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7 Attorneys for Complainant

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

10 In the Matter of THE COMMISSIONER OF) DESIST AND REFRAIN ORDER (FIN CODE
11 CORPORATIONS,) §23050
12 Complainant,) AND
13 vs.)
14 EAST SIDE LENDERS, LLC,) ORDER VOIDING TRANSACTIONS AND
15) TO DISGORGE ALL CHARGES AND FEES
16 Respondent.) (FIN CODE §23060)
17) AND
18) CITATIONS (FIN CODE §23058)
19)

19 Complainant, the Commissioner of Corporations of the Department of Corporations
20 (“Commissioner” or “Department”), is informed and believes, and based on this information and
21 belief, finds as follows:

22 **FACTUAL BACKGROUND**

23 1. The Commissioner has jurisdiction over deferred deposit transactions, deferred deposit
24 originators, and licensees, as set forth in the California Deferred Deposit Transaction Law
25 (“CDDTL”) (California Financial Code section 23000 et seq., hereinafter referred to as “section”).
26 “Deferred deposit transaction” means a transaction whereby a person defers depositing a customer’s
27 personal check until a specific date, pursuant to a written agreement for a fee or other charge.
28 “Personal check,” for purposes of section 23001, includes the electronic equivalent of a personal

1 check, such as an Automated Clearing House (“ACH”) or debit card transaction. “Deferred deposit
2 originator” and “licensee” are defined similarly to mean any person who offers, originates, or makes a
3 deferred deposit transaction.

4 2. East Side Lenders, LLC is a Delaware limited liability company that operates over the internet
5 using the domain name of eastsidelenders.com. East Side Lenders, LLC uses the address of 40 East
6 Main Street, Suite 410, Newark, Delaware 19711. East Side Lenders, LLC provides the telephone
7 number of (866) 569-6636.

8 3. Since at least October 2009, East Side Lenders, LLC has engaged in the business of offering,
9 originating, or making deferred deposit transactions (commonly referred to as payday loans or payday
10 advances) to California customers through its website of eastsidelenders.com. Customers submit an
11 application online and are required to provide personal information and checking account information
12 to which loan monies are automatically deposited. Customers are also required to provide
13 authorization to effect ACH debit entries and to allow deductions of payments, charges, fees and
14 other monies directly from the customer’s bank account.

15 4. On October 22, 2009, the Commissioner issued a desist and refrain order to East Side
16 Lenders, LLC. East Side Lenders, LLC was ordered to desist and refrain from engaging in the
17 following: 1) conducting business of deferred deposit transactions without licensure in violation of
18 California Financial Code section 23005, 2) making loans in amounts exceeding \$300, in violation of
19 Financial Code section 23035, and 3) charging excessive fees in violation of Financial Code sections
20 23036 and 23037. That order was served on East Side Lenders, LLC. East Side Lenders, LLC did
21 not request a hearing to contest the order, and therefore the order was final.

22 5. Despite the Commissioner’s order, East Side Lenders, LLC continues to engage in business
23 with Californians without a license, providing loan amounts in excess of the \$300 maximum allowed
24 by law, and with loan fees that exceed the maximum of 15% allowed by law, all in violation of
25 Financial Code sections 23005, 23035, and 23036. Examples of unlicensed loans by East Side
26 Lenders, LLC, with unlawful loan amounts or fees, involving California customers are as follows:

27 a. During November 2009, customer YT received one \$700 payday loan from East Side
28 Lenders, LLC and paid approximately \$2,137. Therefore, the loan fees were \$1,437.

1 in excess of the \$300 loan limit.

2 **C. Charging Excessive Amounts**

3 9. Pursuant to section 23036:

4 (a) A fee for a deferred deposit transaction shall not exceed 15 percent of the face amount of the
5 check.

