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10 BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

11
12 In the Matter of the Request for a Hearing on the)
Desist and Refrain Order, Citations and Order) OAH No.
13 Voiding Deferred Deposit Transactions issued)
by the California Corporations Commissioner,) Statement in Support of Desist and Refrain
14) Order, Citations and Order Voiding
Complainant,) Deferred Deposit Transactions
15)
16 v.)
17 Cash Center, Inc. doing business as The Loan)
Center and as TLC and Margaret Diego,)
18)
19 Respondents.)

20 Complainant, the California Corporations Commissioner, (“Commissioner”) is informed and
21 believes, and based upon such information and belief, alleges and charges Respondents as follows:

22 INTRODUCTION

23 The Commissioner of the California Department of Corporations (“Department”) is
24 responsible for enforcing all provisions of the of the California Deferred Deposit Transaction Law
25 (“CDDTL”) set forth in California Financial Code sections 23000 et seq. (All future section
26 references are to the Financial Code unless indicated otherwise.) Respondents, Margaret Diego and
27 Cash Center, Inc. doing business as The Loan Center and as TLC, engaged in multiple CDDTL
28 violations.

1 On June 29, 2007, the Commissioner issued a Desist and Refrain Order, Citations and Order
2 Voiding Deferred Deposit Transactions to Respondents pursuant to sections 23050, 23058 and
3 23060 to Respondents for violations of the legal standards required of all deferred deposit
4 transaction originators. Respondents requested a hearing concerning the Department’s action.

5 **I**

6 **FACTS AND PROCEDUAL BACKGROUND**

7 1. Cash Center, Inc., is a California corporation doing business as The Loan Center and as
8 TLC (hereinafter referred to as “Cash Center”) at its place of business, which is located at 18625
9 Sherman Way, Reseda, California 91335. The owner and manager of the Cash Center is Margaret
10 Diego. Respondents are the Cash Center and Margaret Diego.

11 2. The Commissioner has not issued a license to Respondents to engage in the business
12 of deferred deposit transactions pursuant to section 23005. Respondents are not exempt from the
13 licensing requirement of the CDDTL.

14 3. Since at least August 2005 Respondents engaged in the business of deferred deposit
15 transactions by offering, originating and making deferred deposit transactions as described below.

16 4. A deferred deposit transaction is a written transaction whereby one person gives funds
17 to another person upon receipt of a personal check with an agreement that the personal check
18 shall not be deposited until a later date. These transactions are also referred to as “payday
19 advances” or “payday loans.”

20 5. The Cash Center and Margaret Diego were aware that a CDDTL license was required
21 to lawfully engage in the business of deferred deposit transactions. In fact, in documents given
22 to at least thirteen consumers of the Cash Center, Margaret Diego falsely stated that the “Cash
23 Center, Inc. is licensed by the California Department of Corporations” in violation of section
24 23037, subdivision (f).

25 6. On January 31, 2007, the Commissioner’s examiner visited the Cash Center and posed
26 as a potential customer to Margaret Diego, who informed the examiner that funds could be obtained
27 for a deferred deposit transaction but a new customer would not be eligible for more than \$200.

28 7. The Commissioner’s examiner later identified herself as an examiner with the

1 Department and asked Margaret Diego if the Cash Center was licensed. Ms. Diego first stated
2 she was not aware that there was any requirement to have a license and later stated that her
3 accountant had indicated the Cash Center was licensed but there was a problem with a surety
4 bond.

5 8. On January 31, 2007, the owner of the Cash Center, Margaret Diego admitted to the
6 Commissioner’s examiner that Cash Center, doing business as Cash Center, Inc., The Loan
7 Center and TLC, engaged in the business of deferred deposit transactions at the Cash Center’s
8 location in Reseda, California. Ms. Diego stated she did not conduct any other type of business
9 at that location.

10 9. To date the Department has no record of the Cash Center or Ms. Diego or anyone else
11 ever filing on their behalf for a CDDTL license from the Department.

12 10. Ms. Diego responded to the questions asked by the Commissioner’s examiner and
13 stated that the Cash Center had been engaged in deferred deposit transactions since August 2005.
14 When the Commissioner’s examiner requested records, Ms. Diego stated that she was not
15 familiar with new software but she could provide her customer files.

