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STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: HINDSCO, INC. DBA CASH NOW SANTA ROSA (File # 100-2645)
CHARLIE HINDS, President
HINDSCO, INC.
1420 Guerneville Road
Santa Rosa, California 95403

DESIST AND REFRAIN ORDER
(For violations of California Financial Code section 23035, 23036 and 23037)

CITATIONS
(California Financial Code section 23058)

ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS
(California Financial Code section 23060)

The California Corporations Commissioner (“Commissioner”) finds that:

1. The California Department of Corporations (“Department”) is responsible for enforcing provisions of the California Deferred Deposit Transaction Law (“CDDTL”) set forth in California Financial Code section 23000 et seq. (Unless otherwise indicated all future references are to the Financial Code.) The California Corporations Commissioner (“Commissioner”) is authorized to pursue administrative actions and remedies against licensees who engage in violations of the CDDTL.

2. Charlie Hinds is the President of Hindsco, Inc., which does business as Cash Now Santa Rosa. Charlie Hinds, Hindsco, Inc., and Hindsco Inc. dba Cash Now Santa Rosa (all hereinafter are referred to as “Hindsco”) have a place of business located at 1420 Guerneville Road, Santa Rosa, California 95403.

3. As of August 3, 2005, The Commissioner had not issued a license to Charlie Hinds, as an individual, his corporation, Hindsco, Inc., or its dba, Cash Now Santa Rosa to engage in the business of deferred deposit transactions under the CDDTL.

1 4. During all relevant times Hindsco has engaged in the business of deferred deposit
2 transactions by offering, originating and making deferred deposit transactions. A deferred
3 deposit transaction is a written transaction whereby one person gives funds to another person
4 upon receipt of a personal check and it is agreed that the personal check shall not be deposited
5 until a later date. These loans are sometimes referred to as “payday loans.”

6 5. At no time was Hindsco exempt from the licensing requirements found in section
7 23005. Hindsco was aware that a CDDTL license was required to lawfully engage in the
8 business of deferred deposit transactions as Hindsco had received a notice about it. On or about
9 February 8, 2005, the Department informed Hindsco in writing that licensure was required to
10 engage in CDDTL transactions. Hindsco responded to the Department’s February 8th letter with
11 a letter purportedly dated February 14, 2005, but not received by the Department until February
12 24, 2005, which stated that Hindsco was in the process of filing an application for a license.
13 Over three months elapsed before the Department received the June 8, 2005 application from
14 Hindsco for a CDDTL license. The Hindsco application was received only after Charlie Hinds
15 had been personally directed to cease making payday loans. On May 26, 2005, the
16 Commissioner’s Corporations Examiner expressly directed Charlie Hinds and his company
17 Hindsco to cease deferred deposit business until a license was obtained. Both the
18 Commissioner’s communications on February 8 and May 26, 2005, explicitly informed Charlie
19 Hinds that neither he nor Hindsco could engage in the business of deferred deposit transactions
20 unless and until they obtained a CDDTL license from the Commissioner.

21 6. In response to the June 8, 2005 application form submitted by Hindsco for a CDDTL
22 license, the Commissioner sent to Hindsco on June 26, 2005, a deficiency letter regarding the
23 application, and again notified Hindsco that a person cannot engage in the business of deferred
24 deposit transactions after December 31, 2004, without a license from the Department.

25 7. During 2005 when the Commissioner’s Corporations Examiners reviewed
26 Hindsco’s records, they found Hindsco made 1,473 deferred deposit transactions during the
27 period from January 1, 2005 to June 11, 2005, and that Hindsco continued to engage in
28 unlicensed deferred deposit transaction business until at least July 12, 2005.

1 8. On July 12, 2005, Charlie Hinds admitted to the Commissioner’s examiners
2 that Hindsco continued to engage in the business of deferred deposit transactions over the
3 Internet and at Hindsco’s location in Santa Rosa, California, but claimed he misunderstood the
4 directive from the Commissioner’s examiner on May 26, 2005, to discontinue unlicensed
5 CDDTL activity. The Commissioner examiners’ review of Hindsco’s deferred deposit
6 transactions log reveals that from May 26, 2005 until June 11, 2005, Hindsco engaged in
7 deferred deposit transactions that violated statutory provisions of the CDDTL by charging
8 excessive fees and limiting the rights of the borrowers to take actions against Hindsco.

