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10 BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

11)
12 In the Matter of the Request for a Hearing on the) File Nos.: 100-0186 and 100-0188
13 Citations and Desist and Refrain Order issued by)
14 THE CALIFORNIA CORPORATIONS) Statement in Support of Citations and
COMMISSIONER,) Desist and Refrain Order
15)
16 Complainant,)
17)
18 v.)
19 Salam Mahmood doing business as Checks)
Cashed for Less, Inc.,)
20 Respondent.)

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

23 INTRODUCTION

24 On December 31, 2004, the Commissioner of the Department of Corporations
25 (“Department”) issued to Salam Mahmood doing business as Checks Cashed For Less, Inc.
26 (“Respondent”), two deferred deposit transaction originator licenses (File Nos. 100-0186 and 100-
27 0188, respectively) pursuant to the California Deferred Deposit Transaction Law
28 (“CDDTL”) set forth in California Financial Code sections 23000 et seq. (All future references to

1 sections are to the California Financial Code unless indicated otherwise.)

2 The Department and the Commissioner are responsible for enforcing all provisions of the
3 CDDTL. On December 28, 2007, the Commissioner pursuant to section 23050 and 23058 issued
4 Citations and Desist and Refrain Order to Respondent for violations of the legal standards required
5 of all deferred deposit transaction originators. Respondent timely requested a hearing concerning the
6 Department’s action.

7 I

8 FACTUAL BACKGROUND

9 1. On or about December 31, 2004, the Commissioner issued a deferred deposit transactions
10 originator license to Respondent, Checks Cashed For Less, Inc. The licenses, file no. 100-0186
11 and file no. 100-0188, were issued pursuant to the CDDTL.

12 2. Respondent is a California corporation that does business under the name, Checks Cashed
13 For Less, Inc. The president of Checks Cashed For Less, Inc. is Salam Mahmood (“Mahmood”).
14 Mahmood is in charge of Respondent’s place of business.

15 3. Respondent engaged in CDDTL business at two locations. Location 1 is at 724 Highland
16 Ave., Suite B National City, California 91950, which the Department licensed and assigned File
17 No. 100-0186. Location 2 is at 3166 Midway, San Diego California 92110, which the Department
18 licensed and assigned File No. 100-0188.

19 4. Since at least December 2004, Respondent engaged in the business of deferred deposit
20 transactions, by offering, originating and making deferred deposit transactions as described below.
21 A deferred deposit transaction is a written transaction whereby one person gives funds to another
22 person upon receipt of a personal check and it is agreed that the personal check shall not be
23 deposited until a later date. These transactions are commonly referred to as “payday advances” or
24 “payday loans.”

25 5. Respondent filed with the Department an application for a license to make deferred deposit
26 transactions on April 4, 2003, and included a Declaration, designated as “Exhibit K” to the
27 application, and Mahmood signed under penalty of perjury for Respondent, stating:
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I (we) have obtained and read copies of the California Deferred Deposit Transaction Law (Division 10 of the California Financial Code) and the Rules (Chapter 3, Title, 10, California Code of Regulations) and am familiar with their content: and,

I (we) agree to comply with all the provision[s] of the California Deferred Deposit Transaction Law, including any rules or orders of the Commissioner of Corporations.

6. Respondent’s Declaration to the application also states 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.
4. That the applicant will maintain a file of all advertising for a period of 90 days from the date of its use, which will be available to the Commissioner of Corporations upon request.
5. That the applicant will file with the Commissioner of Corporations an amendment to this application prior to any material change in the information contained in the application for licensure, including, without limitation, the plan of operation.
6. That the applicant will file with the Commissioner of Corporations any report required by the Commissioner.
7. That the applicant hereby attests that the applicant (including officers, directors and principals) has not engaged in conduct that would be cause of denial of a license.

1 7. On or about April 4, 2003, Respondent completed another CDDTL required Declaration
2 designated as “Exhibit L” to the application, which Mahmood signed under penalty of perjury
3 stating:

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

9 8. In December 2004 the letter that accompanied each CDDTL license sent by
10 the Department to Respondent informed them of the following facts:

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

17 5. A licensee is subject to statutory books and records requirements . . .
18 (Section 23024.)

19 9. Notwithstanding knowledge regarding the licensure requirements, Respondent willfully
20 engaged in CDDTL violations. The Department examiner’s review of Respondent’s business, on
21 October 12, 2007, revealed several violations of the CDDTL warranting the issuance of Citations
22 and a Desist and Refrain Order to them. The Commissioner seeks to have his actions upheld.

23 II
24 DEFERRED DEPOSIT TRANSACTION LAW

25 10. Respondent, as a licensee, was required to comply with basic legal requirements imposed on
26 all CDDTL licensees, which are described bellow.