6 10. Customer YT paid fees of approximately \$1,437 for a loan of \$700 (205% of the loan
7 amount). Customer LA paid fees of \$270 for a loan of \$300 (90% of the loan amount). Customer SB
8 paid fees of at least \$180 for a loan of \$300 (60% of the loan amount). Customer GF paid fees of at
9 least \$500 for a \$500 loan (100% of the loan amount). DH paid fees of \$225 for a loan of \$750 (30%
10 of the loan amount), paid fees of \$30 for a loan of \$200 (18% of the loan amount), and paid \$520 for
11 a loan of \$1,000 (52% of the loan amount). PP paid fees of \$2,092.50 for a loan of \$750 (279% of
12 the loan amount), paid fees of \$2,040 for a loan of \$700 (291% of the loan amount), and paid fees of
13 \$1,500 for a loan of \$1,000 (150% of the loan amount). The fees contracted for by East Side
14 Lenders, LLC violate section 23036 of the CDDTL.

15 **ORDERS**

16 **Desist and Refrain Order**

17 11. The Commissioner is statutorily authorized to order any person to desist and refrain from
18 engaging in violations of the CDDTL. Financial Code section 23050 provides:

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

24 12. The foregoing facts establish multiple violations of the CDDTL (and the prior Desist and
25 Refrain order of the Commissioner) by East Side Lenders, LLC. The issuance of a Desist and
26 Refrain Order, therefore, is necessary for the protection of consumers and is consistent with the
27 purposes, policies and provisions of the CDDTL.

28 13. Pursuant to section 23050, East Side Lenders, LLC is hereby ordered to desist and refrain

1 from violating: California Financial Code section 23005, subdivision (a); section 23035,
2 subdivision (a); and section 23036, subdivision (a).

3 **Order Voiding California Deferred Deposit Transactions**

4 14. Section 23060 of the CDDTL states:

5 (a) If any amount other than, or in excess of, the charges or fees permitted by this
6 division is willfully charged, contracted for, or received, a deferred deposit
7 transaction shall be void, and no person shall have any right to collect or receive
8 the principal amount provided in the deferred deposit transaction, any charges, or
9 fees in connection with the transaction.

10 (b) If any provision of this division is willfully violated in the making or collection of
11 a deferred deposit transaction, the deferred deposit transaction contract shall be
12 void, and no person shall have any right to collect or receive any amount provided
13 in the deferred deposit transaction, any charges, or fees in connection with the
14 transaction.

15 15. East Side Lenders, LLC willfully violated provisions of the CDDTL, by engaging in business
16 without a license in violation of subdivision (a) of section 23005; by making loans in excess of \$300
17 in violation of subdivision (a) of section 23035; and by collecting fees in excess of 15%, in violation
18 of subdivision (a) of section 23036. Accordingly, pursuant to subdivisions (a) and (b) of section
19 23060, East Side Lenders, LLC is not entitled to collect or receive the principal amount provided in
20 its deferred deposit transactions, or any charges or fees associated with the transactions.

21 16. Pursuant to subdivisions (a) and (b) of section 23060, any and all deferred deposit transactions
22 contracted with California customers or in this state are therefore void. East Side Lenders, LLC is
23 hereby ordered to immediately return the principal amounts provided in any and all deferred deposit
24 transactions contracted with California customers or in this state, and to disgorge any and all charges
25 or fees received in conjunction with the deferred deposit transactions.

26 **Citations**

27 17. The foregoing violations were revealed after inspection, examination or investigation by the
28 department and warrant citations pursuant to section 23058, subdivision (a), which states in part:

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

1 is violating any provision of this division or any rule or order thereunder, the
2 department may issue a citation to that person in writing, describing with
3 particularity the basis of the citation. Each citation may contain an order to desist
4 and refrain and an assessment of an administrative penalty not to exceed two
thousand five hundred dollars (\$2,500)...

5 18. The Commissioner herein issues thirty one (31) separate citations, incorporating the above
6 order to desist and refrain, for the following violations by East Side Lenders, LLC since January
7 2011:

- 8 1) Originating twelve (12) deferred deposit transactions without a license, in violation of
9 subdivision (a) of section 23005 as follows:
- 10 2) Originating nine (9) deferred deposit transactions in excess of \$300, in violation of
11 subdivision (a) of section 23035.
- 12 3) Originating ten (10) deferred deposit transactions with loan fees in excess of the 15%
13 maximum amount required by subdivision (a) of section 23036.