9 9. Notwithstanding numerous notifications regarding the licensure requirement,
10 Hindsco willfully and knowingly continued to engage in deferred deposit business without a
11 license from the Commissioner in violation of California Financial Code section 23005.

12 10. On August 5, 2005, pursuant to California Financial Code section 23050,
13 the Commissioner issued a Desist and Refrain Order to Charlie Hinds, Hindsco, Inc., and
14 Hindsco Inc. dba Cash Now Santa Rosa that prohibited them from engaging in the business of
15 deferred deposit transactions in the State of California without first obtaining a license from the
16 Commissioner, or otherwise being exempt.

17 11. Hindsco, in filing its application for a CDDTL, indicated knowledge of the
18 CDDTL and, in sworn declarations, represented that it would comply with all provisions of the
19 CDDTL and other laws.

20 12. In reliance upon the representation made by Hindsco on August 16, 2005, the
21 Commissioner issued to Hindsco a CDDTL license (File # 100-2645).

22 13. All CDDTL licensees are required to comply with all CDDTL requirements and are
23 prohibited from violating specific and detailed provisions that govern deferred deposit
24 transactions.

25 14. After giving advance written and oral notice of the Department’s statutorily
26 mandated examination, the Department’s examiner visited Hindsco’s business location on the
27 date scheduled in advance with Hindsco. The Department’s examiner conducted a regulatory
28 review of Hindsco’s business in September 2005. During the regulatory examination, and

1 notwithstanding Hindsco's sworn declarations to comply with the CDDTL, the Department's
2 examiner discovered Hindsco willfully and knowingly engaged in CDDTL violations.
3 Therefore, on January 25, 2006, the Department informed Hindsco about the violations identified
4 during the examination. Hindsco responded in writing acknowledging all exceptions taken and
5 ensured future compliance.

6 15. On February 27, 2007, the Department's examiner conducted a second examination
7 found violations of sections 23035, 23036 and 23037. Specifically, the examination disclosed
8 that the licensee violated section 23035 (d) for not having the required notices posted in letters
9 not less than one-half inch in height, section 23035 (c)(4) for not providing customers with a
10 written notice which discloses the Department's toll-free telephone number, section 23035 (e) for
11 the written agreement not containing all required disclosures, section 23036 (f) for excess fees
12 language in the written agreement, California Code of Regulations 2025 (c)(1) for not
13 maintaining evidence of the check for deferred deposit transactions, section 23035 (e)(1) for
14 disclosing the incorrect APR on the written agreement, section 23035 (a) for making deferred
15 deposit transactions with a term in excess of 31 days, section 23037 (e) for the alterations on
16 customer's checks, section 23037 (h) for accepting checks and written agreements with blank
17 spaces, section 23036 (b) for charging extension fees (roll-overs), section 23036 (f) for collection
18 of excess charges and section 23037 (f) for engaging in deceptive conduct by falsifying records
19 in regards to extension fees.

20 16. Moreover, the February 27, 2007, examination revealed that Hindsco repeatedly
21 engaged in violations that Hindsco had represented it corrected, which including the following:

- 22 a) Additional fee charged for extension fees - section 23036 (b)
- 23 b) Incorrect APR disclosed - section 23035 (e)(1)
- 24 c) Deferred Deposit Transactions term exceeds 31 days – section 23035 (a)
- 25 d) Accepting documents with blank spaces – section 23037 (h).

26 17. A follow-up expanded examination was conducted on August 14, 2007, wherein the
27 Department's examiner sought to identify all extension fees and excess fees charged by Hindsco
28 by review of the loan register and reports for all loans made since the date the license was issued

1 on August 16, 2005.

2 18. During the review of the ACH reports and loan registers provided by the Hindsco, it
3 was discovered that it illegally charged extension fees on 181 loans for a total amount of
4 \$7,460.30 during the calendar year 2006. Additionally, Hindsco illegally charged extension fees
5 on 256 loans for a total amount of \$10,681.00 during the period of from January 1, 2007 to July
6 31, 2007. During the period of January 1, 2006 to July 31, 2007, extension fees aggregating
7 \$1,283 in were collected on 36 loans in which the consumer also paid toward the principal
8 amount owed. In sum, Hindsco charged extensions fees on a total of 473 loans and collected a
9 total of \$19,424.30 in unauthorized and prohibited extension fees.

