VI
CONCLUSION**

Complainant finds that Respondent, Nadia K. Haddad doing business as Cash It Quick, violated section 23035. The Commissioner is justified in: (1) issuing Citations for each CDDTL violation to Respondent pursuant to section 23058; and, (2) issuing a Desist and Refrain Order to Respondent pursuant to sections 23050 and 23058.

WHEREFORE, Complainant, the California Corporations Commissioner prays that

- 1. Respondent be ordered pursuant to Financial Code section 23058 to immediately pay to the Commissioner an administrative penalty in the total amount of fifteen thousand dollars (\$15,000) for Citations A through E;
- 2. The Desist and Refrain Order issued pursuant to Financial Code section 23050 be affirmed to prohibit Respondent from violating Financial Code section 23035.

Dated: February 15, 2008
Sacramento, California

Respectfully submitted,

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
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Senior Corporations Counsel
Attorney for Complainant