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

12	In the Matter of the Accusation of)	
13	THE CALIFORNIA CORPORATIONS)	File No.: 100-3134
14	COMMISSIONER,)	
15	Complainant,)	1) ACCUSATION TO REVOKE
16	vs.)	LICENSE;
17	JRMM, L.L.C. dba Mister Cash,)	2) CITATIONS AND DESIST AND
18	Respondent)	REFRAIN ORDER;
19)	3) ORDER VOIDING LOANS

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

22 INTRODUCTION

23 On May 5, 2006, the Commissioner of the Department of Corporations (“Department”)
24 issued to Respondent, JRMM, L.L.C., doing business as Mister Cash, a deferred deposit transaction
25 originator license (File No. 100-3134) pursuant to the California Deferred Deposit Transaction Law
26 (“CDDTL”) set forth in California Financial Code section 23000 et seq. (All future references to
27 sections are to the California Financial Code unless indicated otherwise.)

28 Respondent violated numerous provisions of the CDDTL. If the Commissioner had known

1 Respondent would engage in a scheme that violated multiple provisions of the California Financial
2 Code, the Commissioner would have denied a license to Respondent. In view of the extent, nature
3 and duration of violations, the Commissioner believes it is in the best interests of the public to
4 revoke Respondent’s CDDTL license pursuant to section 23052. The Commissioner has issued a
5 Desist and Refrain order, twenty-two (22) citations in the amount of \$2,500 per citation, and an
6 order voiding 22 loans totaling \$5,094.10 made by Respondent, pursuant to sections 23050, 23058
7 and 23060, respectively.

8 I

9 FACTUAL BACKGROUND

10 1. The Department is responsible for enforcing provisions of the CDDTL and authorized
11 to pursue administrative actions and remedies against licensees who engage in violations of the
12 CDDTL.

13 2. Since at least July 15, 2006, Respondent has engaged in the business of deferred
14 deposit transactions by offering, originating and making deferred deposit transactions.

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

19 4. Respondent engaged in CDDTL violations. On August 28, 2007, the Commissioner’s
20 examiner visited Respondent’s business location after giving the licensee oral advance notice of the
21 Department’s examination.

22 5. The Department examiner’s subsequent review of Respondent’s business revealed the
23 CDDTL violations described below warranting a revocation, penalties and restitution to consumers.

24 II

25 DEFERRED DEPOSIT TRANSACTION LAW

26 6. Respondents are required to comply with legal requirements imposed on all CDDTL
27 licensees that include agreeing not to prosecute or threaten with criminal prosecution any customer
28 for failure to comply with the terms of the agreement.

1 7. Section 23035, subdivisions (b), (c), (d) and (e) specify the requirements for deferred
2 deposit transactions, stating, in relevant part:

3 (b) A customer who enters into a deferred deposit transaction and offers
4 a personal check to a licensee pursuant to an agreement shall not be
5 subject to any criminal penalty for the failure to comply with the terms
6 of that agreement.

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

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

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

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

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

24 (8) Disclosure of any returned check charges.

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

27 8. Subdivisions (a), (e) and (f) of section 23036, limit the type and amount of fees and
28 charges that customers can be required to pay. These subdivisions, in relevant part, state:

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

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(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 transaction.

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

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

(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 transactions.

III

RESPONDENTS’ DEFERRED DEPOSIT TRANSACTION LAW VIOLATIONS

10. When questioned by the Commissioner’s representative about the non-sufficient funds (NSF) checks, Respondent stated that it filed complaints about its customers’ NSF checks with the Office of the District Attorney (“DA”) in Shasta County in accordance with the DA’s Bad Check Program. The complaints filed with the DA’s Office about NSF checks require declaring under penalty of perjury that a complainant knows he or she is filing a criminal complaint.

11. Respondent filed criminal complaints about NSF checks under penalty of perjury with the DA’s Office. As a direct result of Respondent’s criminal complaints about NSF checks, Respondent’s customers received letters from the Shasta County DA’s Office threatening them with criminal prosecution if they failed to make restitution in accordance with the DA’s Bad Check Program.

