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11 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
12 OF THE STATE OF CALIFORNIA

13	In the Matter of:	)	CDDTL LICENSE NO.: 100-3124
14		)	
15	THE COMMISSIONER OF BUSINESS	)	
16	OVERSIGHT,	)	ACCUSATION TO REVOKE DEFERRED
17	Complainant,	)	DEPOSIT TRANSACTION LAW LICENSE
18	v.	)	
19	MINDY NIMOY doing business as	)	
20	SAN PEDRO PAYDAY LOANS,	)	
21	Respondent.	)	

22 Jan Lynn Owen, the Commissioner of Business Oversight (Commissioner), alleges and  
23 charges Respondent, Mindy Nimoy doing business as San Pedro Payday Loans (San Pedro Payday  
24 Loans or Respondent), as follows:

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3 **I.**

4 **Jurisdiction and Venue**

5 1. The Commissioner brings this action under the provisions of Financial Code section  
6 23052, and the rules and regulations promulgated thereunder.

7 2. The Commissioner as the chief officer of the Department of Business Oversight  
8 (Department) is authorized to administer and enforce the provisions of the California Deferred  
9 Deposit Transaction Law (CDDTL) (Fin. Code, § 23000 et. seq.) and the regulations promulgated  
10 under title 10 of the California Code of Regulations, which regulate the business and activities of  
11 deferred deposit transaction originators.

12 3. “Deferred deposit transaction,” as defined by Financial Code section 23001,  
13 subdivision (a), means a transaction whereby a person defers depositing a “customer’s personal  
14 check” until a specific date, pursuant to a written agreement for a fee or other charge. A “personal  
15 check” includes the electronic equivalent of a personal check, such as an Automated Clearing House  
16 (“ACH”) or debit card transaction.

17 **II.**

18 **Statement of Facts**

19 4. San Pedro Payday Loans is a deferred deposit transaction originator licensed by the  
20 Commissioner under the CDDTL since February 21, 2006. San Pedro Payday Loans’ principal place  
21 of business is located at: 736 South Pacific Avenue, San Pedro, California 90731.

22 5. On August 7, 2017, the Commissioner commenced a regulatory examination of San  
23 Pedro Payday Loans’ books and records (2017 Examination) pertaining to business conducted under  
24 its CDDTL license. The examination revealed numerous violations of the CDDTL as outlined below.

25 a. At least six customers had documents on file that contained blanks, in violation of  
26 Financial Code section 23037, subdivision (h). The documents that contained blanks included written  
27 agreements and at least two Covered Borrower Identification Statement forms. The required  
28 information that was left blank on the Covered Borrower Identification Statement included: the  
customer’s signature date: the licensee’s signature; and the date. San Pedro Payday Loans must not

1 take any check, instrument, or form in which blanks are left to the billed in after execution. This same  
2 violation was also noted during the previous examination commenced on July 14, 2015.

3 b. The disclosure notice on customer agreements was deficient, in violation of Financial  
4 Code section 23035, subdivision (g). In paragraph 9 of the agreement, the notice read, "If you have  
5 any complaints or concerns, you may call the Department of Corporations at 1-866-ASK-CORP  
6 (275-2677). As of July 1, 2013, all disclosures should refer to the Department of Business Oversight.  
7 This same violation was noted in the previous examination commenced on July 14, 2015.

8 c. Respondent was not in compliance with Financial Code section 23018, subdivision  
9 (a), for not verifying whether customers were member of the armed services or dependent of the  
10 member of the armed services. The examination showed that the Covered Borrower Identification  
11 Statement forms used to verify covered borrower status was not provided to the customer or the  
12 customer did not elect one of the options.

13 d. San Pedro Payday Loans' CDDTL license was not posted in a conspicuous place, in  
14 violation of Financial Code section 23018, subdivision (a).

15 6. Following the conclusion of the 2017 Examination, the Commissioner sent to San  
16 Pedro Payday Loans a regulatory examination letter dated October 23, 2017 noting the violations  
17 found during the 2017 Examination. The regulatory examination letter stated that San Pedro Payday  
18 Loans must reply within 30 calendar days from the date of the letter. The response was due on  
19 November 22, 2017. The regulatory examination letter also stated that failure to comply within 10  
20 days from the due date would result in action being taken against San Pedro Payday Loans, including  
21 a revocation of its CDDTL license. The date to respond to the regulatory examination letter was past  
22 due. San Pedro Payday Loans did not provide any response to the regulatory examination letter.

23 7. On November 28, 2017, the Commissioner sent a follow-up email to San Pedro  
24 Payday Loans addressed to the designated email address on file. The email notified San Pedro  
25 Payday Loans that the written response to the regulatory examination letter was past due. San Pedro  
26 Payday Loans did not respond to the email or submitted the response to the regulatory examination  
27 letter.

