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

13 In the Matter of THE COMMISSIONER OF) 1)	CITATION AND DESIST AND
BUSINESS OVERSIGHT,)	REFRAIN ORDER; AND
)	
14 Complainant,)	
) 2)	ORDER VOIDING DEFERRED
15 v.)	DEPOSIT TRANSACTIONS
)	PURSUANT TO CALIFORNIA
17 UNITED CONSUMER FINANCIAL)	FINANCIAL CODE SECTION
18 SERVICES, INC. , doing business as)	23060
www.ezpaydaycash.com,)	
)	
19 Respondent.)	
)	

23 I.

24 FACTUAL BACKGROUND

25 1. United Consumer Financial Services, Inc., doing business as
26 www.ezpaydaycash.com (“UCFS”), is, and was at all relevant times herein, a Delaware corporation
27 with its principal place of business located at 4760 S. Highland Drive, Suite #654, Salt Lake City,
28 Utah 84117.

1 2. UCFS engaged in the business of originating, or offering to originate deferred
2 deposit transactions (commonly referred to as “payday loans”) over the Internet to the general
3 public, including California residents.

4 3. A deferred deposit transaction is a written transaction whereby one person gives
5 funds to another person upon receipt of a personal check, and it is agreed that the personal check
6 would not be deposited until a later date. “Personal check” referenced in Financial Code section
7 23001 includes “the electronic equivalent of a personal check”.

8 4. UCFS was served in March 2012 with a Desist and Refrain Order and Order Voiding
9 Deferred Deposit Transactions (“2012 Order”) issued by the former Commissioner of Corporations,
10 currently the Commissioner of Business Oversight, and did not request a hearing on the matter, thus
11 the 2012 Order is final.

12 5. During 2013, UCFS offered to originate a deferred deposit transaction with at least
13 one California resident through an internet website located at www.ezpaydaycash.com.

14 6. UCFS has not been issued a license by the Commissioner of Business Oversight
15 (“Commissioner”) authorizing it to engage in the business of originating deferred deposit
16 transactions as required by the California Deferred Deposit Transaction Law (“CDDTL”)
17 (California Financial Code § 23000 et seq.).

18 7. UCFS is not exempt from the licensing requirements of California Financial Code
19 section 23005.

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II.

CITATION AND DESIST AND REFRAIN ORDER

California Financial Code § 23005 provides, in pertinent part:

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

California Financial Code § 23058 provides, 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.

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

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

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

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

1 California Financial Code § 23050 provides, in pertinent part:

2 Whenever, in the opinion of the Department, any person is engaged in
3 business in the business of deferred deposit transactions, as defined in this
4 division, without a license from the Department . . . the Department
5 may order that person or licensee to desist and to refrain from engaging in
6 the business If, within 30 days, after the order is served, a written
7 request for a hearing is filed and no hearing is held within 30 days thereafter, the
8 order is rescinded

9 A.

10 CITATION

11 UCFS offered to originate a deferred deposit transaction to at least one California resident
12 without first obtaining a license from the Commissioner, in violation of Financial Code section
13 23005 (a).

14 Pursuant to Financial Code section 23058, United Consumer Financial Services, Inc. is
15 hereby ordered to pay to the Commissioner within 30 days from the date of these citations, an
16 administrative penalty of \$2,500.

17 B.

18 DESIST AND REFRAIN ORDER

19 The foregoing facts establish that United Consumer Financial Services, Inc., doing business
20 as www.ezpaydaycash.com, engaged in the business of originating or offering to originate deferred
21 deposit transactions through an internet website located at www.ezpaydaycash.com, without having
22 first obtained a license from the Commissioner, in violation of Financial Code section 23005(a).

23 The issuance of a Desist and Refrain Order is necessary for the protection of consumers and is
24 consistent with the purposes, policies, and provisions of the CDDTL.

25 Pursuant to California Financial Code section 23050, United Consumer Financial Services,
26 Inc., doing business as www.ezpaydaycash.com, is hereby ordered to desist and refrain from
27 engaging in the business of deferred deposit transactions, including, but not limited to, originating
28 or offering to originate deferred deposit transactions in the State of California without first
obtaining a license from the Commissioner or otherwise being exempt. This Order is necessary, in
the public interest, for the protection of consumers and is consistent with the purposes, policies and

1 provisions of the CDDTL. This order shall remain in full force and effect until further order of the
2 Commissioner.

3 III.

4 ORDER VOIDING CALIFORNIA DEFERRED DEPOSIT TRANSACTIONS

5 California Financial Code section 23060 provides in pertinent part:

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

10 United Consumer Financial Services, Inc., doing business as www.ezpaydaycash.com,
11 willfully violated the CDDTL by offering to originate a deferred deposit transaction with a
12 California resident over the internet website at www.ezpaydaycash.com without a license in
13 violation of Financial Code section 23005 (a) and despite having been served with the 2012 Order.

14 Pursuant to California Financial Code section 23060, any and all deferred deposit
15 transactions contracted with California customers or in the State of California, including but not
16 limited to the deferred deposit transactions originated through the internet website at
17 www.ezpaydaycash.com by United Consumer Financial Services, Inc. are therefore void. United
18 Consumer Financial Services, Inc., doing business as www.ezpaydaycash.com, is hereby ordered to
19 immediately cease collecting all principal amounts, and return all principal amounts, provided in
20 any and all deferred deposit transactions contracted with California customers or in the State of
21 California, and to disgorge any and all charges or fees received in conjunction with those deferred
22 deposit transactions.

23 Dated: May 19, 2014
24 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

25 By _____
26 MARY ANN SMITH
27 Deputy Commissioner
28 Enforcement Division