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Deputy Commissioner
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DEPARTMENT OF CORPORATIONS
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7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA

11
12 In the Matter of the Orders Issued to:) **DESIST AND REFRAIN ORDER**
) **PURSUANT TO FINANCIAL CODE**
13 DISCOUNTADVANCES.COM S.A.,) **SECTION 23050; and**
)
14 Respondent.) **ORDER VOIDING TRANSACTIONS AND**
) **TO DISGORGE ALL CHARGES AND**
15) **FEEES PURSUANT TO FINANCIAL CODE**
16) **SECTION 23060**
17)
18)
19)
20)

21 Complainant, the California Corporations Commissioner of the Department of Corporations
22 (“Commissioner” and/or “Department”), is informed and believes, and based on such information
23 and belief, finds as follows:

24 **I.**

25 **FACTUAL BACKGROUND**

26 DiscountAdvances.com S.A. (“DiscountAdvances.com”), form of organization unknown, has
27 its principal addresses listed as Bourbon House, Bourboun Street, P.O. Box 1695, Castries, St. Lucia,
28 and/or 130-918-16 Avenue N.W., Calgary, Alberta, Canada T2M 0K3, and/or Box 13, 918-16

1 Avenue N.W. Calgary, Canada ABT3M 0K3. DiscountAdvances.com transacts business in
2 California by way of the Internet and/or the telephone.

3 DiscountAdvances.com offers deferred deposit transactions or “payday loans” to California
4 residents by way of an Internet website address: www.discountadvances.com and/or telephone
5 numbers (800) I-Got-It-2 (446-8482) and (866) 729-9243.

6 A deferred deposit transaction is a written transaction whereby one person gives funds to
7 another person upon receipt of a personal check, and it is agreed that the personal check will not be
8 deposited until a later date. “Personal check,” as referenced in Financial Code section 23001, includes
9 “the electronic equivalent of a personal check,” such as an Automated Clearing House (“ACH”) or
10 debit card transaction.

11 Since at least August 2009, DiscountAdvances.com has engaged in the business of offering,
12 originating, or making deferred deposit transactions in California, as defined by the California
13 Deferred Deposit Transaction Law (“CDDTL”), as set forth in Financial Code section 23000 et seq.,
14 whereby DiscountAdvances.com either defers depositing the customer’s personal check or defers
15 making an agreed upon ACH deduction until a specific date pursuant to a written agreement for a fee
16 or other charge.

17 DiscountAdvances.com customers submit an online loan application through its website,
18 www.discountadvances.com. Customers are required to provide their checking account information
19 from which DiscountAdvances.com automatically debits payments, fees, and interest from the
20 borrowers. DiscountAdvances.com, however, then uses customers’ banking account information to
21 deduct additional fees and charges beyond what customers were told they would expect to pay,
22 sometimes double the amount of the original loan, and beyond what the CDDTL allows. For
23 example, in one transaction, DiscountAdvances.com charged a customer \$624.75 in fees and interest,
24 on an original loan amount of \$500.00.

25 DiscountAdvances.com has not been issued a deferred deposit transaction originator license
26 by the Commissioner pursuant to the CDDTL. As such, DiscountAdvances.com is not authorized to
27 engage in payday lending, or to offer, originate, or make a deferred deposit transaction, arrange a
28 deferred deposit transaction for a deferred deposit originator, act as an agent for a deferred deposit

1 originator, or assist a deferred deposit originator in the origination of a deferred deposit transaction in
2 California or to California residents.

3 **II.**

4 **CDDTL VIOLATIONS AND ORDERS**

5 The Commissioner is responsible for enforcing all provisions of the CDDTL, including the
6 regulation of deferred deposit transactions, which are also commonly referred to as “payday
7 advances” or “payday loans.”

8 **A. Desist and Refrain Order**

9 The Commissioner is statutorily authorized to order any person to desist and refrain from
10 engaging in violations of the CDDTL.

11 Financial Code section 23005, subdivision (a) states in relevant part:

12 No person shall offer, originate, or make a deferred deposit transaction,
13 arrange a deferred deposit transaction for a deferred deposit originator,
14 act as an agent for a deferred deposit originator, or assist a deferred
15 deposit originator in the origination of a deferred deposit transaction
without first obtaining a license from the commissioner and complying
with the provisions of this division . . .

16 Financial Code section 23050 states in relevant part:

17 Whenever, in the opinion of the commissioner, any person is engaged
18 in the business of deferred deposit transactions, as defined in this
19 division, without a license from the commissioner . . . the
20 commissioner may order that person . . . to desist and to refrain from
21 engaging in the business or further violating this division. If within 30
22 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.

22 The facts set forth above in section I., establish violations of the CDDTL by
23 DiscountAdvances.com, including engaging in the business of originating or offering to originate
24 deferred deposit transactions without having first obtained a license to do so from the Commissioner
25 in violation of section 23005, subdivision (a) of the Financial Code. The issuance of a Desist and
26 Refrain Order is therefore necessary for the protection of consumers and is consistent with the
27 purposes, policies, and provisions of the CDDTL.

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1 Pursuant to Financial Code section 23050, DiscountAdvances.com is hereby ordered to desist
2 and refrain from violating Financial Code section 23005, subdivision (a). This Order shall remain in
3 full force and effect until further order of the Commissioner.

4 **B. Order Voiding California Deferred Deposit Transactions**

5 The Commissioner is statutorily authorized to void deferred deposit transactions for willful
6 violations of the CDDTL.

7 Financial Code section 23035, subdivision (a), states in relevant part:

8 A licensee may defer the deposit of a customer’s personal check for up
9 to 31 days pursuant to the provisions of this section. The face amount
10 of the check shall not exceed tree hundred dollars (\$300) . . .

11 Financial Code section 23036, subdivision (a), states:

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

14 Financial Code section 23060, subdivision (a), states:

15 If any amount other than, or in excess of, the charges or fees permitted
16 by this division is willfully charged, contracted for, or received, a
17 deferred deposit transaction contract shall be void, and no person shall
18 have any right to collect or receive the principal amount provided in the
19 deferred deposit transaction, any charges, or fees in connection with the
20 transaction.

21 DiscountAdvances.com willfully violated provisions of the CDDTL by repeatedly charging
22 California customers fees or charges without a license in violation of Financial Code sections 23005,
23 including excess fees and charges, in conjunction with deferred deposit transactions. Because
24 DiscountAdvances.com willfully charged its customers unauthorized fees or charges,
25 DiscountAdvances.com is not entitled to collect or receive the principal amounts provided in those
26 deferred deposit transactions, nor is it entitled to any of the charges or fees associated with the
27 transactions.

28 Pursuant to Financial Code section 23060, any and all deferred deposit transactions
contracted with California customers or in the State of California by DiscountAdvances.com are
therefore void. DiscountAdvances.com is hereby ordered to immediately cease collecting all

1 principal amounts, and return all principal amounts, provided in any and all deferred deposit
2 transactions contracted with California customers or in the State of California, and to disgorge
3 any and all charges or fees received in conjunction with those deferred deposit transactions.

4 Dated: March 22, 2012
5 Los Angeles, California

JAN LYNN OWEN
California Corporations Commissioner

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8 By: _____
9 ALAN S. WEINGER
10 Deputy Commissioner
11 Enforcement Division
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