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

<p>12 In the Matter of THE COMMISSIONER OF BUSINESS OVERSIGHT,</p> <p>13</p> <p>14 Complainant,</p> <p>15 v.</p> <p>16 Safeloan.com, a.k.a. SAFELOAN</p> <p>17</p> <p>18 Respondent.</p> <p>19</p> <hr/>	<p>) DESIST AND REFRAIN ORDER PURSUANT) TO CALIFORNIA FINANCIAL CODE) SECTION 23050;</p> <p>) ORDER VOIDING TRANSACTIONS) PURSUANT TO CALIFORNIA FINANCIAL) CODE SECTION 23060; and</p> <p>) ORDER LEVYING ADMINISTRATIVE) PENALTIES FOR CITATIONS ISSUED) PURSUANT TO CALIFORNIA FINANCIAL) CODE SECTION 23058</p> <p>)</p> <p>)</p>
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21 Complainant, the Commissioner of Business Oversight of the State of California
22 (“Commissioner” or “Department”), is informed and believes, and based on such information and
23 belief, finds as follows:

24 **I.**
25 **FACTUAL BACKGROUND**

26 1. Safeloan.com, also known as (“a.k.a.”) SAFELOAN (collectively, “SFL”), is a company of
27 unknown formation with its principal place of business in San Juan, Costa Rica and using P.O. Box

1 706-1200, San Jose (Pavas), Costa Rica 10109, as a business mailing address. SFL operates website
2 www.safeloan.com or www.safe-loan.com which includes telephone number (888) 320-2380, and
3 email address support@Safe-Loan.com as SFL's business contact information.

4 2. SFL is engaged in the business of originating or offering to originate deferred deposit
5 transactions (commonly referred to as "payday loans" or "payday advances") over the internet to the
6 general public, including to California residents. SFL offers payday loans to California residents by
7 way of telephone number (888) 320-2380 and internet website address www.safeloan.com or
8 www.safe-loan.com.

9 3. The Commissioner has jurisdiction over deferred deposit transactions as set forth in
10 the California Deferred Deposit Transaction Law ("CDDTL") (California Financial Code section
11 23000 *et. seq.*).

12 4. Pursuant to Financial Code section 23001(a), "Deferred deposit transaction" means a
13 transaction whereby a person defers depositing a customer's personal check until a specific date,
14 pursuant to a written agreement for a fee or other charge, as provided in section 23035. "Personal
15 check," for purposes of section 23001, includes the electronic equivalent of a check, such as an
16 Automated Clearing House ("ACH") or debit card transaction.

17 5. Beginning in at least March 2013, SFL engaged in the business of offering,
18 originating, or making deferred deposit transactions in California, as defined by the CDDTL. SFL
19 either deferred depositing a customer's personal check or deferred making an agreed upon ACH
20 deduction until a specific date for a fee or other charge. Customers submitted online loan
21 applications which listed their checking account information through SFL's website. SFL used this
22 information to automatically debit payments, fees, and interest from borrowers. SFL also used
23 customer's account information to deduct additional fees and charges in violation of Financial Code
24 section 23036 of the CDDTL.

25 6. From about March 2013, SFL originated deferred deposit transactions with at least one
26 (1) California resident by way of making a loan thru its website, and arranging a \$500.00 electronic
27 loan deposit into a California resident's bank account. From March 2013 to May 2013, SFL then
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1 debited the California resident's bank account for finance charges in excess of at least \$700.00. SFL
2 charged and collected this entire amount as finance charges for the deferred deposit transactions SFL
3 originated in violation of the CDDTL. SFL did not credit any portion paid by the California resident
4 towards the principal loan amount.

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

12 **II.**
13 **DESIST AND REFRAIN ORDER**

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

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

18 Whenever, in the opinion of the commissioner, any person is engaged in
19 the business of deferred deposit transactions . . . without a license from the
20 commissioner, or any licensee is violating any provision of this division,
21 the commissioner may order that person or licensee to desist and to refrain
22 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.

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

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

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

11 **III.**
12 **ORDER VOIDING CALIFORNIA DEFERRED DEPOSIT TRANSACTIONS**

13 California Financial Code section 23060 provides:

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

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

25 Pursuant to California Financial Code section 23060, any and all deferred deposit transactions
26 contracted with California customers or in the State of California by Safeloan.com, a.k.a.
27 SAFELOAN are therefore void. Safeloan.com, a.k.a. SAFELOAN is hereby ordered to immediately
28 cease collecting all principal amounts, return all principal amounts provided in any and all deferred
29 deposit transactions contracted with California customers or in the State of California, and to
30 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 Safeloan.com, a.k.a. SAFELOAN, the Commissioner herein issues two (2) separate citations, Citation A and Citation B:

CITATION A – On or about March 2013, Safeloan.com, a.k.a. SAFELOAN originated a deferred deposit transaction with at least one (1) California resident through the website www.safeloan.com or www.safe-loan.com without a license, in violation of Financial Code section 23005;

CITATION B – From about March 2013 to May 2013, Safeloan.com, a.k.a. SAFELOAN, after originating a deferred deposit transaction with at least one (1) California resident through the website www.safeloan.com or www.safe-loan.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, Safeloan.com, a.k.a. SAFELOAN 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

1 the California Department of Business Oversight, to the attention of Marisa I. Urteaga-Watkins,
2 Corporations Counsel, at 1515 K Street, Suite 200, Sacramento, CA 95814, within thirty (30)
3 calendar days from the date Citation A and Citation B are deemed final. Administrative
4 penalties for Citation A and Citation B are necessary in the public interest for the protection of
5 consumers and are consistent with the purposes, policies, and provisions of the CDDTL.

6 Dated: May 8, 2014
7 Sacramento, California

JAN LYNN OWEN
Commissioner of Corporations

11 By: _____
12 MARY ANN SMITH
13 Deputy Commissioner