16 11. Margaret Diego produced fourteen customer files which were for customers who had a
17 recent or current loan. Margaret Diego stated that she frequently destroys copies of loan
18 agreements, which is in violation of section 23024 and California Code of Regulations section
19 2025, subdivision (c) (1).

20 12. When the Commissioner’s Corporations examiner reviewed the Cash Center’s
21 records provided by Margaret Diego she found the Cash Center made at least thirteen (13)
22 deferred deposit transactions from August 17, 2005, to January 31, 2007, that involved multiple
23 loans to customers while existing loans were outstanding, in violation of section 23036,
24 subdivision (c), that the Cash Center used the same check for subsequent deferred deposit
25 transactions in violation of section 23037, subdivision (a) and that the Cash Center charged fees
26 for extending the due date of a loan in violation of section 23036, subdivision (b). Respondents
27 also violated other provisions of the CDDTL quoted below.

28 13. Notwithstanding knowledge regarding the licensure requirement, Respondents willfully

1 and knowingly engaged in deferred deposit business without a license from the Commissioner and
2 engaged in deferred deposit transactions that violated various statutory provisions of the CDDTL,
3 as described above. The Department examiner’s review of Respondents’ business revealed
4 multiple violations of the CDDTL warranting the issuance of a Desist and Refrain Order, Citations
5 and Order Voiding Deferred Deposit Transactions. The Commissioner seeks to have his actions
6 upheld and orders issued requiring Respondents to make complete restitution to consumers from
7 whom Respondents received funds.

8 **II**
9 **DEFERRED DEPOSIT TRANSACTION LAW**

10 14. Respondents are within the definition of a “licensee” under the CDDTL found in section
11 23001, subdivision (d). All CDDTL licensees are required to comply with basic legal requirements
12 imposed on all persons so defined concerning notices and advertisements.

13 15. Section 23050 provides in pertinent part:

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

21 16. Section 23007 requires a licensee to maintain a minimum net worth of \$25,000 and, in
22 relevant part, states:

23 The applicant shall file with the application financial statements prepared in
24 accordance with generally accepted accounting principles and acceptable to
25 the commissioner that indicate a net worth of at least twenty-five thousand
26 dollars (\$25,000).

27 17. Section 23023 states:

28 No licensee shall transact the business licensed or make any transaction
provided for by this division under any other name or at any other place of
business than that named in the license except pursuant to a currently
effective written order of the commissioner authorizing the other name or
other place of business.

18. Section 23027 describes the advertising requirements for CDDTL licensees and

1 subdivision (b) states:

2 (b) No licensee shall place an advertisement disseminated primarily in this
3 state for a deferred deposit transaction unless the licensee discloses in the
4 printed text of the advertisement, or the oral text in the case of a radio or
5 television advertisement, that the licensee is licensed by the department
6 pursuant to this division.

7 19. Section 23035, subdivision (c) states:

8 (c) Before entering into a deferred deposit transaction, licensees shall
9 distribute to customers a notice that shall include, but not be limited to, the
10 following:

11 (1) Information about charges for deferred deposit transactions.

12 (2) That if the customer's check is returned unpaid, the customer may
13 be charged an additional fee of up to fifteen dollars (\$15).

14 (3) That the customer cannot be prosecuted in a criminal action in
15 conjunction with a deferred deposit transaction for a returned check
16 or be threatened with prosecution.

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

19 (5) That the licensee may not accept any collateral in conjunction with
20 a deferred deposit transaction.

21 (6) That the check is being negotiated as part of a deferred deposit
22 transaction made pursuant to Section 23035 of the Financial Code
23 and is not subject to the provisions of Section 1719 of the Civil
24 Code. No customer may be required to pay treble damages if this
25 check does not clear.

26 20. Section 23035, subdivision (d), requires posting of required notices and in

27 relevant part states:

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

21. Section 23035 subdivision (e) states:

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

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(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.

(2) A clear description of the customer's payment obligations as required under the Federal Truth In Lending Act and its regulations.

(3) The name, address, and telephone number of the licensee.

