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7
8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

11	In the Matter of	)	(1) DESIST AND REFRAIN ORDER
12	THE CALIFORNIA COMMISSIONER OF	)	PURSUANT TO CALIFORNIA
13	BUSINESS OVERSIGHT,	)	FINANCIAL CODE SECTION 23050;
14	Complainant,	)	(2) ORDER VOIDING TRANSACTIONS
15	v.	)	PURSUANT TO CALIFORNIA
16	OPENDOORS FINANCING AND	)	FINANCIAL CODE SECTION 23060;
17	CONSULTING (D/B/A EZ CASH LOAN) and	)	AND
18	PETER HYUNG LEE,	)	(3) CITATIONS PURSUANT TO
19	Respondents.	)	CALIFORNIA FINANCIAL CODE
		)	SECTION 23058.

20
21 Jan Lynn Owen, the California Commissioner (“Commissioner”) of the Department of
22 Business Oversight (“Department”), finds the following:

23 **I. PARTIES**

24 1. At all relevant times, OpenDoors Financing and Consulting (“OpenDoors”) was a sole
25 proprietorship solely owned and operated by Peter Hyung Lee (“Lee”). Lee filed a Fictitious
26 Business Name Statement (“Statement”) with the Clerk-Record of Orange County on September 18,
27 2013, through which Lee declared that he was conducting business under the fictitious name
28 OpenDoors Financing and Consulting. The Statement also contained Lee’s attestation that he was the

1 registered owner of OpenDoors. The Statement identified the address of OpenDoors as 9550 Bolsa
2 Ave, #210, Westminister, California 92683.

3 2. At all relevant times, Lee was the owner of OpenDoors and a “control” person of
4 OpenDoors, as “control” is defined by Corporations Code section 160.

5 3. The Commissioner is responsible for administering and enforcing the California
6 Deferred Deposit Transaction Law, Financial Code section 23000, et seq. (the “Payday Lenders
7 Law”). Under the Payday Lenders Law, the Commissioner is charged with licensing any person who
8 offers, originates, or makes a deferred deposit transaction, who arranges a deferred deposit
9 transaction for a deferred deposit originator, who acts as an agent for a deferred deposit originator, or
10 who assists a deferred deposit originator in the origination of a deferred deposit transaction.
11 Financial Code § 23005.

12 4. A deferred deposit transaction is a written transaction whereby one person gives funds
13 to another person upon receipt of a personal check, and it is agreed that the personal check would not
14 be deposited until a later date. Financial Code § 23001(a). “Personal check” referenced in Financial
15 Code section 23001 includes “the electronic equivalent of a personal check,” such as an Automated
16 Clearing House (“ACH”) or debit card transaction.

17 **II. STATEMENT OF FACTS**

18 1. Since at least September 2013, Lee and OpenDoors have engaged in the business of
19 offering, originating, or making deferred deposit transactions in California.

20 2. OpenDoors was Lee’s first business venture. Around September 2013, Lee tried
21 different lines of business through OpenDoors, including the online offering of deferred deposit
22 transactions or payday loans. Lee and OpenDoors offered payday loans under the fictitious name
23 “EZ Cash Loan.” Lee advertised the offering of deferred deposit transactions or payday loans on
24 Craigslist beginning at least by September 27, 2013 through at least November 18, 2013. One of
25 Lee’s online advertisements stated verbatim and without corrections, “Pay Day Loan but cheaper.
26 Payday Loans up to \$300.00 if you are currently working. No credit check. 10 Minute approvals.
27 Same day Funding. If you are doing payday loan right now, switch over, because the interest is
28 cheaper than payday loan. Call right now at 714-308-9194 or e-mail me.”

1 3. Between September 27, 2013 and November 18, 2013, Lee and OpenDoors made
2 three deferred deposit transactions or payday loans in California in principal amounts between \$150
3 and \$260. As part of making the deferred deposit transactions or payday loans, Lee and OpenDoors
4 required customers to authorize Lee and OpenDoors to automatically debit their bank accounts for
5 payments, fees and interest.

6 4. The Commissioner has not issued a deferred deposit originator license to Lee or
7 OpenDoors pursuant to the Payday Lenders Law. As such, neither Lee nor OpenDoors is authorized
8 to offer, originate, or make a deferred deposit transaction, arrange a deferred deposit transaction for a
9 deferred deposit originator, act as an agent for a deferred deposit originator, or assist a deferred
10 deposit originator in the origination of a deferred deposit transaction in California or to California
11 residents, pursuant to California Financial Code section 23005(a).

12 5. Neither Lee nor OpenDoors is exempt from the licensing requirements of California
13 Financial Code section 23005(a).