27 11. Section 23007 states:

28 The applicant shall file with the application statements prepared in accordance with
generally accepted accounting principles and acceptable to the commissioner that
indicate a net worth of at least \$25,000.00.

1 12. Section 23023 states:

2 No licensee shall transact the business licensed or make any transaction
3 provided for by this division under any other name or at any other place of
4 business than that named in the license except pursuant to a currently
5 effective written order of the commissioner authorizing the other name or
6 other place of business.

7 13. Section 23027 describes the advertising requirements for CDDTL licensees and
8 subdivision (b) states:

9 (b) No licensee shall place an advertisement disseminated primarily in this
10 state for a deferred deposit transaction unless the licensee discloses in the
11 printed text of the advertisement, or the oral text in the case of a radio or
12 television advertisement, that the licensee is licensed by the department
13 pursuant to this division.

14 III
15 DEFERRED DEPOSIT TRANSACTION LAW VIOLATIONS

16 14. On or about October 12, 2007, the Commissioner’s examiner visited Respondent
17 after giving the licensee advance notice of the examination.

18 15. The Commissioner’s examiner found Respondent violated section 23007,
19 because Respondent failed to maintain records demonstrating minimum net worth of \$25,000.00
20 including quarterly un-audited balance sheets in violation of California Code of Regulations
21 section 2025 (b).

22 16. The Commissioner’s examiner found that Respondent violated section 23023
23 because Respondent failed to conduct deferred deposit business under the name authorized in the
24 licenses obtained in 2004.

25 17. The Commissioner’s examiner found that Respondent violated section 23027 because
26 Respondent failed to include in advertising and on its website that it is licensed by the California
27 Department of Corporations.

28 18. The Commissioner’s examiner previously disclosed to Respondent his violations during
the 2006 regulatory examination.

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1 19. On December 28, 2007, the Commissioner issued Citations and Desist and Refrain Order to
2 Respondent.

3 **CITATION A** – Respondent failed to maintain records demonstrating minimum net worth
4 of \$25,000.00 and therefore violated section 23007. Further, Respondent failed to include quarterly
5 un-audited balance sheets and therefore violating California Code of Regulations section 2025,
6 subdivision (b).

7 **CITATION B** – Respondent failed to conduct deferred deposit business under the name
8 authorized in the licenses and therefore violated section 23023.

9 **CITATION C** – Respondent failed to disclose in advertising and on its website that it is
10 licensed by the Department pursuant to the CDDTL and therefore violated section 23027,
11 subdivision (b).

12 IV

13 COMMISSISONER’S AUTHORITY TO ISSUE CITATIONS

14 Section 23058 gives the Commissioner’s authority to issues citations and states:

15 (a) If, upon inspection, examination or investigation, based upon a
16 complaint or otherwise, the department has cause to believe that a person
17 is engaged in the business of deferred deposit transactions without a
18 license, or a licensee or person is violating any provision of this division
19 or any rule or order thereunder, the department may issue a citation to that
20 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.

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

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

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

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(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.

CITATIONS

Pursuant to section 23058, Respondent was ordered to pay to the Commissioner the administrative penalty listed below for each citation for the total amount of seven thousand five hundred dollars (\$7,500).

CITATION A. - \$2,500

CITATION B. - \$2,500

CITATION C. - \$2,500

V

COMMISSISONER’S AUTHORITY TO ISSUE A DESIST AND REFRAIN ORDER

Respondent, doing business as Checks Cashed For Less, Inc., engaged in the business of deferred deposit transactions at two locations that violated provisions of the CDDTL.

California Financial Code 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, 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 section 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 California Financial Code section 23007, section 23023, section 23027, subdivision (b), and California Code of Regulations section 2025 subdivision (b).

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The Citations and 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 by reason of the foregoing that Respondent violated California Financial Code section 23007, section 23023, section 23027, subdivision (b), and California Code of Regulations section 2025, subdivision (b). Therefore, the Commissioner is justified in issuing Citations to Respondent pursuant to section 23058 and is also justified in issuing a Desist and Refrain Order to Respondent pursuant to section 23050 and 23058.

THEREFORE IT IS PRAYED THAT:

- a. Respondent be ordered to immediately pay to the Commissioner an administrative penalty in the total amount of seven thousand five hundred dollars (\$7,500) for Citations A, B and C described above; and,
- b. The Desist and Refrain Order issued pursuant to section 23050 and 23058 be upheld to prohibit Respondent from violating California Financial Code sections 23007, section 23027, subdivision (b), section 23023 and California Code of Regulations section 2025, subdivision (b).

Dated: February 1, 2008
San Diego, California

Respectfully submitted,

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____

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