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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
OF THE STATE OF CALIFORNIA

In the Matter of the Orders Issued to:)
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) DESIST AND REFRAIN ORDER PURSUANT
) TO CALIFORNIA FINANCIAL CODE
PAYDAY QUICK CASH) SECTION 23005; and
)
Respondent)
) ORDER VOIDING TRANSACTIONS AND
) DISGORING ALL CHARGES AND FEES
) PURSUANT TO CALIFORNIA FINANCIAL
) CODE SECTION 23060
)
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)

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

I.

Factual Background

1. Payday Quick Cash (“Payday Quick”) is an entity of unknown form or origin that is not registered to do business with the California. Beginning in at least October 2011, Payday Quick maintained a website at www.paydayquickcash.com and on that website listed a purported business address of 9660 Falls of Neuse, S-138, #221, Raleigh, N.C. 27615, which is in fact a UPS mail drop.

1 2. In its most common form, a deferred deposit transaction, also known as a “payday
2 loan”, is a written transaction wherein one person gives funds to another upon receipt of a personal
3 check and it is agreed that the check shall not be deposited until a later agreed upon date for a fee or
4 other charge. “Personal check,” as referenced in California Financial Code section 23001, includes
5 “the electronic equivalent of a personal check,” such as an Automated Clearing House (“ACH”) or
6 debit card transaction. A written agreement that one person will provide another person funds and
7 then defer making an agreed upon ACH deduction until a specific date, for fee or other charge, is also
8 a deferred deposit transaction.

9 3. Consumers may obtain payday loans directly from a lender or by submitting a general
10 loan application online through a lead-generator website, such as Payday Quick purports to be, that
11 contracts with multiple lenders. Online loan applicants are asked to provide personal identifying data,
12 including their bank account and routing numbers and employer contact information, to the lender
13 directly or through the lead generators.

14 4. Beginning in at least October 2011, Respondent Payday Quick offered, originated and
15 made to the general public through its lead-generator website www.paydayquickcash.com, deferred
16 deposit transactions, as defined by the California Deferred Deposit Transaction Law (“CDDTL”)
17 (California Financial Code sections 23000 *et seq.*), without a license in violation of Financial Code
18 section 23005.

19 5. For example, in or around October 2011, Respondent, through this website, generated
20 and electronically disbursed to a California resident, a \$400.00 payday loan, exceeding \$300.00 the
21 maximum allowed under Financial Code section 23035, and charged \$200.00 a month interest,
22 exceeding \$45.00, the maximum of charges allowed per loan, no matter how late the repayments,
23 under Financial Code section 23036 of the CDDTL.

24 6. Respondent has not been issued a deferred deposit transaction originator license by the
25 Commissioner pursuant to the CDDTL. As such, Respondent is not authorized to engage in payday
26 lending, or to offer, originate, or make a deferred deposit transaction, arrange a deferred deposit
27 transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist
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1 a deferred deposit originator in the origination of a deferred deposit transaction in California or to
2 California residents.

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4 **II.**

5 **Desist and Refrain Order for Violations of**
6 **Financial Code Sections 23005 and 23036**

7 7. The Department is responsible for enforcing all provisions of the CDDTL, including
8 the regulation of deferred deposit transactions. The Commissioner is statutorily authorized to order
9 any person to desist and refrain from engaging in violations of the CDDTL.

10 8. California Financial Code section 23005, subdivision (a), provides, in pertinent part:
11 “No person shall offer, originate, or make a deferred deposit transaction, arrange a deferred deposit
12 transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist
13 a deferred deposit originator in the origination of a deferred deposit transaction without first
14 obtaining a license from the commissioner and complying with the provisions of this division”

15 9. California Financial Code section 23050 provides:

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

24 10. The foregoing facts establish violations of the CDDTL by Respondent. The issuance
25 of a Desist and Refrain Order is necessary for the protection of consumers and is consistent with the
26 purposes, policies, and provisions of the CDDTL.

27 Pursuant to California Financial Code section 23050, Payday Quick Cash, is hereby ordered
28 to desist and refrain from violating California Financial Code sections 23005. This Order shall
remain in full force and effect until further order of the Commissioner.

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III.

Order Voiding California Deferred Deposit Transactions
and Disgorging All Charges and Fees

11. 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.

12. Respondent willfully violated provisions of the CDDTL, including Financial Code section 23005 when it engaged in this deferred deposit transaction activity without a license, Financial Code section 23036 when it provided loan amounts in excess of the maximum amount allowed, and Financial Code section 23005 when excess fees were charged in conjunction with deferred deposit transactions. Because Respondent willfully violated these provisions and over-charged its customer, Respondent is 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.

Pursuant to California Financial Code section 23060, any and all deferred deposit transactions contracted with California customers by Payday Quick Cash are therefore void. Payday Quick Cash is hereby ordered to immediately cease collecting, and disgorge and return to all customers in California, any and all principal and charges (including fees and interest) received in conjunction with deferred deposit transactions.

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Dated: January 10, 2014
Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division