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1 8. On December 1, 2017, a phone call was made to the noted contact person for the  
2 Respondent, Paul Nimoy, at the San Pedro Payday Loans' licensed location. The individual who  
3 answered the phone stated that Paul Nimoy was not available to take a call. A message was left to  
4 return the phone call or provide the requested written response to the regulatory examination letter  
5 before the close of business on December 4, 2017, or the matter would be referred to the Special  
6 Administrator for administrative action. To date, San Pedro Payday Loans has not provided the  
7 required written response to the regulatory examination letter or returned the phone call of December  
8 1, 2017.

9 III.

10 Applicable Law

11 9. A CDDTL license must be displayed and clearly visible at the place of business.  
12 Financial Code section 23018, subdivision (a), provides:

13 A license, along with any currently effective order of the commissioner  
14 approving a different name pursuant to Section 23023 , shall be  
15 conspicuously posted in the place of business authorized by the  
licensee.

16 10. Under the CDDTL, written agreements cannot be vague unclear, or misleading.  
17 Financial Code section 23035 in relevant parts provides:

18 . . .  
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 of  
the following:

23 (13) Any other information that the commissioner shall deem  
24 necessary by regulation.  
25 . . .

26 (g) The written agreement required by subdivision (e) shall be written  
27 in the same language principally used in any oral discussions or  
28 negotiations leading to execution of the deferred deposit agreement;  
shall not be vague, unclear, or misleading and shall be in at least 10-  
point type.

1           11.     A CDDTL licensee cannot leave blanks in any check, instrument, or form. Financial  
2 Code section 23037 in relevant parts provides:

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

4  
5                     (h) Take any check, instrument, or form in which blanks are left to be  
6 filled in after execution.

7           12.     A CDDTL licensee must verify covered borrower status. Financial Code section  
8 23038, subdivision (a) provides:

9                     (a) Any person who violates any provision of Section 670 of the John  
10 Warner National Defense Authorization Act for Fiscal Year 2007 (   
11 Public Law 109-364 ) or any provision of Section 232 of Title 32 of the  
12 Code of Federal Regulations, as published on August 31, 2007, in  
13 Volume 72 of the Federal Register, violates this division.

14           13.     32 Code of Federal Regulations part 232.5 (2018) provides for the determination of  
15 covered borrower status as follows:

16                     (a) No restriction on method for covered-borrower check. A creditor is  
17 permitted to apply its own method to assess whether a consumer is a  
18 covered borrower.

19                     (b) Safe harbor –

20                     (1) In general. A creditor may conclusively determine whether credit is  
21 offered or extended to a covered borrower, and thus may be subject to  
22 10 U.S.C. 987 and the requirements of this part, by assessing the status  
23 of a consumer in accordance with this paragraph (b).

24                     (2) Methods to check status of consumer –

25                     (i) Department database –

26                     (A) In general. To determine whether a consumer is a covered  
27 borrower, a creditor may verify the status of a consumer by using  
28 information relating to that consumer, if any, obtained directly or  
indirectly from the database maintained by the Department, available at  
<https://www.dmdc.osd.mil/mla/welcome.xhtml>. A search of the  
Department's database requires the entry of the consumer's last name,  
date of birth, and Social Security number.

(B) Historic lookback prohibited. At any time after a consumer has  
entered into a transaction or established an account involving an

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extension of credit, a creditor (including an assignee) may not, directly or indirectly, obtain any information from any database maintained by the Department to ascertain whether a consumer had been a covered borrower as of the date of that transaction or as of the date that account was established.

(ii) Consumer report from a nationwide consumer reporting agency. To determine whether a consumer is a covered borrower, a creditor may verify the status of a consumer by using a statement, code, or similar indicator describing that status, if any, contained in a consumer report obtained from a consumer reporting agency that compiles and maintains files on consumers on a nationwide basis, or a reseller of such a consumer report (as each of those terms is defined in the Fair Credit Reporting Act ( 15 U.S.C. 1681a) and any implementing regulation ( 12 CFR part 1022)).

(3) Determination and recordkeeping; one-time determination permitted. A creditor who makes a determination regarding the status of a consumer by using one or both of the methods set forth in paragraph (b)(2) of this section shall be deemed to be conclusive with respect to that transaction or account involving consumer credit between the creditor and that consumer, so long as that creditor timely creates and thereafter maintains a record of the information so obtained. A creditor may make the determination described in this paragraph (b), and keep the record of that information obtained at that time, solely at the time –

14. Financial Code section 23052 states the grounds for revocation of a CDDTL license. Section 23052 provides:

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.**

**Conclusion**

The Commissioner finds, by reason of the foregoing, that Respondent, Mindy Nimoy doing business as San Pedro Payday Loans, has violated Financial Code sections 23018, subdivision (a); 23035; subdivision (g); 23037, subdivision (h); and 23038, subdivision (a).

WHEREFORE, the Commissioner of Business Oversight prays that the deferred deposit transaction license of Mindy Nimoy doing business as San Pedro Payday Loans be revoked pursuant to Financial Code section 23052. In keeping with Financial Code section 23054, the revocation, suspension, expiration, or surrender of any license does not impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower.

Dated: March 29, 2018

JAN LYNN OWEN  
Commissioner of Business Oversight

By: \_\_\_\_\_  
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