(4) The customer's name and address.

(5) The date to which deposit of check has been deferred (due date).

(6) The payment plan, or extension, if applicable as allowed under subdivision (c) of Section 23036.

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

(8) Disclosure of any returned check charges.

(9) That the customer cannot be prosecuted or threatened with prosecution to collect.

(10) That the licensee cannot accept collateral in connection with the transaction.

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

(12) Signature space for the customer and signature of the licensee or authorized representative of the licensee and date of the transaction.

(13) Any other information that the commissioner shall deem necessary by regulation.

22. Section 23036, subdivisions (a), (c), (e) and (f), limit fees and transactions stating:

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

(c) A licensee shall not enter into an agreement for a deferred deposit transaction with a customer during the period of time that an earlier written agreement for a deferred deposit transaction for the same customer is in effect.

(e) A fee not to exceed fifteen dollars (\$15) may be charged for the return of a dishonored check by a depository institution in a deferred deposit transaction. A single fee charged pursuant to this subdivision is the exclusive charge for a dishonored check. No fee may be added for late payment.

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

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transaction.

23. Section 23037 limits a licensee’s transactions and activities and in relevant part states:

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

(a) Accept or use the same check for a subsequent transaction, or permit a customer to pay off all or a portion of one deferred deposit transaction with the proceeds of another.

...

(f) engage in any unfair, unlawful, or deceptive conduct, or make any statement that is likely to mislead in connection with the business of deferred deposit transaction.

24. California Code of Regulations, title 10, section 2025, subdivision (c)(1) specifies that books and records must be maintained for two (2) years, as set forth below.

(c)(1) Except as provided in subsection (e), records to be maintained at each licensed business location for each deferred deposit transaction shall include at least the following: the deferred deposit transaction agreement, evidence of the check, written disclosure(s) used to provide notice in compliance with subdivision (c) of Section 23035 of the Financial Code, record of any and all extensions of time or payment plans for repayment of an existing deferred deposit transaction, record of time periods for each transaction, record of transaction fees and charges, and record of transaction payments.

**III
DEFERRED DEPOSIT TRANSACTION LAW VIOLATIONS**

25. Respondents were informed about their violations at the time of the examination. On June 29, 2007, the Commissioner issued to Respondents “Citations and Desist and Refrain Order” citing them for fourteen violations of the CDDTL. The Citations issued are set forth below:

26. **Citation A.** On or about the following dates: December 29, 2006, and January 12, 2007, the Cash Center originated deferred deposit transactions with a customer (G.C.) in the amount of \$300 each, in violation of the following provisions of the CDDTL:

- a. The Cash Center falsely represented itself to be licensed when it was not, in violation of Financial Code section 23037, subdivision (f);
- b. The Cash Center failed to maintain records as required in violation of

1 Financial Code section 23024 and California Code of Regulations section
2 2025, subdivision (c) (1);

- 3 c. The Cash Center engaged in multiple transactions with this customer while
4 existing transactions were outstanding, in violation of Financial Code section
5 23036, subdivision (c);
- 6 d. The Cash Center used the same check for subsequent deferred deposit
7 transactions in violation of Financial Code section 23037, subdivision (a); and,
- 8 e. The Cash Center charged fees for extending the due date of a loan in violation
9 of section 23036, subdivision (b);

10 27. **Citation B.** On or about the following dates: December 22, 2006, and January 5
11 and January 23, 2007, the Cash Center originated deferred deposit transactions with a customer
12 (T.N.) in the amount of \$300 each, in violation of the following provisions of the CDDTL:

- 13 a. The Cash Center falsely represented itself to be licensed when it was not, in
14 violation of Financial Code section 23037, subdivision (f);
- 15 b. The Cash Center failed to maintain records as required in violation of
16 Financial Code section 23024 and California Code of Regulations section
17 2025, subdivision (c) (1);
- 18 c. The Cash Center engaged in multiple transactions with this customer while
19 existing transactions were outstanding, in violation of Financial Code section
20 23036, subdivision (c);
- 21 d. The Cash Center used the same check for subsequent deferred deposit
22 transactions in violation of Financial Code section 23037, subdivision (a); and,
- 23 e. The Cash Center charged fees for extending the due date of a loan in violation
24 of section 23036, subdivision (b).