14 19. The above violations are demonstrated by the following twelve loan transactions:

- 15 a. Loan of \$700 made to YT on November 24, 2010, with loan fees of approximately
16 \$1,437 (205% of the loan amount).
- 17 b. Loan of \$300 made to LA on August 25, 2011, with loan fees of \$270 (90% of the
18 loan amount).
- 19 c. Loan of \$600 made to LA on October 7, 2011, with repayment of principal of \$515.
- 20 d. Loan of \$300 made to SB on September 19, 2011, with loan fees of at least \$180 (60%
21 of the loan amount).
- 22 e. Loan of \$500 made to GF on June 18, 2012, with loan fees of at least \$500 (100% of
23 loan amount).
- 24 f. Loan of \$750 made to DH on June 18, 2012, with loan fees of \$225 (30% of the loan
25 amount).
- 26 g. Loan of \$200 made to DH on July 9, 2012, with loan fees of \$35 (18% of the loan
27 amount).
- 28 h. Loan of \$1,000 made to DH on July 30, 2012, with loan fees of \$520 (52% of the loan

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amount).

i. Loan of \$1,000 made to DH on September 12, 2012, with repayment of principal of \$845.

j. Loan of \$750 made to PP on January 19, 2011, with loan fees of \$2,092.50 (279% of the loan amount).

k. Loan of \$700 made to PP on September 6, 2011, with loan fees of \$2,040 (291% of the loan amount).

l. Loan of \$1,000 made to PP on December 22, 2011, with loan fees of \$1,500 (150% of the loan amount).

20. Pursuant to section 23058, East Side Lenders, LLC is ordered to pay the Commissioner an administrative penalty of two thousand five hundred dollars (\$2,500) for each of the thirty-one (31) citations above, for a total amount of seventy seven thousand five hundred dollars (\$77,500), payable by check made out to the Department of Corporations and received by Timothy L. Le Bas at 1515 K Street, Suite 200, Sacramento, CA 95814 no later than sixty (60) days from the date of the final order.

Dated: May 6, 2013
Sacramento, CA

JAN LYNN OWEN
Commissioner of Corporations

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

1 STATE OF CALIFORNIA
2 BUSINESS, TRANSPORTATION AND HOUSING AGENCY
3 DEPARTMENT OF CORPORATIONS

4 TO: East Side Lenders, LLC
5 Michael Luxenberg, Manager
6 299 S. Main Street, Suite 1300 and 314 N. Riverside Drive
Salt Lake City, UT 84111 Espanola, NM 87532
7 East Side Lenders
8 2207 Concord Pike #505 and 2711 Centerville Road
Wilmington, DE 19803 Wilmington, DE 19808
9 Eastside Lenders
10 9218 Metcalf Ave. #112
11 Overland Park, KS 66210

12 **DESIST AND REFRAIN ORDER**

13 (For violations of California Financial Code sections 23005, 23035, 23036 and 23037)

14 1. The California Corporations Commissioner (“Commissioner”) finds that East Side
15 Lenders, LLC, which also does business as East Side Lenders and Eastside Lenders (hereinafter
16 “East Side Lenders”) uses the following addresses and telephone numbers:

17 299 S. Main Street, Suite 1300, Salt Lake City, Utah 84111

18 314 N. Riverside Drive, Espanola, New Mexico 87532

19 2207 Concord Pike #505, Wilmington, Delaware 19803

20 2711 Centerville Road, Wilmington, Delaware 19808

21 9218 Metcalf Ave. #112, Overland Park, Kansas 66210

22 www.eastsidelenders.com

23 (866) 569-6636 and (800) 689-5603

24 2. The Commissioner of the Department of Corporations (“Department”) is responsible for
25 enforcing the California Deferred Deposit Transaction Law (“CDDTL”) in California Financial
26 Code sections 23000 *et seq.* The Commissioner has not issued a license to East Side Lenders to
27 engage in the business of deferred deposit transactions and East Side Lenders is not exempt from the
28 licensing requirement of the CDDTL.