10 19. The 473 loans with extension fees had a principal of \$110,281.00. Therefore the
11 total loan amount [principal plus finance charge] for these 473 loans is \$129,705.30 [$\$110,281 +$
12 $\$19,424.30$]. Of the 473 loans with extension fees identified, 437 loans collected the finance
13 charge portion only by means of ACH debits. Therefore, for these 437 loans Hindsco did not
14 collect as required principal portion of the loans in the total amount of \$103,193.00 during the
15 period of January 1, 2006 to July 3, 2007. For the additional 36 loans with ACH debits in the
16 amount of the finance charge (extension fee) plus a principal balance pay-down payment,
17 Hindsco did not collect the principal portion of the loans in the total amount of \$5231.00 during
18 the period of January 1, 2006 to July 3, 2007. Therefore, for the 473 loans with extension fees a
19 total of \$108,424.00 in principal was not collected by Hindsco. Hindsco collected the principal
20 in the total amount of \$1857.00 on the 36 loans with ACH debits in the amount of the finance
21 charge (extension fee) plus a principal balance pay-down payment.

22 20. The Examiner also discovered during the review of the ACH reports that there were
23 19 loans that collected excess fees by electronically debiting the customer's account multiple
24 times and the total amount of the debits exceeded the total amount owed by the customer.
25 Assuming Hindsco was legitimately entitled to a \$15 NSF fee for each loan, the total amount of
26 excess fees collected by ACH was \$1,477 during the period of January 1, 2006 to July 3, 2007.
27 The 19 loans with excess fees collected had a total loan amount (principal plus finance charge) of
28 \$5,570.00 [Principal = \$4735 + Finance charge = \$835].

1 21. On July 31, 2008, the Commissioner sent a demand letter to Hindsco requesting the
2 address, phone numbers, and copies of written agreements for a sample of customers who were
3 charged extension fees. Also, requested in the demand letter was a written explanation of the
4 licensee’s rationale for electronically debiting customer’s accounts for the finance charge portion
5 only. On August 21, 2008, the Department received all requested information. However, it does
6 not appear that Hindsco reimbursed customers the amount of excess fees charged them.

7 22. Section 23035, subdivisions (a) (c), (d) and (e) mandate the specific content of
8 notices, disclosures and written agreements for deferred deposit transactions and, in relevant part
9 states:

10 (a) A licensee may defer the deposit of a customer's personal check for up to 31
11 days, pursuant to the provisions of this section. The face amount of the check
12 shall not exceed three hundred dollars (\$300). Each deferred deposit transaction
13 shall be made pursuant to a written agreement as described in subdivision (e) that
14 has been signed by the customer and by the licensee or an authorized
15 representative of the licensee.

16 (c) Before entering into a deferred deposit transaction, licensees shall distribute to
17 customers a notice . . .

18 (4) The department's toll-free telephone number for receiving calls regarding
19 customer complaints and concerns.

20 (d) The following notices shall be clearly and conspicuously posted in the
21 unobstructed view of the public by all licensees in each location of a business
22 providing deferred deposit transactions in letters not less than one-half inch in
23 height . . .

24 (e) An agreement to enter into a deferred deposit transaction shall be in writing
25 and shall be provided by the licensee to the customer. The written agreement
26 shall authorize the licensee to defer deposit of the personal check, shall be signed
27 by the customer, and shall include all of the following:

28 (1) A full disclosure of the total amount of any fees charged for the deferred
deposit transaction, expressed both in United States currency and as an APR
as required under the Federal Truth In Lending Act and its regulations. . . .

(7) An itemization of the amount financed as required under the Federal Truth
In Lending Act and its regulations. . . .

(11) That the licensee cannot make a deferred deposit transaction contingent
on the purchase of another product or service. . . .

1 23. Subdivisions (a), (b) and (f) of section 23036, limit the type and amount of fees and
2 charges that customers can be required to pay. These subdivisions, in relevant part, state:

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

5 (b) A licensee may allow an extension of time, or a payment plan, for
6 repayment of an existing deferred deposit transaction but may not charge any
7 additional fee or charge of any kind in conjunction with the extension or
8 payment plan. A licensee that complies with the provisions of this
9 subdivision shall not be deemed to be in violation of subdivision (g) of
10 Section 23037.

11 (f) No amount in excess of the amounts authorized by this section shall be
12 directly or indirectly charged by a licensee pursuant to a deferred deposit
13 transaction.

14 24. Section 23037 limits a licensee’s transactions and activities stating:

15 In no case shall a licensee do any of the following: . . .

16 (e) Alter the date or any other information on a check.

