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7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of the Accusation of THE) File No.: 100-1765
CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) ACCUSATION
14 Complainant,)
15 vs.)
16 KASHIA GOMEZ, DBA, MAIN ST POSTAL)
17 PLUS,)
18 Respondent.)
19)
20)
21)

22 I

23 The Complainant is informed and believes, and based upon such information and belief,
24 alleges and charges Respondent as follows:

25 Respondent KASHIA GOMEZ, DBA, MAIN ST POSTAL PLUS (“MAIN ST POSTAL
26 PLUS”) is a deferred deposit transaction originator licensed by the California Corporations
27 Commissioner (“Commissioner”) pursuant to the California Deferred Deposit Transaction Law
28

1 (California Financial Code § 23000 et seq.). MAIN ST POSTAL PLUS has its principal place of
2 business located at 721 E. Main St., Santa Maria, California 93454.

3 II

4 On or about September 21, 2006, the Commissioner commenced a regulatory examination of
5 the books and records of MAIN ST POSTAL PLUS. During the regulatory examination, the
6 Department's examiner found the following violations:

7 1) MAIN ST POSTAL PLUS was charging its customers fees for extending the time within
8 which the customer had to repay its deferred deposit transaction in violation of California Financial
9 Code section 23036, subsections (b) and (c). MAIN ST POSTAL PLUS commenced charging its
10 customers for payment extensions on or about December 31, 2004 and continued doing so through at
11 least August 31, 2006. During this period, MAIN ST POSTAL PLUS charged illegal extension fees
12 on at least 267 occasions totaling \$11,132. The illegal extension ranged from \$35 to \$45 per
13 extension;

14 2) MAIN ST POSTAL PLUS routinely failed to disclose the annual percentage rate ("APR")
15 and customer payment obligations in violation of California Financial Code section 23035
16 (e)(1),(3),(4),(7),(9) and (11);

17 3) MAIN ST POSTAL PLUS failed to maintain a net worth of at least \$25,000 at all times as
18 provided for in California Financial Code section 23007;

19 4) MAIN ST POSTAL PLUS was using the name "Postal Plus." Pursuant to California
20 Financial Code section 23023, MAIN ST POSTAL PLUS is required to conduct business under the
21 name that is reflected on its license issued by the Commissioner. At the present time, the only
22 authorized names are "KASHIA GOMEZ" and "MAIN ST POSTAL PLUS";

23 5) A number of transactional documents contained blanks that were left to be filled in after
24 execution, in violation of California Financial Code section 23037, subsection (h);

25 6) MAIN ST POSTAL PLUS' advertisement did not indicate that it was licensed by the
26 Department of Corporations pursuant to the California Deferred Deposit Transaction Law as required
27 by California Financial Code section 23027, subsection (b);

28 7) MAIN ST POSTAL PLUS did not post the required notices clearly and conspicuously

1 according to California Financial Code section 23035, subsection (d) (1) and (2);

2 8) The fee schedule provided by MAIN ST POSTAL PLUS did not include the items
3 required in California Financial Code section 23035, subsection (c)(3), (4) and (6);

4 In a regulatory letter dated November 14, 2006, the Department requested that MAIN ST
5 POSTAL PLUS discontinue the violations noted during the regulatory examination of September 21,
6 2006 and refund the overcharges to the customers. MAIN ST POSTAL PLUS has failed to
7 discontinue the violations and has failed to refund the overcharges to its customers.

8 On November 21, 2006, an invoice for the costs of the regulatory examination conducted on
9 September 21, 2006 was mailed to MAIN ST POSTAL PLUS. To date, MAIN ST POSTAL PLUS
10 has failed to pay for the costs of the regulatory examination in violation of California Financial Code
11 section 23046(b).

12 On January 8, 2007, the Department notified MAIN ST POSTAL PLUS that its surety bond,
13 in the amount of \$25,000, was due to be cancelled on January 13, 2007. MAIN ST POSTAL PLUS
14 was instructed to file a new replacement bond with the Department immediately. MAIN ST.
15 POSTAL PLUS has failed submit a replacement bond in violation of California Financial Code
16 section 23013.