25 28. **Citation C.** On or about the following dates: December 29, 2006, and January 13,
26 January 29, and February 12, 2007, the Cash Center originated deferred deposit transactions with a
27 customer (L.L.) in the amount of \$300 each, in violation of the following provisions of the CDDTL:

- 28 a. The Cash Center falsely represented itself to be licensed when it was not, in

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- violation of Financial Code section 23037, subdivision (f);
- b. The Cash Center failed to maintain records as required in violation of Financial Code section 23024 and California Code of Regulations section 2025, subdivision (c) (1);
- c. The Cash Center engaged in multiple transactions with this customer while existing transactions were outstanding, in violation of Financial Code section 23036, subdivision (c);
- d. The Cash Center used the same check for subsequent deferred deposit transactions in violation of Financial Code section 23037, subdivision (a); and,
- e. The Cash Center charged fees for extending the due date of a loan in violation of section 23036, subdivision (b).

29. **Citation D.** On or about the following dates: December 29, 2006, and January 16, 2007, the Cash Center originated deferred deposit transactions with a customer (B.C.) in the amount of \$300 each, in violation of the following provisions of the CDDTL:

- a. The Cash Center falsely represented itself to be licensed when it was not, in violation of Financial Code section 23037, subdivision (f);
- b. The Cash Center failed to maintain records as required in violation of Financial Code section 23024 and California Code of Regulations section 2025, subdivision (c) (1);
- c. The Cash Center engaged in multiple transactions with this customer while existing transactions were outstanding, in violation of Financial Code section 23036, subdivision (c);
- d. The Cash Center used the same check for subsequent deferred deposit transactions in violation of Financial Code section 23037, subdivision (a); and,
- e. The Cash Center charged fees for extending the due date of a loan in violation of section 23036, subdivision (b).

30. **Citation E.** On or about the following dates: January 2, 2007, and January 15, January 31, 2007, the Cash Center originated deferred deposit transactions with a customer (P.S.)

1 in the amount of \$300 each, in violation of the following provisions of the CDDTL:

- 2 a. The Cash Center falsely represented itself to be licensed when it was not, in
3 violation of Financial Code section 23037, subdivision (f);
- 4 b. The Cash Center failed to maintain records as required in violation of
5 Financial Code section 23024 and California Code of Regulations section
6 2025, subdivision (c) (1);
- 7 c. The Cash Center engaged in multiple transactions with this customer while
8 existing transactions were outstanding, in violation of Financial Code section
9 23036, subdivision (c);
- 10 d. The Cash Center used the same check for subsequent deferred deposit
11 transactions in violation of Financial Code section 23037, subdivision (a); and,
- 12 e. The Cash Center charged fees for extending the due date of a loan in violation
13 of section 23036, subdivision (b).

14 31. **Citation F.** On or about the following dates: January 15, 2007, and January 31,
15 2007, the Cash Center originated deferred deposit transactions with a customer (V.C.) in the
16 amount of \$300 each, in violation of the following provisions of the CDDTL:

- 17 a. The Cash Center falsely represented itself to be licensed when it was not, in
18 violation of Financial Code section 23037, subdivision (f);
- 19 b. The Cash Center failed to maintain records as required in violation of
20 Financial Code section 23024 and California Code of Regulations section
21 2025, subdivision (c) (1);
- 22 c. The Cash Center engaged in multiple transactions with this customer while
23 existing transactions were outstanding, in violation of Financial Code section
24 23036, subdivision (c);
- 25 d. The Cash Center used the same check for subsequent deferred deposit
26 transactions in violation of Financial Code section 23037, subdivision (a); and,
- 27 e. The Cash Center charged fees for extending the due date of a loan in violation
28 of section 23036, subdivision (b).