14 **III. DESIST AND REFRAIN ORDER**

15 **Violation of Financial Code Section 23005**

16 **(Offer, originate, or make deferred deposit transaction without a license)**

17 6. Financial Code Section 23005(a) provides, in relevant part:

18 No person shall offer, originate, or make a deferred deposit transaction,
19 arrange a deferred deposit transaction for a deferred deposit originator, act
20 as an agent for a deferred deposit originator, or assist a deferred deposit
21 originator in the origination of a deferred deposit transaction without first
22 obtaining a license from the commissioner and complying with the
23 provisions of this division.

24 7. Financial Code Section 23050 provides, in relevant part:

25 Whenever, in the opinion of the commissioner, any person is engaged in
26 the business of deferred deposit transactions, as defined in this division,
27 without a license from the commissioner, or any licensee is violating any
28 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.

 8. Based on the foregoing findings, the Commissioner is of the opinion that OpenDoors
and Lee engaged in the business of originating and offering to originate, deferred deposit transactions

1 without having first obtained a license to do so from the Commissioner in violation of Financial Code
2 Section 23005(a).

3 9. Pursuant to California Financial Code section 23050, OpenDoors Financing and
4 Consulting and Peter Lee are hereby ordered to desist and refrain from engaging in the business of
5 deferred deposit transactions, including but not limited to, originating or offering to originate,
6 deferred deposit transactions in the State of California without first obtaining a license from the
7 California Corporations Commissioner, or otherwise being exempt, as required under Financial Code
8 section 23005(a).

9 10. This order is necessary, in the public interest, for the protection of consumers and
10 consistent with the purposes, policies and provisions of the Payday Lenders Law.

11 **IV. ORDER VOIDING CALIFORNIA DEFERRED DEPOSIT TRANSACTIONS**

12 11. The Commissioner is statutorily authorized to void deferred deposit transactions for
13 willful violations of the Payday Lenders Law.

14 12. Section 23060, subdivision (a), states:

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

19 13. Section 23060, subdivision (b), states:

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

24 14. Lee and OpenDoors willfully violated provisions of the Payday Lenders Law by
25 repeatedly contracting for fees or charges without a license in violation of Financial Code sections
26 23005 in conjunction with deferred deposit transactions. Because Lee and OpenDoors willfully
27 contracted for charges or fees in excess of those permitted by the Payday Lenders Law and willfully
28 violated provisions of the Payday Lenders Law, Lee and OpenDoors are not entitled to collect or
receive the principal amounts provided in those deferred deposit transactions, nor are they entitled to
any of the charges or fees associated with the transactions.

1 15. Pursuant to Financial Code section 23060, any and all deferred deposit transactions
2 contracted with California customers or in the State of California by OpenDoors Financing and
3 Consulting and Peter Lee are therefore void. OpenDoors Financing and Consulting and Peter Lee are
4 hereby ordered to immediately cease collecting all principal amounts, and return all principal
5 amounts, provided in any and all deferred deposit transactions contracted with California customers
6 or in the State of California, and to disgorge any and all charges or fees received in conjunction with
7 those deferred deposit transactions within 60 days of this citation. OpenDoors Financing and
8 Consulting and Peter Lee shall forward evidence of the return of all principal amounts and the
9 disgorgement of any all charges or fees to Corporations Counsel Adam J. Wright within 60 days of
10 this citation.

11 **V. CITATIONS**

12 16. Section 23058 provides:

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

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

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

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

26 (e) After the exhaustion of the review procedures provided for in this
27 section, the department may apply to the appropriate superior court for a
28 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.

17. For the violations committed by OpenDoors Financing and Consulting and Peter Lee, the Commissioner herein issues three separate citations (Citations A through C), as part of this single document:

a. **CITATION A:** In or around September 27, 2013, OpenDoors Financing and Consulting and Peter Lee originated a deferred deposit transaction with at least one California resident without a license in violation of Financial Code section 23005.

b. **CITATION B:** In or around November 16, 2013, OpenDoors Financing and Consulting and Peter Lee originated a deferred deposit transaction with at least one California resident without a license in violation of Financial Code section 23005.

c. **CITATION C:** In or around November 18, 2013, OpenDoors Financing and Consulting and Peter Lee originated a deferred deposit transaction with at least one California resident without a license in violation of Financial Code section 23005.

18. Pursuant to Financial Code section 23058, OpenDoors Financing and Consulting and Peter Lee are hereby ordered to pay the Commissioner an administrative penalty of two thousand five hundred dollars (\$2,500) for each of the three citations (Citations A through C) for the total amount of seven thousand five hundred (\$7,500) within 60 days of this citation. The total amount shall be made payable to the Department of Business Oversight and submitted to Corporations Counsel Adam J. Wright.

Dated: July 1, 2014
Sacramento, California

JANN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division