

1 MARY ANN SMITH
Deputy Commissioner
2 DOUGLAS GOODING
Assistant Chief Counsel
3 MARISA I. URTEAGA-WATKINS (SBN 236398)
4 Corporations Counsel
1515 K Street, Suite 200
5 Sacramento, California 95814
6 Telephone: (916) 445-9626
7 Fax: (916) 445-6985
Attorneys for Complainant

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

11 In the Matter of THE COMMISSIONER OF) DESIST AND REFRAIN ORDER PURSUANT
12 BUSINESS OVERSIGHT,) TO CALIFORNIA FINANCIAL CODE
13) SECTION 23050;
14 Complainant,) ORDER VOIDING TRANSACTIONS
15 v.) PURSUANT TO CALIFORNIA FINANCIAL
16 PDLNOW.com, a.k.a. PDLNOW) CODE SECTION 23060; and
17) ORDER LEVYING ADMINSTRATIVE
18 Respondent.) PENALTIES FOR CITATIONS ISSUED TO
19) RESPONDENT PDLNOW.COM, a.k.a.
20) PDLNOW PURSUANT TO CALIFORNIA
21) FINANCIAL CODE SECTION 23058
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23)
24)

25 Complainant, the Commissioner of Business Oversight of the State of California
26 (“Commissioner” or “Department”), is informed and believes, and based on such information and
27 belief, finds as follows:

28 **I.**
FACTUAL BACKGROUND

1. PDLNOW.com, also known as (“a.k.a.”) PDLNOW (collectively, “PDL”), is a
business entity of unknown formation with its principal place of business believed to be located at
4341 Regal Avenue, NE, Cedar Rapids, Iowa, 52402.

1 2. PDL is engaged in the business of originating or offering to originate deferred deposit
2 transactions (commonly referred to as “payday loans” or “payday advances”) over the internet to the
3 general public, including to California residents. PDL offers payday loans to California residents by
4 way of telephone number (877) 259-3090 and internet website address www.pdlnow.com.

5 3. The Commissioner has jurisdiction over deferred deposit transactions as set forth in
6 the California Deferred Deposit Transaction Law (“CDDTL”) (California Financial Code section
7 23000 *et. seq.*).

8 4. Pursuant to Financial Code section 23001(a), “Deferred deposit transaction” means a
9 transaction whereby a person defers depositing a customer’s personal check until a specific date,
10 pursuant to a written agreement for a fee or other charge, as provided in Section 23035. “Personal
11 check,” for purposes of section 23001, includes the electronic equivalent of a check, such as an
12 Automated Clearing House (“ACH”) or debit card transaction.

13 5. Beginning in at least January 2012, PDL engaged in the business of offering,
14 originating, or making deferred deposit transactions in California, as defined by the CDDTL. PDL
15 either deferred depositing a customer’s personal check or deferred making an agreed upon ACH
16 deduction until a specific date for a fee or other charge. Customers submitted online loan applications
17 which listed their checking account information through PDL’s website. PDL used this information
18 to automatically debit payments, fees, and interest from borrowers. PDL also used customer’s
19 account information to deduct additional fees and charges in violation of Financial Code section
20 23036 of the CDDTL.

21 6. From about January 2012, PDL originated deferred deposit transactions with at least
22 one (1) California resident by way of making a loan thru its website, and arranging a \$200.00
23 electronic loan deposit into a California resident’s bank account. Subsequently in or about January,
24 2012 to May, 2013, PDL debited the California resident’s bank account on a weekly basis for finance
25 charges totaling at least \$2000. PDL charged and collected this entire amount as finance charges for
26 the deferred deposit transactions PDL originated in violation of the CDDTL. PDL did not credit any
27 portion paid by the California resident towards the principal loan amount.

1 7. PDL has not been issued a deferred deposit transaction originator license by the
2 Commissioner pursuant to the CDDTL. PDL is not exempt from the licensing requirements of
3 California Financial Code section 23005. As such, PDL is not authorized to engage in payday
4 lending, or to offer, originate, or make a deferred deposit transaction, arrange a deferred deposit
5 transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist
6 a deferred deposit originator in the origination of a deferred deposit transaction in California or to
7 California residents.

8 **II.**
9 **DESIST AND REFRAIN ORDER**

10 The Commissioner is responsible for enforcing provisions of the CDDTL found in California
11 Financial Code commencing at section 23000. The Commissioner is authorized to pursue
12 administrative actions and remedies against persons who engage in violations of the CDDTL.

