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by and through the California Corporations Commissioner
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12 SUPERIOR COURT OF THE STATE OF CALIFORNIA
13 COUNTY OF LOS ANGELES

14 THE PEOPLE OF THE STATE OF) Case No.: BC261513
15 CALIFORNIA, BY AND THROUGH THE)
16 CALIFORNIA CORPORATIONS) COMPLAINT FOR CIVIL PENALTIES FOR
COMMISSIONER,) WILLFUL LENDING VIOLATIONS
17)
Plaintiff,) California Financial Code Section 22713(c)
18)
19 vs.)
20 HOUSEHOLD FINANCE CORPORATION OF)
CALIFORNIA, BENEFICIAL CALIFORNIA,)
21 INC., and DOES 1 through 10, inclusive,)
22)
Defendants.)
23)

24
25 The Plaintiff People of the State of California, by and through the California Corporations
26 Commissioner (“Commissioner”), allege as follows:

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28 ///

1 **JURISDICTION AND VENUE**

2 1. The Commissioner brings this action for civil penalties to protect the public from a
3 statewide pattern of abusive lending practices which violate the California Finance Lenders Law of
4 the State of California (California Financial Code Sections 22000 et seq. (“CFLR”)), and the rules
5 promulgated pursuant to it. This action is specifically authorized by CFLR § 22713(c).

6 2. At all relevant times defendants have been transacting business throughout California,
7 including Los Angeles County.

8 **DEFENDANTS**

9 3. Defendant Household Finance Corporation of California (“Household”) is, and at all
10 relevant times has been, a corporation organized and existing under the laws of the State of
11 Delaware. Household is a subsidiary of Household International, Inc.

12 4. Household is licensed by the Commissioner as a finance lender as required by
13 CFLR § 22100. At all relevant times Household has had 135 licenses issued under the CFLR for its
14 branch offices located throughout the State of California.

15 5. Defendant Beneficial California, Inc. (“Beneficial”) is, and at all times relevant herein has
16 been, a corporation organized and existing under the laws of the State of Delaware. Beneficial has
17 been a subsidiary of Household International, Inc. since June of 1998.

18 6. Beneficial is licensed by the Commissioner as a finance lender as required by
19 CFLR § 22100. At all relevant times Beneficial has had 103 licenses issued under the CFLR for its
20 branch offices located throughout the State of California.

21 7. Defendants Doe 1 through 10 are persons, corporations, partnerships or other entities who
22 have done or will do acts otherwise alleged in this complaint. The Commissioner is informed and
23 believes and based upon such information and belief alleges that defendants Doe 1 through 10,
24 inclusive, at all times mentioned herein, have acted and are continuing to act in concert with the
25 defendants named in paragraphs 3-6 herein, and each of them has participated in the acts and
26 transactions referred to below and each of them is responsible for said acts and transactions. The
27 true names and capacities of Doe 1 through 10 whether individual, corporate or otherwise, are
28 unknown to the Commissioner, who therefore sues said defendants under such fictitious names,

1 pursuant to the provisions of Section 474 of the California Code of Civil Procedure. The
2 Commissioner hereby asks leave of the Court to amend this complaint to allege the true names and
3 capacities of such defendants at such time as the same have been ascertained.

4 8. The Commissioner is informed and believes and thereon alleges that at all times herein
5 mentioned each of the defendants sued herein as Doe was the agent and employee of each of the
6 remaining defendants and was at all times acting within the purpose and scope of such agency.

7 **REGULATORY BACKGROUND OF SUIT**

8 9. Finance lenders in California are licensed and regulated under the CFLL, which is
9 administered and enforced by the Commissioner. One of the underlying purposes and policies of the
10 CFLL, set forth in CFLL § 22001(a)(4), is “[t]o protect borrowers against unfair practices by some
11 lenders, having due regard for the interests of legitimate and scrupulous lenders.” Defendants
12 Household and Beneficial are two of the largest finance lenders in California and have been operated
13 as sister companies since they merged in June of 1998.

