

In the Matter of the Accusation in Support of License Revocation, Citations, Desist and Refrain Order, and Order Voiding Transactions issued to California Financial Services, Inc. doing business as The Pawn Shop

OAH Case No. 2008020565

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into as of June 3, 2008, by and between the Complainant, the California Corporations Commissioner (“Commissioner”), and Respondent California Financial Services, Inc. (“CFSI”) doing business as The Pawn Shop (hereinafter collectively “the Parties”).

RECITALS

This Agreement is made with reference to the following facts:

A. CFSI, doing business as The Pawn Shop, is a corporation in good standing, duly formed and existing pursuant to the laws of the State of California, and authorized to conduct business in this State. CFSI has its principal place of business, The Pawn Shop, located at 1612 Oakdale Road, Modesto, California 95355.

B. Samuel Newman (“Newman”) is, and was at the time of the issuance of the Order described in paragraph D below, the president of CFSI. Newman is authorized to enter into this Agreement on CFSI’s behalf.

C. CFSI holds license number 100-1663 from the Commissioner under the California Deferred Deposit Transaction Law (“CDDTL”) pursuant to California Financial Code sections 23005, 23008 and 23009.

D. On January 31, 2008, the Commissioner issued an Accusation in Support of License Revocation, Citations, Desist and Refrain Order, and Order Voiding Transactions to CFSI for violations of California Financial Code sections 23000 *et seq.*, served to CFSI on February 4, 2008.

E. It is the intention of the parties to resolve this matter without the necessity of an administrative hearing or other litigation.

NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set forth herein, the parties agree as follows:

TERMS AND CONDITIONS

1. Purpose. The purpose of this Agreement is to expeditiously resolve the Accusation in Support of License Revocation, Citations, Desist and Refrain Order, and Order Voiding Transactions. The parties wish to avoid the expense of a hearing and possible further court proceedings.

2. Waiver of Hearing Rights. CFSI acknowledges its right to a hearing under the CDDTL in connection with the Accusation in Support of License Revocation, Citations, Desist and Refrain Order, and Order Voiding Transactions and hereby waives that right to a hearing, and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the CDDTL, the California Administrative Procedure Act (“APA”), the California Code of Civil Procedure, or any other provision of law, and by waiving such rights, CFSI consents to the agreement becoming final.

3. Independent Legal Advice. Each of the Parties represents, warrants, and agrees that it has received independent legal advice from an attorney with respect to the advisability of executing this Agreement. CFSI acknowledges that it is willingly and knowingly entering into this Agreement.

4. Admissions. CFSI admits the FACTS recited in the Accusation in Support of License Revocation, Citations, Desist and Refrain Order, and Order Voiding Transactions solely for the limited purposes of this Agreement and any future proceeding(s) that may be initiated by or brought before the Commissioner or other agencies against CFSI. It is the intent and understanding between the parties that this Agreement, and particularly the admissions of CFSI herein, shall not be binding or admissible against them in any action(s) with third parties.

5. Citations. CFSI hereby agrees to pay to the Commissioner TWENTY-FIVE THOUSAND dollars (\$25,000.00) for the Citations (“Citation Payment”). Payment shall be made in four equal installments. The first payment of SIX THOUSAND TWO HUNDRED AND FIFTY (\$6,250) dollars shall be made on or before July 1, 2008. The second payment of SIX THOUSAND TWO HUNDRED AND FIFTY (\$6,250.00) dollars shall be made on or before August 1, 2008. The third payment of SIX THOUSAND TWO HUNDRED AND FIFTY (\$6,250.00) dollars shall be made on or before September 1, 2008. The fourth and final payment of SIX THOUSAND TWO HUNDRED AND FIFTY (\$6,250.00) dollars shall be made on or before October 1, 2008. If CFSI fails to make payment in strict accord with the terms of this paragraph, then the total amount of Citations (\$147,500.00) ordered in the Accusation in Support of License Revocation, Citations, Desist and Refrain Order, and Order Voiding Transactions is immediately due and payable to the Department. CFSI’s Citation Payment shall be payable to the California Department of Corporations and delivered to the Department of Corporations’ Sacramento Office to the attention of the Complainant’s Enforcement counsel Miranda Maison.

6. License Revocation. CFSI hereby agrees to the issuance by the Commissioner of an Order Revoking its CDDTL license number 100-1663 pursuant to Financial Code section 23052 (“Revocation”). This revocation will preclude CFSI, its successors and assigns, by whatever names they might be known, and/or any company owned or controlled by Newman, from engaging in any CDDTL activities beginning on June 5, 2008. CFSI agrees it shall be precluded from all CDDTL transactions including any with existing clients effective June 5, 2008. This revocation does not preclude CFSI from engaging in pure collection activities that permit: (1) receipt of cash from customers for existing transactions entered into before the date of revocation, (2) forwarding any checks received from CFSI’s clients to a bank for deposit relating to transactions entered into before the date of revocation, (3) responding to regulatory inquiries from the Department of Corporations or other agencies, (4) making refunds to customers, and (5) otherwise responding to customer inquiries concerning existing transactions. A copy of the Revocation Order is attached as Exhibit 1 and incorporated herein by reference.

