

BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

CALIFORNIA CORPORATIONS
COMMISSIONER,

Complainant,

vs.

PAYDAY ADVANCE EXPRESS, INC.,

Respondent.

) OAH Case No. 2008050579

) SETTLEMENT AGREEMENT

) HEARING DATE: July 7, 2008

) TIME: 10:00 a.m.

) LOCATION: OAH, San Diego

This Settlement Agreement ("Agreement") is entered into between Payday Advance Express, Inc. ("Payday Advance Express") and the California Corporations Commissioner ("Commissioner") with respect to the following facts:

RECITALS

A. Payday Advance Express is a corporation in good standing, duly formed and existing pursuant to the laws of the State of California, and authorized to conduct business in the State of California.

B. Beginning on September 27, 2005, Payday Advance Express has been licensed by the Commissioner pursuant to the California Deferred Deposit Transaction Law ("CDDTL"), Cal. Fin. Code § 23000 *et seq.* Payday Advance Express' principal place of business is 338 West Lexington Avenue, Suite 214B, El Cajon, CA 92020.

1 C. Ajit Ahooja ("Ahoja") is the owner of Payday Advance Express. Daniel Leavitt
2 ("Leavitt") is the vice president Payday Advance Express. Ahoja and Leavitt are each authorized
3 to enter into this Agreement on behalf of Payday Advance Express.

4 F. On or about May 6, 2008, the Commissioner issued his Accusation to Revoke
5 Deferred Deposit Transaction License, Citations and Desist and Refrain Order, and Order Voiding
6 Deferred Deposit Transactions ("Accusation, Citations, and Orders") against Payday Advance
7 Express pursuant to California Financial Code sections 23050, 23052, 23058, and 23060. The
8 Commissioner also issued a Notice of Intention to Revoke Deferred Deposit Transaction License
9 pursuant to Financial Code section 23052. The Accusation and Notice sought to revoke Payday
10 Advance Express' license based on fifteen violations of the CDDTL. Payday Advance Express was
11 issued fifteen citations, in the total amount of \$37,500, for violations of the CDDTL. Payday
12 Advance Express was ordered to desist and refrain from further violating the CDDTL. Finally,
13 Payday Advance Express was ordered to void a total of 530 loans and refund all principal, extension
14 fees, and excess fees to its customers.

15 G. The Accusation, Citations, and Orders against Payday Advance Express were served
16 via certified mail to Ajit Ahooja, as owner and control person of Payday Advance Express, at 338
17 West Lexington Avenue, Suite 214B, El Cajon, CA 92020. The certified mail was delivered to
18 Payday Advance Express on May 8, 2008. On May 14, 2008, Payday Advance Express filed its
19 request for hearing with the Commissioner.

20 K. The Office of Administrative Hearings ("OAH") set the Accusation, Citations, and
21 Orders against to commence hearing on July 7, 2008, at 10:00 a.m.

22 L. It is the intention and the desire of the parties to resolve these matters without the
23 necessity of a hearing and/or other litigation.

24 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
25 forth herein, the parties agree as follows:

26
27 **TERMS AND CONDITIONS**

28 1. This Agreement is entered into for the purposes of judicial economy and expediency,

1 and to avoid the time and expense of a hearing and possible further court proceedings.

2 2. Payday Advance Express hereby admits the allegations contained in the Accusation,
3 Citations, and Orders against it. The admissions of Payday Advance Express are solely for the
4 limited purposes of these proceedings and any future proceeding(s) that may be initiated by or
5 brought before the Commissioner against the company. It is the intent and understanding of the
6 parties that this Agreement, and the admissions of Payday Advance Express contained herein, shall
7 not be binding or admissible against Payday Advance Express in any action(s) brought against it by
8 third parties.

9 3. Payday Advance Express agrees to the following conditions:

- 10 a. Payday Advance Express' deferred deposit transaction license shall be revoked
11 effective August 1, 2008. Payday Advance Express' license shall be returned by
12 mailing it to counsel for the Commissioner, Joyce Tsai, at her address of record,
13 at the close of business on July 31, 2008.
- 14 b. Payday Advance Express agrees to refund extension fees totaling \$21,312.56,
15 which were charged in 527 deferred deposit transactions, to its respective
16 customers. To the extent that it has not already done so, Payday Advance Express
17 further agrees to refund all principal and fees in three deferred deposit
18 transactions with two active military personnel, where it charged more than 36
19 percent APR; these transactions totaled \$898.89. Within ninety (90) calendar
20 days of the execution of this Agreement, Payday Advance Express shall refund
21 the fees with respect to at least 200 of the 527 aforementioned customer
22 transactions and file with the Department of Corporations a list of every refund
23 made, including the customer name, amount of refund, and date of refund.
24 Within six (6) months from the execution of this Agreement, Payday Advance
25 Express shall make all of the refunds required by this Agreement and file with the
26 Department of Corporations a revised list of every refund made, including the
27 customer name, amount of refund, and date of refund. The Commissioner
28 reserves the right to audit Payday Advance Express for compliance. If any

customer refunds are not payable to the customer, the customer's funds shall escheat to the State of California in accordance with California law.