14 **A. Administrative Fee Overcharges: CFLL § 22305**

15 10. Pursuant to CFLL § 22701 the Commissioner is authorized to conduct examinations of
16 the books, accounts, records and files of finance lenders for the purpose of discovering violations of
17 the CFLL. During a regulatory examination in 1998, the Commissioner discovered that Household
18 was routinely charging excessive administrative fees to borrowers who took out loans with credit
19 limits of \$2,500 or less pursuant to CFLL § 22450. Household was charging such borrowers a fee of
20 \$75 rather than the statutory maximum of \$50 or less, in violation of CFLL § 22305. The
21 Commissioner directed Household to audit its records and identify all instances of the violation.
22 Following its self-audit, Household admitted four hundred forty one (441) violations and made
23 appropriate refunds to each of the affected borrowers.

24 11. The next regulatory examination of Household began in May of 2000. At that time the
25 Commissioner discovered that rather than correcting its unlawful practice, Household was persisting
26 in the charging of excessive administrative fees. Illegal administrative fee overcharges were found
27 in 7 of 15 (46.6%) of the loan files reviewed for compliance with this requirement of CFLL § 22305.
28 Based upon the findings of the 2000 regulatory examination, the Commissioner directed Household

1 to conduct a self-audit of administrative fees charged on all loans with credit limits of \$2,500 or less
2 made since June 30, 1998, and to make appropriate refunds of the charges. To date Household has
3 admitted 1,058 violations on the basis of the regulatory examination and its self-audit, more than
4 double the number of violations found two years before. Household's self-audit also reflects that the
5 practice is widespread, with violations reported at 74 of its 77 active branch offices in California.

6 12. Household not only continued to overcharge administrative fees on loans with credit
7 limits of \$2500 or less following the 1998 examination, but also extended the practice to Beneficial.
8 The Commissioner detected no overcharging of administrative fees during the regulatory
9 examinations of Beneficial in 1996 and the first half of 1998, prior to Beneficial's merger with
10 Household. Following the merger in June of 1998 all Beneficial systems were converted to
11 Household systems. During the Commissioner's next regulatory examination of Beneficial in 2000,
12 Beneficial was discovered to be charging an excessive administrative fee of \$75 rather than the
13 statutory maximum of \$50 or less to borrowers of \$2,500 or less. Administrative fee overcharges
14 were found in 10 of 30 (30%) of the loan files reviewed for compliance with this requirement of
15 CFLL § 22305. Based upon the findings of the 2000 regulatory examination, the Commissioner
16 directed Beneficial to carry out a self-audit of the administrative fees charged on all loans with
17 principal amounts of \$2,500 or less made since September 1, 1998, and to make appropriate refunds
18 of the charges. So far Beneficial has admitted finding 863 overcharge violations, occurring at 93 of
19 its 95 branch offices in California.

20 **B. Other Violations of the CFLL, its Rules, and the Civil Code**

21 13. The charging of excessive administrative fees by Household and Beneficial was only one
22 of seven categories of state-wide lending violations discovered at each of the two companies during
23 the 2000 regulatory examinations. Five of the seven categories of violation, including the
24 administrative fee overcharges, were found at both companies. Two other categories of violation
25 were each found to be occurring routinely at one, but not both, of the companies.

26 **1. Other Violations of the CFLL Common to Both Companies**

27 14. During the Commissioner's 2000 regulatory audits, the Commissioner discovered that
28 Household and Beneficial were violating CFLL § 22305 by routinely charging two administrative

1 fees on loans refinanced prior to the passage of one year from the date of the prior administrative fee
2 charge. Household was found to have unlawfully charged a second administrative fee in a one year
3 period in 7 of 66 (10.6%) of the loan files reviewed for compliance with this requirement. The
4 Commissioner directed Household to carry out a self-audit to identify all instances of the practice on
5 loans made since June 30, 1998, and to make appropriate refunds. Household has reported a total of
6 2,125 violations to date. Beneficial was found to have unlawfully charged a second administrative
7 fee in a one year period in 28 of 86 (32.6%) of the loan files reviewed for compliance with this
8 requirement. The Commissioner directed Beneficial to carry out a self-audit to identify all instances
9 of the practice on loans made since September 1, 1998, and to make appropriate refunds. Beneficial
10 has reported a total of 8,794 violations to date.