7. Voiding of Deferred Deposit Transactions and Refunding of Extension Fees. CFSI hereby agrees to void the 59 deferred deposit transactions described in the Accusation in Support of License Revocation, Citations, Desist and Refrain Order, and Order Voiding Transactions. CFSI shall issue 59 refunds to customers totaling \$16,340.00, plus an additional \$1,932.00 for extension fees that were charged to customers in violation of Financial Code 23036, on or before July 31, 2008. Any amounts remaining unclaimed by clients as of October 31, 2008 shall escheat to the State of California.

8. Failure to Timely Issue Refunds. CFSI acknowledges that failure to timely offer and to pay any refund to customers, as described in Paragraph 7 under this Agreement, shall be a breach of this Agreement. If CFSI fails to make payment in strict accord with the terms of Paragraph 7, then the total amount of Citations (\$147,500.00) ordered in the Accusation in Support of License Revocation, Citations, Desist and Refrain Order, and Order Voiding Transactions shall become immediately due and payable to the Department.

9. Future Actions by the Commissioner. The Commissioner reserves the right to bring any future actions against CFSI or any of her partners, employees or successors for any and all unknown or future violations of the CDDTL. This Agreement shall not serve to exculpate CFSI or any of its partners, affiliates, employees or successors from liability for any and all unknown or future violations of the CDDTL. If it is found, after the execution of this Agreement, that CFSI has at any time violated any provision of the CDDTL, the Commissioner reserves the right to take further action against CFSI, including but not limited to, imposing penalties and requesting restitution of all CDDTL transactions originated in breach of this Agreement. CFSI acknowledges and agrees that the Revocation provided for above in paragraph 6 shall not be the exclusive remedy available to the Commissioner in pursuing future violations but may be sought and employed in addition to any other remedy available pursuant to the CDDTL.

10. Settlement Agreement Coverage. The parties hereby acknowledge and agree that this Agreement is intended to constitute a full, final and complete resolution of the Accusation in Support of License Revocation, Citations, Desist and Refrain Order, and Order Voiding Transactions. The parties further acknowledge and agree that nothing contained in this Agreement shall operate to limit the Commissioner's ability to assist any other agencies with any administrative, civil or criminal prosecution brought by any such agency against CFSI based upon any of the activities alleged in this matter or otherwise. This Agreement shall not become effective until signed by CFSI and delivered by all parties. Each of the parties represents, warrants, and agrees that in executing this Agreement it has relied solely on the statements set forth herein and has placed no reliance on any statement, representation, or promise of any other party, or any other person or entity not expressly set forth herein, or upon the failure of any party or any other person or entity to make any statement, representation or disclosure of anything whatsoever. The parties have included this clause: (1) to preclude any claim that any party was in any way fraudulently induced to execute this Agreement; and (2) to preclude the introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this Agreement.

11. Full Integration. This Agreement, including the attached Exhibits, is the final written expression and the complete and exclusive statement of all the agreements, conditions, promises, representations, and covenants between the parties with respect to the subject matter hereof, and supercedes all prior or contemporaneous agreements, negotiations, representations, understandings, and discussions between and among the parties, their respective representatives, and any other person or entity.

12. No Presumption from Drafting. In that the parties have had the opportunity to draft, review and edit the language of this Agreement, no presumption for or against any party arising out of drafting all or any part of this Agreement will be applied in any action relating to, connected to, or involving this Agreement. Accordingly, the parties waive the benefit of California Civil Code section 1654 and any successor or amended statute, providing that in cases of uncertainty, language of a contract should be interpreted most strongly against the party who caused the uncertainty to exist.

13. Effective Date. This Agreement shall not become effective until signed and delivered by all parties. The Commissioner shall file this Agreement with the Office of Administrative Hearings five days after execution by the parties.

14. Counterparts. This Agreement may be executed in any number of counterparts by the Parties and when each Party has signed and delivered at least one such counterpart to the other Party, each counterpart shall be deemed an original and taken together shall constitute one and the same Agreement.

15. Modifications and Qualified Integration. No amendment, change or modification of this Agreement shall be valid or binding to any extent unless it is in writing and signed by all of the parties affected by it.

16. Headings and Governing Law. The headings to the paragraphs of this Agreement are inserted for convenience only and will not be deemed a part hereof or affect the construction or interpretation of the provisions hereof. This Agreement shall be construed and enforced in accordance with and governed by California law.

17. Authority for Settlement. Each Party covenants that each possesses all necessary capacity and authority to sign and enter into this Agreement. Each Party warrants and represents that such Party is fully entitled and duly authorized to enter into and deliver this Agreement. In particular, and without limiting the generality of the foregoing, each Party warrants and represents that it is fully entitled to enter into the covenants, and undertake the obligations set forth herein.

18. Public Record. CFSI acknowledges that this Agreement is a public record.

19. Voluntary Agreement. The Parties each represent and acknowledge that he, she or it is executing this Agreement completely voluntarily and without any duress or undue influence of any kind from any source.

20. Notices. Notice shall be provided to each party at the following addresses:

If to Respondent to: CFSI doing business as The Pawn Shop
1612 Oakdale Road, Modesto, California 95355

If to the Commissioner to: Steven C. Thompson, Special Administrator
Financial Services Division, Department of Corporations
320 W. 4th Street, Suite 750, Los Angeles, CA 90013-2344

IN WITNESS WHEREOF, the Parties hereto have approved and executed this Agreement on the dates set forth opposite their respective signatures.

Dated: 6/4/08

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
ALAN S. WEINGER
Lead Corporations Counsel
Enforcement Division

CFSI doing business as The Pawn Shop

Dated: 6/3/08

By _____
SAMUEL NEWMAN
President