13 California Financial Code section 23050 provides, in pertinent part:

14 Whenever, in the opinion of the commissioner, any person is engaged in
15 the business of deferred deposit transactions . . . without a license from
16 the commissioner, or any licensee is violating any provision of this
17 division, the commissioner may order that person or licensee to desist
18 and to refrain from engaging in the business or further violating this
19 division. If within 30 days, after the order is served, a written request for
20 a hearing is filed and no hearing is held within 30 days thereafter, the
21 order is rescinded.

22 California Financial Code section 23005, subdivision (a) prohibits any person from offering,
23 originating, or making a deferred deposit transaction without first obtaining a license from the
24 Commissioner, except as specified. Section 23036 subdivision (a) limits fees to 15% of the face
25 amount of the deferred deposit transaction.

26 The foregoing facts establish that PDLNOW.com, a.k.a. PDLNOW willfully engaged in the
27 business of originating or offering to originate deferred deposit transactions without having first
28 obtained a license to do so from the Commissioner, in violation of section 23005(a) of the CDDTL.
The foregoing facts also establish that PDLNOW.com, a.k.a. PDLNOW willfully charged excessive
transaction fees in violation of section 23036(a) of the CDDTL.

Pursuant to Financial Code section 23050, PDLNOW.com, a.k.a. PDLNOW is hereby ordered to desist and refrain from violating Financial Code sections 23005 and 23036. This Order is necessary for the protection of consumers and consistent with the purposes, policies, and provisions of the CDDTL. This Order shall remain in full force and effect until further order of the Commissioner.

III.
ORDER VOIDING CALIFORNIA DEFERRED DEPOSIT TRANSACTIONS

California Financial Code section 23060 provides:

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

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

Pursuant to California Financial Code section 23060, any and all deferred deposit transactions contracted with California customers or in the state of California by PDLNOW.com, a.k.a. PDLNOW are therefore void. PDLNOW.com, a.k.a. PDLNOW is hereby ordered to immediately cease collecting all principal amounts, return all principal amounts provided in any and all deferred deposit transactions contracted with California customers or in the state of California, and to disgorge any and all charges or fees received in conjunction with those deferred deposit transactions.

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IV.
CITATIONS

For the CDDTL violations by PDLNOW.com, a.k.a. PDLNOW, the Commissioner herein issues two (2) separate citations, Citation A and Citation B:

CITATION A – On or about January 18, 2012, PDLNOW.com, a.k.a. PDLNOW originated a deferred deposit transaction with at least one (1) California resident through the website, www.pdlnow.com, without a license, in violation of Financial Code section 23005;

CITATION B – From about January, 2012 to May, 2013, PDLNOW.com, a.k.a. PDLNOW, after originating a deferred deposit transaction with at least one (1) California resident through the website www.pdlnow.com without a license, charged excessive transaction fees for that transaction, in violation of section 23036(a);

California Financial Code section 23058 gives the Commissioner the authority to issue citations for the foregoing CDDTL violations. Section 23058 states in pertinent part:

(a) If, upon inspection, examination or investigation, based upon a complaint or otherwise, the department has cause to believe that a person is engaged in the business of deferred deposit transactions without a license, or a licensee or person is violating any provision of this division or any rule or order thereunder, the department may issue a citation to that 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.

V.
ORDER LEVYING ADMINISTRATIVE PENALTIES
FOR CITATIONS

Pursuant to Financial Code section 23058, PDLNOW.com, a.k.a. PDLNOW is hereby ordered to pay the Commissioner an administrative penalty of two thousand five hundred dollars (\$2,500.00) for each Citation A and Citation B for the total amount of five thousand dollars (\$5,000.00). Administrative penalties for Citation A and Citation B shall be payable by check to the California Department of Business Oversight, to the attention of Marisa I. Urteaga-Watkins, at 1515 K Street, Suite 200, Sacramento, CA 95814, within thirty (30) calendar days from the

1 date Citation A and Citation B are deemed final. Administrative penalties for Citation A and
2 Citation B are necessary in the public interest for the protection of consumers and are consistent
3 with the purposes, policies, and provisions of the CDDTL.

4 Dated: November 26, 2013
5 Sacramento, California

JAN LYNN OWEN
Commissioner of Corporations

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9 By: _____
10 MARY ANN SMITH
11 Deputy Commissioner
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