11 15. During the Commissioner's 2000 regulatory audits, the Commissioner discovered that
12 Household and Beneficial were routinely violating CFLL § 22320.5 by charging excessive late fees.
13 Both companies were charging a late fee of 15% of the payment amount instead of \$15.00
14 whenever a borrower's payment was more than fifteen days late. Household was found to have
15 charged excessive late fees in 3 of 12 (25%) of the loan files reviewed for compliance with this
16 requirement. The Commissioner directed Household to carry out a self-audit to identify all
17 instances of the violation on loans made since June 30, 1998, and to make appropriate refunds.
18 Household has reported a total of 2,629 violations to date. Beneficial was found to have charged
19 excessive late fees in 6 of 19 (31.6%) of the loan files reviewed for compliance with this
20 requirement. Beneficial was directed to carry out a self-audit to identify all instances of the
21 violation for the period of September 1, 1998 to September 1, 2000, and to make appropriate
22 refunds. Beneficial has reported a total of 10,769 violations to date.

23 16. During the Commissioner's 2000 regulatory audits, the Commissioner discovered that
24 Household and Beneficial were routinely violating CFLL § 22308 by failing to recast, i.e., failing to
25 re-compute interest charges, on loans that were paid off before the due date of the third installment,
26 thereby resulting in interest overcharges. Household was found to have overcharged interest as a
27 result of its failure to recast 5 of 11 (45.5%) of the loans reviewed for compliance with this
28 requirement. The Commissioner directed Household to carry out a self-audit to identify all

1 instances of the violation on loans paid off subsequent to June 30, 1998 and to make appropriate
2 refunds. Household has reported a total of 645 violations to date. Beneficial was found to have
3 overcharged interest as a result of its failure to recast 11 of 15 (73.3%) of the loans reviewed for
4 compliance with this requirement. The Commissioner directed Beneficial to carry out a self-audit
5 to identify all instances of the violation on loans paid off from September 1, 1998 to September 1,
6 2000, and to make appropriate refunds. Beneficial has reported a total of 3,799 violations to date.

7 **2. Other Violations of the CFLL and its Rules Occurring Routinely at One, but Not**
8 **Both, of the Companies**

9 17. During the Commissioner's 2000 regulatory audits, the Commissioner discovered that
10 Household, but not Beneficial, was routinely charging excessive recording fees in violation of
11 CFLL § 22336. Household was found to have charged an excessive recording fee in 7 of 52
12 (13.5%) of the loan files reviewed for compliance with this requirement. The Commissioner
13 directed Household to carry out a self-audit to identify all instances of the violation on loans paid
14 off since June 30, 1998, and to make appropriate refunds. Household has reported a total of 3,740
15 violations to date.

16 18. During the Commissioner's 2000 regulatory audits, the Commissioner discovered that
17 Beneficial, but not Household, was routinely charging improper repossession fees, in violation of
18 CFLL § 22329(e)(5) and California Code of Regulations, title 10, § 1539. In addition to ordinary
19 repossession charges, Beneficial also was improperly charging agent fees, agent storage and Federal
20 Express charges to borrowers whose vehicles were repossessed. Beneficial was found to have
21 charged excessive repossession fees in 4 of 19 (21.1%) repossessions reviewed for compliance with
22 this requirement. The Commissioner directed Beneficial to carry out a self-audit to identify all
23 instances of the violation for repossessions in the last two years, and to make appropriate refunds.
24 Beneficial has reported a total of 106 violations to date.

