

1 PRESTON DUFAUCHARD
California Corporations Commissioner
2 WAYNE STRUMPFER
Deputy Commissioner
3 ALAN S. WEINGER (CA BAR NO. 86717)
Lead Corporations Counsel
4 Department of Corporations
320 West 4th Street, Ste. 750
5 Los Angeles, California 90013-2344

6 Attorneys for Complainant

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

10 In the Matter of the Accusation of THE) Case No.: 100-0371; 100-0373
11 CALIFORNIA CORPORATIONS)
12 COMMISSIONER,) ACCUSATION
13)
Complainant,)
14 vs.)
15 MONEYBACK, INC. doing business as CASH)
16 N ADVANCE)
17 Respondent.)
18 _____)

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

21 I

22 Respondent Moneyback, Inc. doing business as Cash N Advance (“Cash N Advance”) is a
23 deferred deposit transaction originator licensed by the California Corporations Commissioner
24 (“Commissioner”) pursuant to the California Deferred Deposit Transaction Law (California
25 Financial Code § 23000 et seq.) (“CDDTL”). Cash N Advance is licensed as a corporation that has
26 its principal place of business located at 3152 Main St., San Diego, CA 91113 and an additional
27 licensed location at 507 North Coast Hwy, Oceanside, CA 92054.
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II

Pursuant to California Financial Code section 23026, all CDDTL licensees were required to file an Annual Report on or before March 15, 2007. Pursuant to Financial Code section 23057, all licensees were required to file a Survey on or before March 15, 2007. The Annual Report forms, Survey forms and instructions were mailed to all licensees on or about January 5, 2007. On or about March 27, 2007, Cash N Advance was notified by certified mail, return receipt requested that the Annual Report and Survey had to be filed no later than the close of business on April 13, 2007 to avoid revocation of its CDDTL licenses.

Cash N Advance has yet to file the Annual Report and Survey in violation of California Financial Code section 23026 and 23057.

III

California Financial Code section 23026 provides in pertinent part:

On or before March 15 of each year, beginning March 2006, each licensee shall file an annual report with the commissioner pursuant to procedures that the commissioner shall establish. The licensee's annual report shall be kept confidential pursuant to Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code and any regulations adopted thereunder. The annual consolidated report shall be prepared by the commissioner and made available to the public. For the previous calendar year, these reports shall include the following:

- (a) The total number and dollar amount of deferred deposit transactions made by the licensee.
- (b) The total number of individual customers who entered into deferred deposit transactions.
- (c) The minimum, maximum, and average amount of deferred deposit transactions.
- (d) The average annual percentage rate of deferred deposits.
- (e) The average number of days of deferred deposit transactions.
- (f) The total number and dollar amount of returned checks.
- (g) The total number and dollar amount of checks recovered.
- (h) The total number and dollar amount of checks charged off.

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California Financial Code section 23057 provides that:

On December 1, 2007, the commissioner shall report to the Governor and the Legislature on its implementation of this division. The report shall include, at a minimum, information regarding the demand for deferred deposit transactions, the growth and trends in the industry, common practices for conducting the business of deferred deposit transactions, the advertising practices of the industry, including any violations of Section 23027, and any other information the commissioner deems necessary to inform the Governor and the Legislature regarding potential legislation that may be necessary to protect the people of the State of California. The commissioner's recommendations for future action may include, but are not limited to, changes in the fees charged to consumers, specifications regarding the length of time for deferred deposit transactions, maximum amount provided to consumers, additional regulation of advertising practices, and the implementation of an installment loan product in lieu of a deferred deposit transaction as described in this division.

As the commissioner conducts this study, licensees shall be required to supply all information the commissioner deems necessary. The study shall be made public and may not include any proprietary information.

California Financial Code section 23052 provides in pertinent 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.
- (c) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

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IV

The Commissioner finds that, by reason of the foregoing, Cash N Advance has violated California Financial Code sections 23052 and 23057, and based thereon, grounds exist to revoke the deferred deposit transaction licenses of Cash N Advance.

WHEREFORE, IT IS PRAYED that the deferred deposit transaction licenses of Cash N Advance be revoked.

Dated: May 1, 2007

Los Angeles, California

PRESTON DuFAUCHARD

California Corporations Commissioner

By _____
Steven C. Thompson
Special Administrator