c. Within ten (10) working days of the execution of this agreement, Payday Advance Express shall pay the Commissioner the sum of \$10,507.76 incurred in the regulatory examination of Payday Advance Express that commenced on September 18, 2007, and resumed in November and December 2007. Payday Advance Express' payment must be forwarded to counsel for the Commissioner, Joyce Tsai, at her address of record, within the time provided.

5. Upon any failure of Payday Advance Express to comply with the material terms of this agreement, all principal, fees, and penalties ordered to be paid in the Accusation, Citations, and Orders against Payday Advance Express shall become immediately due and payable by Payday Advance Express.

6. The parties hereby acknowledge and agree that this Agreement is intended to constitute a final and complete resolution of the matters set forth herein, including the allegations set forth in the Accusation, Citations, and Orders against Payday Advance Express, and constitutes the entire agreement between the parties with respect thereto. This Agreement supersedes any and all prior or contemporaneous agreements between the parties hereto.

7. Notwithstanding any other provision contained herein, nothing in this Agreement shall operate to limit the Commissioner's ability to investigate and prosecute violations of the CDDTL not addressed herein, or to assist any other agency (county, state, or federal) with any prosecution, administrative, civil or criminal, brought by such agency against Payday Advance Express.

8. Payday Advance Express acknowledges its right to an administrative hearing under California Financial Code sections 23050, 23052, 23058, and 23060, and hereby waives its right to a hearing, and to any reconsideration, appeal, or other rights which may be afforded pursuant to the California Deferred Deposit Transaction Law, the California Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law in connection with this matter. Within five (5) business days after the execution of this Agreement, the Commissioner shall request

1 that OAH take the hearing scheduled for July 7, 2008, off calendar.

2 9. Each party hereto represents and warrants that it has received independent advice
3 from its attorney(s) and/or other representatives prior to entering into this Agreement, and in
4 executing this Agreement relied solely on the statements set forth herein and the advice of its own
5 counsel and/or representative.

6 10. In that the parties have had the opportunity to draft, review and edit the language of
7 this Agreement, no presumption for or against any party arising out of drafting all or part of this
8 Agreement will be applied in any action relating to or arising out of this Agreement. Accordingly,
9 the parties hereby waive the benefit of California Civil Code section 1654 and any successor statute.

10 11. The waiver of any provision of this Agreement shall not operate to waive any other
11 provision set forth herein, and any waiver, amendment and/or change to the terms of this Agreement
12 must be in writing signed by the parties hereto.

13 12. Each signatory hereto represents and warrants that he/she possesses the necessary
14 capacity and authority to execute this Agreement and bind the parties hereto.

15 13. This Agreement may be executed in one or more counterparts, each of which shall be
16 an original but all of which, together, shall be deemed to constitute a single document. A fax
17 signature shall be deemed the same as an original signature.

18
19
20 Dated: 7/2/08

PRESTON DuFAUCHARD
California Corporations Commissioner

21
22 By: _____
23 Alan S. Weinger
24 Acting Deputy Commissioner

25 Dated: _____

PAYDAY ADVANCE EXPRESS, INC.

26
27 By: _____
28 Ajit Ahooja
Owner

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10. In that the parties have had the opportunity to draft, review and edit the language of this Agreement, no presumption for or against any party arising out of drafting all or part of this Agreement will be applied in any action relating to or arising out of this Agreement. Accordingly, the parties hereby waive the benefit of California Civil Code section 1654 and any successor statute.

11. The waiver of any provision of this Agreement shall not operate to waive any other provision set forth herein, and any waiver, amendment and/or change to the terms of this Agreement must be in writing signed by the parties hereto.

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13. This Agreement may be executed in one or more counterparts, each of which shall be an original but all of which, together, shall be deemed to constitute a single document. A fax signature shall be deemed the same as an original signature.

Dated: 6/30/08
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PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
Alan S. Weinger
Acting Deputy Commissioner

Dated: 6/30/08

PAYDAY ADVANCE EXPRESS, INC.

By: _____
Ajit Ahooja
Owner

Dated: 07-02-2008

PAYDAY ADVANCE EXPRESS, INC.

By: _____
Daniel Leavitt
Vice President and Co-Owner