1 32. **Citation G.** On or about the following dates: October 20, November 8, November
2 27, December 15, and December 29, 2006, January 12, 2007, and January 26, 2007, the Cash
3 Center originated deferred deposit transactions with a customer (T.A.) in the amount of \$300
4 each, in violation of the following provisions of the CDDTL:

- 5 a. The Cash Center falsely represented itself to be licensed when it was not, in
6 violation of Financial Code section 23037, subdivision (f);
- 7 b. The Cash Center failed to maintain records as required in violation of
8 Financial Code section 23024 and California Code of Regulations section
9 2025, subdivision (c) (1);
- 10 c. The Cash Center engaged in multiple transactions with this customer while
11 existing transactions were outstanding, in violation of Financial Code section
12 23036, subdivision (c);
- 13 d. The Cash Center used the same check for subsequent deferred deposit
14 transactions in violation of Financial Code section 23037, subdivision (a); and,
- 15 e. The Cash Center charged fees for extending the due date of a loan in violation
16 of section 23036, subdivision (b).

17 33. **Citation H.** On or about the following dates: October 13, October 28, November 17,
18 November 30, December 15, and December 29, 2006, and January 12, 2007, the Cash Center
19 originated deferred deposit transactions with a customer (K.A.) in the amount of \$300 each, in
20 violation of the following provisions of the CDDTL:

- 21 a. The Cash Center falsely represented itself to be licensed when it was not, in
22 violation of Financial Code section 23037, subdivision (f);
- 23 b. The Cash Center failed to maintain records as required in violation of
24 Financial Code section 23024 and California Code of Regulations section
25 2025, subdivision (c) (1);
- 26 c. The Cash Center engaged in multiple transactions with this customer while
27 existing transactions were outstanding, in violation of Financial Code section
28 23036, subdivision (c);

- d. The Cash Center used the same check for subsequent deferred deposit transactions in violation of Financial Code section 23037, subdivision (a); and,
- e. The Cash Center charged fees for extending the due date of a loan in violation of section 23036, subdivision (b).

34. **Citation I.** On or about the following dates: August 17, August 20, September 8, September 16, October 5, October 17, November 14, November 28, December 2, and December 28, 2005, and January 3, January 20, February 1, February 16, March 7, March 17, April 7, April 17, May 4, June 2, July 1, August 12, September 6, November 1, and December 2, 2006, January 2 and January 18, 2007, the Cash Center originated deferred deposit transactions with a customer (R.N.) in the amount of \$300 each, in violation of the following provisions of the CDDTL:

- a. The Cash Center falsely represented itself to be licensed when it was not, in violation of Financial Code section 23037, subdivision (f);
- b. The Cash Center failed to maintain records as required in violation of Financial Code section 23024 and California Code of Regulations section 2025, subdivision (c) (1);
- c. The Cash Center engaged in multiple transactions with this customer while existing transactions were outstanding, in violation of Financial Code section 23036, subdivision (c);
- d. The Cash Center used the same check for subsequent deferred deposit transactions in violation of Financial Code section 23037, subdivision (a); and,
- e. The Cash Center charged fees for extending the due date of a loan in violation of section 23036, subdivision (b).

35. **Citation J.** On or about the following dates: December 29, 2006, and January 11 and January 25, 2007, the Cash Center originated deferred deposit transactions with a customer (J.G.) in the amount of \$300 each, in violation of the following provisions of the CDDTL:

- a. The Cash Center falsely represented itself to be licensed when it was not, in violation of Financial Code section 23037, subdivision (f);

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- b. The Cash Center failed to maintain records as required in violation of Financial Code section 23024 and California Code of Regulations section 2025, subdivision (c) (1);
- c. The Cash Center engaged in multiple transactions with this customer while existing transactions were outstanding, in violation of Financial Code section 23036, subdivision (c);
- d. The Cash Center used the same check for subsequent deferred deposit transactions in violation of Financial Code section 23037, subdivision (a); and,
- e. The Cash Center charged fees for extending the due date of a loan in violation of section 23036, subdivision (b).

