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California Corporations Commissioner
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CALIFORNIA CORPORATIONS COMMISSIONER

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

11 In the Matter of the Orders Issued to:)
)
12)
Gateway Holdings Group, LLC,) DESIST AND REFRAIN ORDER (FIN CODE
13) § 23050) AND ORDER VOIDING
) TRANSACTIONS AND TO DISGORGE ALL
14 Respondent.) CHARGES AND FEES (FIN CODE §23060)
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21 Complainant, the Commissioner of the Department of Corporations (“Commissioner” or
22 “Department”), is informed and believes, and based on such information and belief, finds as follows:

23 I

24 **FACTUAL BACKGROUND**

25 Gateway Holdings Group, LLC, (“Gateway”) located at 4 Solomon’s Arcade, Charleston,
26 Nevis, West Indies, with a telephone number of (877) 618-5882, a fax number of (888) 241-6841 and
27 an email address of gatewaycs@midlandcompanies.net, offers deferred deposit transactions or
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1 “payday loans” to Californians through internet-based companies that purportedly match borrowers
2 with lenders. Gateway does not have its own website, but accepts referrals from other companies
3 who solicit applications from potential California borrowers over the Internet. Gateway, then,
4 reaches into California, through an initial e-mail to the potential customers e-mail address, and offers
5 these loans to California residents.

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 would not be
8 deposited until a later date. “Personal check” referenced in Financial Code section 23001 includes
9 “the electronic equivalent of a personal check,” like an Automated Clearing House (“ACH”) or debit
10 card transaction.

11 Since at least June 1, 2011, Gateway has engaged in the business of offering, originating, or
12 making deferred deposit transactions in California, as defined by the California Deferred Deposit
13 Transaction Law (“CDDTL”, Cal. Fin Code sections 23000 *et seq.*)¹, section 23001(a), whereby
14 Gateway either defers depositing the customer’s personal check or defers making an agreed upon
15 ACH deduction until a specific date pursuant to a written agreement for a fee or other charge.

16 Gateway’s customers submit an online application through a third party’s website. The
17 customers are required to provide their checking account information from which Gateway
18 eventually automatically debits payments, fees, and interest from the borrowers. Gateway, however,
19 then uses customers’ banking account information to deduct additional fees and charges beyond what
20 customers were told they would have to pay, sometimes in excess of more than double the amount of
21 the original loan, and far beyond what the CDDTL allows. For instance, Gateway charges over 780%
22 APR in interest in addition to a \$90.00 monthly refinance fee that accrues automatically if the entire
23 balance is not paid off in full.

24 Gateway has not been issued a deferred deposit transaction originator license by the
25 Commissioner pursuant to the CDDTL. As such, Gateway is not authorized to engage in payday

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27 ¹ All future references are the California Financial Code unless otherwise indicated.

1 lending, or to offer, originate, or make a deferred deposit transaction, arrange a deferred deposit
2 transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist
3 a deferred deposit originator in the origination of a deferred deposit transaction.

4 **II**

5 **CDDTL VIOLATIONS AND ORDERS**

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

9 **A. Desist and Refrain Order**

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

12 Whenever, in the opinion of the commissioner, any person is engaged in
13 the business of deferred deposit transactions, as defined in this division,
14 without a license from the commissioner,...the commissioner may order
15 that person...to desist and to refrain from engaging in the business or
16 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.

17 The foregoing facts establish multiple violations of the CDDTL by Gateway, including
18 engaging in the business of originating or offering to originate deferred deposit transactions without
19 having first obtained a license to do so from the California Corporations Commissioner in violation
20 of section 23005(a). The issuance of a Desist and Refrain Order, therefore, is necessary for the
21 protection of consumers and is consistent with the purposes, policies, and provisions of the CDDTL.

22 Pursuant to section 23050, Gateway Holdings Group, LLC, is hereby ordered to desist and
23 refrain from violating California Financial Code section 23005(a). This Order shall remain in full
24 force and effect until further order of the Commissioner.

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B. Order Voiding California Deferred Deposit Transactions

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

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

Gateway willfully violated provisions of the CDDTL by repeatedly charging California customers fees or charges without a license in violation of section 23005(a), including excess fees and charges in violation of section 23036, in conjunction with deferred deposit transactions. Because Gateway willfully charged its customers unauthorized fees or charges, Gateway is not entitled to collect or receive the principal amounts provided in those deferred deposit transactions, nor is it entitled to any of the charges or fees associated with the transactions.

Pursuant to California Financial Code sections 23060, any and all deferred deposit transactions contracted with California customers or in this state are therefore void. Gateway Holdings Group, LLC, is hereby ordered to immediately return the principal amounts provided in any and all deferred deposit transactions contracted with California customers or in the state, and to disgorge any and all charges or fees received in conjunction with the deferred deposit transactions.

Dated: August 11, 2011
Sacramento, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
ALAN S. WEINGER
Deputy Commissioner
Enforcement Division