12. Each customer whose NSF checks are processed by the Bad Check Program are also assessed an administration fee of \$35.00 and a diversion fee of \$50.00 by the District Attorney.

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deposited in the State Corporations Fund.

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

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

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

CITATIONS

18. Pursuant to Financial Code section 23058, Respondent is hereby ordered to pay to the Commissioner within 30 days from the date of these Citations an administrative penalty of two thousand five hundred dollars (\$2,500) for 22 citations for the total amount of fifty five thousand dollars (\$55,000).

DESIST AND REFRAIN ORDER

19. By reason of the foregoing, the licensee has engaged in charging excessive fees and in deceptive and misleading deferred deposit transactions in violation of the California Financial Code sections 23036 and 23037. California Financial Code section 23050 provides in pertinent part:

Whenever, in the opinion of the commissioner, any person is engaged in the business of deferred deposit transactions, as defined in this division, without a license from the commissioner, or any licensee is violating any 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. If, within 30 days, after the order is served, a written request for a hearing is filed and no hearing is held within 30 days thereafter, the order is rescinded.

1 Pursuant to Financial Code sections 23050 and 23058, JRMM, L.L.C., doing business as Mister Cash
2 is hereby ordered to desist and refrain from violating Financial Code sections 23036 and 23037.
3 This Order is necessary for the protection of consumers and consistent with the purposes, policies
4 and provisions of the CDDTL. This Order shall remain in full force and effect until further order of
5 the Commissioner.

6 V

7 COMMISSIONER’S AUTHORITY TO VOID TRANSACTIONS

8 20. Respondent willfully violated sections 23036 and 23037 of the CDDTL by
9 charging excessive or unauthorized fees and by entering into fraudulent deferred deposit
10 transactions with at least twenty-two (22) consumers. Fraudulent transactions totaled at least
11 \$5,094.10 in 2007. Therefore, the Commissioner seeks to void Respondent’s transactions with at
12 least 22 consumers and order the return of the consumers’ funds in an amount that aggregates at
13 least \$5,094.10.

14 21. California Financial Code section 23060 states:

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

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

24 **ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS**

25 22. Pursuant to California Financial Code section 23060 the above described deferred
26 deposit transactions for at least twenty-two (22) consumers totaling at least \$5,094.10 are
27 declared void.

28 23. Further, Respondent had no right to collect or receive any amount provided in the

1 deferred deposit transactions or any charges or fees in connection with these consumer
2 transactions and are hereby ordered to immediately return any amount and all charges and fees,
3 of at least five hundred and fifty-two dollars and fifty-three cents (\$552.53), that Respondent
4 directly or indirectly received for these transactions.

5 VI

6 COMMISSISONER’S AUTHORITY TO REVOKE RESPONDENTS’ CDDTL LICENSE

7 24. Section 23052 states the grounds for revocation of a CDDTL license:

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

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

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

19 (c) A fact or condition exists that, if it had existed at the time of
20 the original application for the license, reasonably would have
21 warranted the commissioner in refusing to issue the license
22 originally.

22 CONCLUSION

23 Complainant finds, due to the foregoing, that Respondent violated sections 23036 and 23037.
24 Therefore, the Commissioner is justified in revoking Respondent’s California deferred deposit
25 transaction license pursuant to section 23052. The Commissioner was also justified, based upon the
26 foregoing, in issuing 22 citations to Respondent, issuing a Desist and Refrain order, and voiding at
27 least 22 transactions pursuant to sections 23058, 23050 and 23060, respectively.

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WHEREFORE, Complainant, the California Corporations Commissioner prays that the deferred deposit transaction license of JRMM, L.L.C., doing business as Mister Cash, be revoked pursuant to Financial Code section 23052.

Dated: February 6, 2008
Sacramento, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
ALAN S. WEINGER
Lead Corporations Counsel