17 (f) Engage in any unfair, unlawful, or deceptive conduct, or make any
18 statement that is likely to mislead in connection with the business of
19 deferred deposit transactions.

20 (h) Take any check, instrument, or form in which blanks are left to be
21 filled in after execution.

22 **DESIST AND REFRAIN ORDER**

23 By reason of the foregoing, Hindsco has engaged in deceptive and misleading deferred
24 deposit transactions in violation of the sections 23035, 23036 and 23037.

25 Section 23050 provides in pertinent part:

26 Whenever, in the opinion of the commissioner, any person is engaged in the
27 business of deferred deposit transactions, as defined in this division, without
28 a license from the commissioner, or any licensee is violating any provision of
29 this division, the commissioner may order that person or licensee to desist
30 and to refrain from engaging in the business or further violating this division.
31 If, within 30 days, after the order is served, a written request for a hearing is
32 filed and no hearing is held within 30 days thereafter, the order is rescinded.

33 Pursuant to section 23050, Charlie Hinds, Hindsco, Inc., and Hindsco Inc. dba Cash Now
34 Santa Rosa are hereby ordered to desist and refrain from violating sections 23035, 23036 and

1 23037. This Order is necessary for the protection of consumers and consistent with the purposes,
2 policies and provisions of the CDDTL. This Order shall remain in full force and effect until
3 further order of the Commissioner.

4 CITATIONS

5 For at least 492 of Hindsco's violations discovered during the Department's CDDTL
6 examinations, the Commissioner is issuing Citations 1 through 492, inclusive. The Citations are
7 being issued for violations of sections 23035, 23036 and 23037.

8 Section 23058 gives the Commissioner's authority to issue citations for CDDTL violations
9 stating:

10 (a) If, upon inspection, examination or investigation, based upon a
11 complaint or otherwise, the department has cause to believe that a
12 person is engaged in the business of deferred deposit transactions
13 without a license, or a licensee or person is violating any provision of
14 this division or any rule or order thereunder, the department may issue a
15 citation to that person in writing, describing with particularity the basis
16 of the citation. Each citation may contain an order to desist and refrain
17 and an assessment of an administrative penalty not to exceed two
18 thousand five hundred dollars (\$ 2,500). All penalties collected under
19 this section shall be deposited in the State Corporations Fund.

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

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

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

(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.

Pursuant to section 23058, Charlie Hinds, Hindsco, Inc., and Hindsco Inc. dba Cash Now

1 Santa Rosa are hereby ordered to pay to the Commissioner within 30 days from the date, as
2 shown below, for these Citations, an administrative penalty of forty dollars (\$40) for each of the
3 492 citations for the total amount of twenty thousand dollars (\$19,680).

4 **ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS**

5 Hindsco willfully violated section 23036 of the CDDTL as described above, wherein
6 illegal extension fees in the amount of \$19,424.30 were charged to consumers in at least 473
7 transactions. The principal and finance charges for these 473 transactions totals \$103,193.
8 Therefore, the Commissioner also seeks to void Hindsco’s 473 transactions with consumers and
9 order the return of the respective consumers’ funds in an amount that aggregates \$103,193.

10 Hindsco also willfully violated section 23036 of the CDDTL as described above, wherein
11 excess fees totaling of \$1,477 were charged to consumers in at least 19 transactions. The
12 principal and finance charges for these amount to \$5,570. Therefore, the Commissioner also
13 seeks to void Hindsco’s 19 transactions with consumers and order the return of the respective
14 consumers’ funds in an amount that aggregates of \$5,570.

15 Section 23060 states:

16 (a) If any amount other than, or in excess of, the charges or fees
17 permitted by this division is willfully charged, contracted for, or
18 received, a deferred deposit transaction contract shall be void, and no
19 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.

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

24 Pursuant to section 23060, the Commissioner declares the above described 492 deferred
25 deposit transactions for consumers totaling \$110,240 void.. Hindsco has no right to collect or
26 receive any amount provided in the deferred deposit transaction, any charges, or fees in
27 connection with 492 deferred deposit transactions totaling at least \$110,240 and are hereby
28 ordered to forfeit and return all charges, fees and other amounts received on the 492 deferred

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deposit transactions within 30 days from the date of this Order, as shown below.

Dated: January 21, 2009
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
ALAN S. WEINGER
Lead Corporations Counsel
Enforcement Division