25 19. During the Commissioner's 2000 regulatory audits, the Commissioner discovered that
26 Beneficial, but not Household, was violating California Code of Regulations, title 10, § 1512 by
27 routinely selling credit and involuntary unemployment insurance to borrowers who did not qualify
28 for them because they were in the armed forces or their income was from sources other than

1 employment. Beneficial was found to have made such insurance sales in 13 of 86 (15.1%) of the
2 loan files reviewed for compliance with this requirement. The Commissioner directed Beneficial to
3 carry out a self-audit to identify all instances of the violation for loans made since September 1,
4 1998, and to make appropriate refunds. Beneficial has reported a total of 26 violations to date.

5 **3. Violations of the Civil Code**

6 20. During the Commissioner's 2000 regulatory audits, the Commissioner discovered that
7 Beneficial and Household were also engaging in routine violations of consumer protection statutes
8 set forth in the Civil Code. These statutes are not part of the CFLL but are intended to protect
9 borrowers in residential mortgage or deed of trust transactions. The companies' violations of these
10 statutes, in addition to numerous provisions of the CFLL and its rules, constitute further evidence of
11 the wide-ranging and systematic nature of their unlawful conduct.

12 21. During the Commissioner's 2000 regulatory audits, the Commissioner discovered that
13 Household and Beneficial were violating Civil Code § 2954.9 by routinely charging unauthorized
14 prepayment penalties on real estate loans. Household was found to have overcharged prepayment
15 penalties on 7 of 82 (8.5%) of the loans reviewed for compliance with this requirement. The
16 Commissioner directed Household to carry out a self-audit to identify all instances of the violation
17 on loans paid off since June 30, 1998, and to make appropriate refunds. To date Household has
18 reported 1,457 violations. Beneficial was found to have overcharged prepayment penalties on 5 of
19 27 (18.6%) of the loans reviewed for compliance with this requirement. The Commissioner
20 directed Beneficial to carry out a self-audit to identify all instances of the violation on loans paid off
21 from September 1, 1998 to September 1, 2000, and to make appropriate refunds. Beneficial has
22 reported a total of 135 violations to date.

23 22. During the Commissioner's 2000 regulatory audits, the Commissioner discovered that
24 Household, but not Beneficial, was routinely charging prepayment penalties on foreclosed loans in
25 violation of Civil Code § 2954.10. Household was found to have charged prepayment penalties on 4
26 of 82 (4.9%) of the foreclosed loans reviewed for compliance with this requirement. The
27 Commissioner directed Household to carry out a self-audit to identify all instances of the violation
28

1 on loans defaulted since June 30, 1998, and to make appropriate refunds. Household has reported a
2 total of 20 violations to date.

3 **C. Insufficiency of the Self-Audits**

4 23. To date, Household has refunded a total of \$ 537,029.03 representing 11,674
5 overcharges to customers and Beneficial has refunded a total of \$1,107,211.78 representing 24,492
6 overcharges to customers discovered to date through the Commissioner's 2000 regulatory
7 examination and the companies' subsequent self-audits. Attached as Exhibit "1" for convenient
8 reference is a chart summarizing the violations of each of the two companies and the amounts of
9 refunds made by each of the companies in each category of violation.

10 24. As numerous and widespread as the violations by Household and Beneficial of the
11 CFLL, its rules and the Civil Code are reflected to be by the results of their own self-audits, it is also
12 clear that the self-audits have been incomplete. In order to test the thoroughness of Household's
13 subsequent self-audit, the Commissioner purposely withheld information about eight overcharged
14 accounts that were discovered during the 2000 regulatory examination. Of the eight, only two were
15 identified in the report of Household's self-audit. Moreover, two of the six withheld accounts that
16 were not identified involved overcharges of administrative fees on loans with credit limits of \$2500
17 or less, in violation of CFLL 22305.

18 25. Since Beneficial converted its systems to Household's following their merger in June of
19 1998, and since the same company officials supervised the self-audits at both companies, there is no
20 reason to believe that Beneficial's self-audit has been any more complete than Household's. The
21 insufficiency of the self-audits of the two companies is a subject of continuing administrative
22 regulatory investigation by the Commissioner.