1 3. Since at least 2005, East Side Lenders has engaged in the business of deferred
2 deposit transactions by offering, originating and making deferred deposit transactions as described
3 below.

4 4. A deferred deposit transaction is a written transaction whereby one person gives funds
5 to another person upon receipt of a personal check and it is agreed that the personal check shall
6 not be deposited until a later date. These loans are sometimes referred to as “payday advances”
7 or “payday loans.”

8 5. East Side Lenders solicited California consumers offering them “instant approval” of
9 “loans easy to renew” and “money in your account in 24 hours” and toll free support. East Side
10 Lenders used toll free number (866) 569-6636 and, at times, (800) 689-5603 for “collections” calls.

11 6. East Side Lenders would then arrange for an electronic deposit into the consumer’s
12 bank account of the funds between \$400 and \$500 for each payday loan, amounts in violation of
13 California Financial Code section 23035. East Side Lenders required consumers to give them
14 access to withdraw funds from the consumer’s bank account. However, East Side Lenders would
15 repeatedly withdraw funds from the consumer’s bank account by Automated Clearing House
16 (ACH) debits every two weeks, in amounts that exceed the statutory limits found in California
17 Financial Code section 23036. In some cases East Side Lenders would take as much in fees as
18 the amount of the loan.

19 7. East Side Lenders continued to withdraw funds from the consumer’s bank
20 account in excess of the agreed upon amount for repayment of the payday loan. When
21 consumers objected to East Side Lenders’ successive withdrawals of funds from their bank
22 account, East Side Lenders failed to respond to them. Despite the complaint from consumers,
23 East Side Lenders continued to overcharge them. Consumers found it necessary to close their
24 respective bank account to prevent further unauthorized withdrawals by East Side Lenders. After
25 East Side Lenders discovered they could no longer continue to withdraw funds from a
26 consumer’s closed bank account, East Side Lender would send collection letters from its
27 “Collection Department” or threaten consumers with legal action. East Side Lenders’ operations
28 are in violation of California Financial Code section 23037.

1 8. East Side Lenders engaged in deferred deposit business without a license from the
2 Commissioner and engaged in deferred deposit transactions that violated various statutory
3 provisions of the CDDTL including charging excessive fees in violation of California Financial
4 Code sections 23036 and 23037.

5 By reason of the foregoing, East Side Lenders, LLC, East Side Lenders and Eastside
6 Lenders have engaged in the business of deferred deposit transactions without having first obtained
7 a license from the Commissioner and have engaged in deferred deposit transactions in violation of
8 California Financial Code sections 23005, 23035, 23036 and 23037.

9 California Financial Code section 23050 states:

10 Whenever, in the opinion of the commissioner, any person is engaged in
11 the business of deferred deposit transactions, as defined in this division,
12 without a license from the commissioner, or any licensee is violating any
13 provision of this division, the commissioner may order that person or
14 licensee to desist and to refrain from engaging in the business or further
15 violating this division. If within 30 days, after the order is served, a
16 written request for a hearing is filed and no hearing is held within 30 days
17 thereafter, the order is rescinded.

18 Pursuant to Financial Code section 23050, East Side Lenders, LLC, East Side Lenders and
19 Eastside Lenders are hereby ordered to desist and refrain from engaging in the business of deferred
20 deposit transactions in the State of California without licensure or exemption and from violations of
21 California Financial Code sections 23035, 23036 and 23037. This Order is necessary for the
22 protection of consumers and consistent with the purposes, policies and provisions of the CDDTL.
23 This Order shall remain in full force and effect until further order of the Commissioner.

24 Dated: October 22, 2009
25 Los Angeles, California

26 PRESTON DuFAUCHARD
27 California Corporations Commissioner

28 By _____
ALAN S. WEINGER
Deputy Commissioner
Enforcement Division