36. **Citation K.** On or about the following dates: January 20, May 5, May 22, June 7, June 20, July 6, August 18, September 22, October 9, October 24, November 9, November 23, December 6, December 29, 2006, and January 3, January 18, 2007, and January 31, 2007, the Cash Center originated deferred deposit transactions with a customer (A. B.) in the amount of \$300 each, and on February 11, February 27 and March 13, 2006, originated deferred deposit transactions in the amount of \$176 each, in violation of the following provisions of the CDDTL:

- a. The Cash Center falsely represented itself to be licensed when it was not, in violation of Financial Code section 23037, subdivision (f);
- b. The Cash Center failed to maintain records as required in violation of Financial Code section 23024 and California Code of Regulations section 2025, subdivision (c) (1);
- c. The Cash Center engaged in multiple transactions with this customer while existing transactions were outstanding, in violation of Financial Code section 23036, subdivision (c);
- d. The Cash Center used the same check for subsequent deferred deposit transactions in violation of Financial Code section 23037, subdivision (a); and,
- e. The Cash Center charged fees for extending the due date of a loan in violation of section 23036, subdivision (b).

1 37. **Citation L.** On or about the following dates: December 19, 2006, and January 4
2 and January 17, 2007, the Cash Center originated deferred deposit transactions with a customer
3 (S.M.) in the amount of \$300 each, in violation of the following provisions of the CDDTL:

- 4 a. The Cash Center falsely represented itself to be licensed when it was not, in
5 violation of Financial Code section 23037, subdivision (f);
- 6 b. The Cash Center failed to maintain records as required in violation of
7 Financial Code section 23024 and California Code of Regulations section
8 2025, subdivision (c) (1);
- 9 c. The Cash Center engaged in multiple transactions with this customer while
10 existing transactions were outstanding, in violation of Financial Code section
11 23036, subdivision (c);
- 12 d. The Cash Center used the same check for subsequent deferred deposit
13 transactions in violation of Financial Code section 23037, subdivision (a); and,
- 14 e. The Cash Center charged fees for extending the due date of a loan in violation
15 of section 23036, subdivision (b).

16 38. **Citation M.** Between August 2005 and January 31, 2007, the Cash Center
17 offered to originate a consumer deferred deposit transaction with a customer (B.G.) in violation
18 of the following provision of the CDDTL:

- 19 a. The Cash Center falsely represented itself to be licensed when it was not, in
20 violation of Financial Code section 23037, subdivision (f);

21 39. **Citation N.** In November 2005 and continuing thereafter Margaret Diego and
22 the Cash Center agreed to buy a consumer’s (J.N.) outstanding loans obtained from other CDDTL
23 companies by offering a “consolidation option” wherein the consumer would make one payment
24 of \$45 of which \$25 would apply to the loan balance. This consumer made weekly and bi-weekly
25 payments ranging from \$235 to \$255 to the Cash Center that allowed the consumer to extend or
26 rollover the loan in violation of the following provisions of the CDDTL:

- 27 a. The Cash Center falsely represented itself to be licensed when it was not, in
28 violation of Financial Code section 23037, subdivision (f);

- 1 b. The Cash Center failed to maintain records as required in violation of
- 2 Financial Code section 23024 and California Code of Regulations section
- 3 2025, subdivision (c)(1);
- 4 c. The Cash Center engaged in multiple transactions with customers while
- 5 existing transactions were outstanding, in violation of Financial Code section
- 6 23036, subdivision (c);
- 7 d. The Cash Center used the same check for subsequent deferred deposit
- 8 transactions in violation of Financial Code section 23037, subdivision (a); and,
- 9 e. The Cash Center charged fees for extending the due date of a loan in violation
- 10 of section 23036, subdivision (b).

CITATIONS

12 Pursuant to Financial Code section 23058, the Cash Center, Inc. doing business as The
13 Loan Center and TLC and Margaret Diego are hereby ordered to pay to the Commissioner within
14 30 days from the date of these Citations an administrative penalty of two thousand five hundred
15 dollars (\$2,500) for the citations listed below for the total amount of thirty-five thousand dollars
16 (\$35,000).