23 26. In sum, the Commissioner has determined that Household and Beneficial are currently
24 engaging in joint, pervasive patterns of abusive lending practices, consisting of routine, statewide
25 imposition of excessive and improper fees, penalties, interest and charges in violation of numerous
26 provisions of the CFLL, the rules promulgated pursuant to it, and two consumer protection
27 provisions of the Civil Code. The Commissioner has therefore determined that, in addition to
28 issuing appropriate administrative orders to require Household and Beneficial to desist and refrain

1 from future violations of the CFLL, it is also necessary to bring this action for civil penalties to
2 remedy thousands of violations of law and protect the public from the companies' systematic
3 violations.

4 **FIRST CAUSE OF ACTION**
5 **(CFLL § 22713(c) – Civil Penalties)**
6 **(Household and Beneficial)**

7 27. The Commissioner hereby re-alleges and incorporates by reference paragraphs 1 through
8 26 of this complaint as though fully set forth.

9 28. Since June 30, 1998, and continuing through at least August 31, 2000, Household, its
10 agents, employees and representatives, have violated CFLL § 22305 by charging excessive
11 administrative fees on at least 1,058 loans made with credit limits of \$2,500.00 or less.

12 29. Since September 1, 1998 and continuing through at least December 26, 2000, Beneficial,
13 its agents, employees and representatives have violated CFLL § 22305 by charging excessive
14 administrative fees on at least 863 loans made with amounts of \$2,500.00 or less.

15 30. Since June 30, 1998, and continuing through at least August 31, 2000, Household, its
16 agents, employees and representatives, have violated CFLL § 22305 by charging more than one
17 administrative fee in a year on at least 2,125 loans of \$2,500.00 or less.

18 31. Since September 1, 1998 and continuing through at least December 26, 2000, Beneficial,
19 its agents, employees and representatives have violated CFLL § 22305 by charging more than one
20 administrative fee in a year on at least 8,794 loans of \$2,500.00 or less.

21 32. Since June 30, 1998, and continuing through at least August 31, 2000, Household, its
22 agents, employees and representatives, have violated CFLL § 22320.5 by charging excessive late
23 fees on at least 2,629 loans.

24 33. Since September 1, 1998 and continuing through at least December 26, 2000, Beneficial,
25 its agents, employees and representatives have violated CFLL § 22320.5 by charging excessive late
26 fees on at least 10,769 loans.

1 33. Since June 30, 1998, and continuing through at least August 31, 2000, Household, its
2 agents, employees and representatives, have violated CFLL § 22308 by failing to recast loans that
3 were paid off before the due date of the third installment on at least 645 loans.

4 34. Since September 1, 1998 and continuing through at least December 26, 2000, Beneficial,
5 its agents, employees and representatives have violated CFLL § 22308 by failing to recast loans that
6 were paid off before the due date of the third installment on at least 3,799 loans.

7 35. Since June 30, 1998, and continuing through at least August 31, 2000, Household, its
8 agents, employees and representatives, have violated CFLL § 22336 by charging excessive recording
9 fees on at least 3,740 loans.

10 36. Since September 1, 1998 and continuing through at least December 26, 2000, Beneficial,
11 its agents, employees and representatives have violated CFLL § 22329(3)(5) and California Code of
12 Regulations, title 10, § 1539, a rule adopted pursuant to the CFLL, by charging improper
13 repossession fees on at least 106 automobile loans which resulted in repossessions.

14 38. Since September 1, 1998 and continuing through at least December 26, 2000, Beneficial,
15 its agents, employees and representatives have violated California Code of Regulations, title 10,
16 § 1512, a rule adopted pursuant to the CFLL, by making unsuitable sales of credit and involuntary
17 unemployment insurance in connection with at least 26 loans.

18 39. Each of the Defendants named in this complaint has engaged in, participated in, assisted,
19 aided or abetted in a material way, or directed the violations of the CFLL and rules adopted pursuant
20 to it.

