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9 **BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT**
10 **OF THE STATE OF CALIFORNIA**

12 In the Matter of: 13 THE COMMISSIONER OF BUSINESS 14 OVERSIGHT, 15 Complainant, 16 v. 17 EXPRESS CASH NETWORK, INC., a California corporation, 18 Respondent.	CDDTL LICENSE NOS.: 100-4325 and 10DBO-41927 DESIST AND REFRAIN ORDER PURSUANT TO CALIFORNIA FINANCIAL CODE SECTION 23050; ORDER VOIDING TRANSACTIONS PURSUANT TO CALIFORNIA FINANCIAL CODE SECTION 23060; ORDER LEVYING ADMINISTRATIVE PENALTIES FOR CITATIONS ISSUED PURSUANT TO CALIFORNIA FINANCIAL CODE SECTION 23058
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22 Complainant, the Commissioner of Business Oversight of the State of California
23 (Commissioner) is informed and believes, and based on such information and belief, alleges and
24 charges as follows:

25 **I.**
26 **Introduction**

27 1. The Commissioner has jurisdiction over deferred deposit transactions as set forth in
28 the California Deferred Deposit Transaction law (CDDTL) (Fin. Code, § 23000 *et seq.*). The

1 Commissioner is authorized to pursue administrative actions and remedies against persons who
2 engage in violations of the CDDTL.

3 2. “Deferred Deposit Transaction,” as defined by section 23001, subdivision (a), means a
4 transaction whereby a person defers depositing a customer’s personal check until a specific date,
5 pursuant to a written agreement for a fee or other charge.

6 3. Express Cash Network, Inc. (hereinafter, Express Cash Network) is, and was at all
7 relevant times herein, a corporation incorporated in California on July 1, 2005.

8 4. On October 21, 2016, a regulatory examination of Express Cash Network was
9 commenced. At the time of the examination, Express Cash Network operated two licensed locations:
10 license no. 100-4325, at 2418-D Foothill Boulevard, La Verne, CA 92750; and license no. 10DBO-
11 41927, at 8151 Arlington Avenue, Suite Q, Riverside CA 92503. License no. 10DBO-41927, for the
12 Riverside location, was issued on November 10, 2014. Prior to obtaining a valid license for the
13 Riverside location, Express Cash Network had purchased a previously existing payday loan business
14 for the Riverside location from X-Press Cash Til Payday, Inc., which had surrendered its license (no.
15 100-3812) as of June 24, 2014.

16 5. The examination conducted for Express Cash Network’s Riverside location, license
17 no. 10DBO-41927, was this location’s first examination. As such, Department procedures dictate
18 that the examination be conducted as of the license activation date of November 10, 2014. During
19 the examination of the Riverside location (license no. 10DBO-41927), a deferred deposit transaction
20 made on October 31, 2014, was discovered. Due to the deferred deposit transaction not being
21 recorded on the software-generated Payday Advance Report, the Department examiner conducted a
22 physical review of all loans created at the commencement of the Riverside location’s business. In
23 total, thirteen deferred deposit transactions were found to have been made between October 31, 2014,
24 and November 8, 2014, all of which were made prior to the Riverside location’s license activation
25 date of November 10, 2014. None of the thirteen deferred deposit transactions appeared on the
26 software-generated Payday Advance Report. Each of the thirteen transactions were for \$300.00.

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II.

Violations of the CDDTL

6. Financial Code section 23005 provides, in relevant part:

A person shall not offer, originate, or make a deferred deposit transaction, arrange a deferred deposit transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist a deferred 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.

7. Express Cash Network did not possess a valid license to conduct the thirteen separate deferred deposit transactions from October 31, 2014, to November 8, 2014, at its Riverside location, nor was it exempt from the licensing requirements of California Financial Code section 23005. As such, Express Cash Network was not authorized to engage in payday lending or authorized to offer, originate, or make a deferred deposit transaction, arrange a deferred deposit transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist a deferred deposit originator in the origination of a deferred deposit transaction in California or to California residents, in its Riverside location from October 31, 2014, to November 8, 2014.

III.

Desist and Refrain Order

8. The Commissioner is responsible for enforcing provisions of the CDDTL found in California Financial Code, commencing at section 23000. The Commissioner is authorized to pursue administrative actions and remedies against persons who engage in violations 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 . . . 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.

9. Pursuant to Financial Code section 23050, Express Cash Network is hereby ordered to desist and refrain from engaging in the business of deferred deposit transactions in the State of California in violation of Financial Code section 23005. This Order is necessary for the protection of

1 consumers and consistent with the purposes, policies, and provisions of the CDDTL. This Order
2 shall remain in effect until further order of the Commissioner.

3 **IV.**

4 **Order Voiding California Deferred Deposit Transactions**

5 10. California Financial Code section 23060(b) provides:

6 If any provision of this division is willfully violated in the making or collection
7 of a deferred deposit transaction, the deferred deposit transaction contract shall
8 be void, and no person shall have any right to collect or receive any amount
9 provided in the deferred deposit transaction, any charges, or fees in connection
with the transaction.

10 11. Pursuant to California Financial Code section 23060, the deferred deposit transactions
11 contracted with California customers or in the State of California by Express Cash Network, as
12 detailed herein, are therefore void. Express Cash Network is hereby ordered to immediately cease
13 collecting all principal amounts, return all principal amounts provided in the deferred deposit
14 transactions contracted with California customers or in the State of California, and to disgorge any
15 and all charges or fees received in conjunction with those deferred deposit transactions.

16 **V.**

17 **Citation**

18 12. For the CDDTL violations as described herein, the Commissioner issues the
19 following citation to Express Cash Network:

20 **CITATION** – On or about, and between, October 31, 2014, and November 8, 2014,
21 Express Cash Network, through its Riverside location, originated thirteen deferred deposit
22 transactions in violation of Financial Code section 23005.

23 13. California Financial Code section 23058(a) gives the Commissioner the authority to
24 issue citations for the foregoing CDDTL violations. Section 23058(a) states in pertinent part:

25 If, upon inspection, examination or investigation, based upon a complaint or
26 otherwise, the department has cause to believe that a person is engaged in the
27 business of deferred deposit transactions without a license, or a licensee or
28 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

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an order to desist and refrain and an assessment of an administrative penalty not to exceed two thousand five hundred dollars (\$2,500).

14. Pursuant to Financial Code section 23058, Express Cash Network is hereby ordered to pay the Commissioner an administrative penalty of \$2,500.00 within 30 days from the date of this Citation. The penalty shall be made payable in the form of a cashier’s check or Automated Clearing House deposit to the “Department of Business Oversight,” and transmitted to:

ATTN: Accounting-Litigation
The Department of Business Oversight
1515 K Street, Suite 200
Sacramento, California 95814

Notice of the payment of the penalty shall be sent contemporaneously via email to Senior Counsel Robert Lux, at: Robert.Lux@dbo.ca.gov.

Administrative penalties are necessary in the public interest for the protection of consumers and are consistent with the purposes, policies and provisions of the CDDTL.

Dated: November 20, 2017
Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division