17 III

18 California Financial Code section 23036, in pertinent part, provides:

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

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

25 California Financial Code section 23035, in pertinent part, provides:

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

28 ...

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

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

5 . . .

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

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

12 (1) The licensee cannot use the criminal process against a consumer to collect any deferred
 13 deposit transaction.

14 (2) The schedule of all charges and fees to be charged on those deferred deposit transactions
 15 with an example of all charges and fees that would be charged on at least a one-hundred-dollar (\$100)
 16 and a two-hundred-dollar (\$200) deferred deposit transaction, payable in 14 days and 30 days,
 17 respectively, giving the corresponding annual percentage rate. The information may be provided in a
 18 chart as follows:

Amount	Fee	Amount of Check	14-day APR	30-day APR
Provided				
\$100	XX	XXX	XXX	XXX
\$200	XX	XXX	XXX	XXX

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

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

25 . . .

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

27 (4) The customer's name and address.

28 . . .

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

. . .

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

. . .

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

California Financial Code section 23007, in relevant part, provides:

. . . A licensee, regardless of the number of licensed locations, shall maintain a net worth of at
 least twenty-five thousand dollars (\$25,000) at all times.

1 California Financial Code section 23023 provides:

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

6 California Financial Code section 23027 provides, in pertinent part:

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

11 California Financial Code Section 23037, in relevant part, provides:

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

13 . . .

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

16 California Financial Code Section 23013 provides:

17 a) A licensee shall maintain a surety bond in accordance with this subdivision in the amount
18 of twenty-five thousand dollars (\$25,000). The bond shall be payable to the commissioner and issued
19 by an insurer authorized to do business in this state. A copy of the bond, including any and all riders
20 and endorsements executed subsequent to the effective date of the bond, shall be filed with the
21 commissioner for review and approval within 10 days of execution. For licensees with multiple
22 licensed locations, only one surety bond in the amount of twenty-five thousand dollars (\$25,000) is
23 required. The bond shall be used for the recovery of expenses, fines, and fees levied by the
24 commissioner in accordance with this division or for losses or damages incurred by consumers as the
25 result of a licensee's noncompliance with the requirements of this division.

26 (b) When an action is commenced on a licensee's bond, the commissioner may require the
27 filing of a new bond. Immediately upon recovery of any action on the bond, the licensee shall file a
28 new bond. Failure to file a new bond within 10 days of the recovery on a bond, or within 10 days
after notification by the commissioner that a new bond is required, constitutes sufficient grounds for
the suspension or revocation of the license.

California Financial Code Section 23046, in relevant part, provides:

b) The cost of each examination of a licensee or a person subject to this division shall be
paid to the commissioner by the licensee or person examined, and the commissioner may maintain an
action for the recovery of the cost in any court of competent jurisdiction. In determining the cost of
an examination, the commissioner may use the estimated average hourly cost for all persons
performing examinations of licensees or other persons subject to this division for the fiscal year.

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IV

California Financial Code Section 23052 provides, in relevant part:

The commissioner may suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following:

(a) The licensee has failed to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this division.

(b) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.

The Commissioner finds that, by reason of the foregoing, MAIN ST POSTAL PLUS has violated California Financial Code sections 23007; 23023; 23027, subsection (b); 23035, subsections (d)(1) and (2), (e)(1),(3),(4),(7),(9), and (11); 23036, subsections (b) and (c); 23037, subsection (h); 23013; and 23046, subsection (b), which are grounds to revoke the deferred deposit transaction license of MAIN ST POSTAL PLUS.

WHEREFORE, IT IS PRAYED that the deferred deposit transaction license of MAIN ST POSTAL PLUS be revoked.

Dated: January 31, 2007
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
MARLOU de LUNA
Senior Corporations Counsel