21 40. CFLL § 22713(c) provides:

22 Any person who willfully violates any provision of this division,
23 or who willfully violates any rule or order adopted pursuant to this
24 division, shall be liable for a civil penalty not to exceed two thousand
25 five hundred dollars (\$2,500) for each violation, which shall be assessed
 and recovered in a civil action brought in the name of the people of the
 State of California by the commissioner in any court of competent jurisdiction.

26 To date, and as a result of the Commissioner's 2000 regulatory examination and its own subsequent
27 self-audit, Household has admitted to 10,197 overcharges in violation of the CFLL and rules adopted
28 pursuant to it. To date, and as a result of the Commissioner's 2000 regulatory examination,

1 Beneficial has admitted to 24,357 violations of the CFLL and rules adopted pursuant to it. Each of
2 Household's and Beneficial's violations of the CFLL and its rules has been willful in that each has
3 been the result of purposeful, persistent and obstinate conduct representing, at best, plain
4 indifference and, at worst, intentional disregard of the requirements of California law.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, plaintiff The People of the State of California, by and through the California
7 Corporations Commissioner prays for judgment as follows:

8 1. For an Order of Final Judgment, pursuant to the California Finance Lenders Law
9 § 22713(c), requiring defendant Household to pay civil penalties according to proof, in an amount of
10 no less than \$3,565,000;

11 2. For an Order of Final Judgment, pursuant to the California Finance Lenders Law
12 § 22713(c), requiring defendant Beneficial to pay civil penalties according to proof, in an amount of
13 no less than \$4,991,000;

14 3. For costs and fees according to law; and

15 4. For such additional relief as may be requested hereafter and deemed proper by the
16 Court.

17
18 Dated: November 9, 2001
19 Los Angeles, California

20 DEMETRIOS A. BOUTRIS
21 California Corporations Commissioner

22 By _____
23 JUDY L. HARTLEY
24 Senior Trial Counsel
25 Attorneys for Plaintiff
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27
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HOUSEHOLD FINANCE CORPORATION

Violations By § number	FC 22305	FC 22305	FC 22320.5	FC 22308	FC 22336	CC 2954.9	CC 2954.10	TOTAL
Violation Description	Excessive administrative fee	More than one Administrative Fee in a year	Excessive late fee	Failure to recast loans	Excessive recording fee	Excessive prepayment penalty	Prepayment penalty on foreclosed loans	
# & % per Dept. exam	7 of 15 (46.6%)	7 of 66 (10.6%)	3 of 12 (25%)	5 of 11 (45.5%)	7 of 52 (13.5%)	7 of 82 (8.5%)	4 of 82 (4.9%)	
# per exam & self-audit	1058	2125	2629	645	3740	1457	20	11,674
Total \$ refunds	\$ 79,000	\$ 157,758	\$ 112,850	\$ 2,873	\$ 33,349	\$ 103,610	\$ 47,589	\$ 537,029

BENEFICIAL CALIFORNIA INC.

Violations by § number	FC 22305	FC 22305	FC 22320.5	FC 22308	FC 22329(e)(5) & CCR 1539	CC 2954.9	CCR 1512(a),(b)	TOTAL
Violation Description	Excessive administrative fee	More than one Administrative fee in a year	Excessive late fee	Failure to recast loans	Improper repossession Fee	Excessive prepayment penalty	Unsuitable insurance sale	
# & % per Dept. exam	10 of 30 (33%)	28 of 86 (32.6%)	6 of 19 (31.6%)	11 of 15 (73.3%)	4 of 19 (21.1%)	5 of 27 (18.6%)	13 of 86 (15.1%)	
# per exam & self-audit	863	8,794	10,769	3,799	106	135	26	24,492
Total \$ refunds	\$ 21,575	\$ 628,028	\$ 254,418	\$ 17,663	\$ 33,919	\$ 141,099	\$ 10,509	\$1,107,211