- 17 CITATION A. - \$2,500
- 18 CITATION B. - \$2,500
- 19 CITATION C. - \$2,500
- 20 CITATION D. - \$2,500
- 21 CITATION E. - \$2,500
- 22 CITATION F. - \$2,500
- 23 CITATION G. - \$2,500
- 24 CITATION H. - \$2,500
- 25 CITATION I. - \$2,500
- 26 CITATION J. - \$2,500
- 27 CITATION K. - \$2,500
- 28 CITATION L. - \$2,500

1 CITATION M. - \$2,500

2 CITATION N. - \$2,500

3 **IV**

4 **COMMISSISONER’S AUTHORITY TO ISSUE CITATIONS**

5 Section 23058 gives the Commissioner authority to issues citations and states:

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

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

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

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

25 (e) After the exhaustion of the review procedures provided for in this
26 section, the department may apply to the appropriate superior court for a
27 judgment in the amount of the administrative penalty and order
28 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.

V

COMMISSISONER’S AUTHORITY TO ISSUE A DESIST AND REFRAIN ORDER

Respondents engaged in the business of deferred deposit transactions that violated the above provisions of the CDDTL. Section 23050 provides in pertinent part:

Statement in Support of Desist and Refrain Order, Citations
and Order Voiding Deferred Deposit Transactions

1 Whenever, in the opinion of the commissioner, any person is engaged in
2 the business of deferred deposit transactions, as defined in this division,
3 without a license from the commissioner, or any licensee is violating any
4 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.

5 Pursuant to section 23050, the Commissioner ordered Respondents to desist and refrain
6 from engaging in the business of deferred deposit transactions in the State of California in
7 violation of sections 23005, 23024, 23036 and 23037. The Commissioner's Desist and Refrain
8 Order was properly issued and necessary for the protection of consumers and consistent with the
9 purposes, policies and provisions of the CDDTL. It is apparent that Respondents also violated
10 sections 23007, 23023, 23027, 23035 and California Code of Regulations, title 10, section 2025.
11 Thus, Respondents should also be ordered to desist and refrain from violating these CDDTL
12 sections.

13 VI

14 ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS

15 Respondents willfully violated section 23005, 23023, 23024, 23027, 23035, 23036 and
16 23037 of the CDDTL and California Code of Regulations, title 10, section 2025 by entering into
17 multiple consumer deferred deposit transactions without a license and in violation of mandatory
18 provisions of the CDDTL. Section 23060 states:

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

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

26 Pursuant to Financial Code section 23060, subdivisions (a) and (b), all Respondents'
27 deferred deposit transactions totaling at least \$25,000 shall be declared void, and no person shall
28 have any right to collect or receive any amount provided in the deferred deposit transaction or the

1 charges or fees in connection with those transactions.

2 **VII**

3 **CONCLUSION**

4 Complainant finds that Respondents, Margaret Diego and Cash Center, Inc. doing business
5 as The Loan Center and as TLC, violated sections 23005, 23007, 23023, 23024, 23027, 23035,
6 23036, 23037, and California Code of Regulations, title 10, section 2025. The Commissioner is
7 justified in (1) issuing Citations to Respondents pursuant to section 23058; (2) issuing a Desist and
8 Refrain Order to Respondents pursuant to section 23050; and, (3) voiding contracts and requiring
9 restitution of all amounts collected from consumers pursuant to section 23060.

10 WHEREFORE, Complainant, the California Corporations Commissioner prays that

- 11 1. Respondents be ordered pursuant to Financial Code section 23058 to
- 12 immediately pay to the Commissioner an administrative penalty in the total
- 13 amount of thirty-five thousand dollars (\$35,000) for Citations A through N;
- 14 2. The Desist and Refrain Order issued pursuant to Financial Code section
- 15 23050 be affirmed to prohibit Respondents from violating Financial Code
- 16 sections 23005, 23024, 23036, and 23037 and further that Respondents be
- 17 ordered to also desist and refrain from violating sections 23007, 23023, 23027,
- 18 23035 and California Code of Regulations section 2025;
- 19 3. Respondents' deferred deposit transactions with consumers, which total at
- 20 least 87, be voided; and, Respondents ordered, pursuant to Financial Code
- 21 section 23060, to pay restitution to the California consumers of at least twenty-
- 22 five thousand dollars (\$25,000) for the above-described violations.

23 Dated: August 10, 2007
24 San Francisco, California

25 Respectfully submitted,

26 PRESTON DuFAUCHARD
27 California Corporations Commissioner

28 By _____

Joan E. Kerst, Senior Corporations Counsel
Attorney for Complainant