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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

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| In the Matter of THE CALIFORNIA CORPORATIONS COMMISSIONER,<br><br>Complainant,<br><br>v.<br><br>Northway Financial Corporation Ltd.;<br>Northway Broker Ltd.;<br>247Greenstreet.com; and<br>247 Green Street<br><br>Respondents. | DESIST AND REFRAIN ORDER PURSUANT TO CALIFORNIA FINANCIAL CODE SECTION 23050;<br><br>ORDER VOIDING TRANSACTIONS PURSUANT TO CALIFORNIA FINANCIAL CODE SECTION 23060; and<br><br>CITATIONS PURSUANT TO CALIFORNIA FINANCIAL CODE SECTION 23058 |

Complainant, the Commissioner of the California Department of Corporations ("Commissioner" or "Department"), is informed and believes, and based on such information and belief, finds as follows:

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## I.

## FACTUAL BACKGROUND

1. Northway Broker Ltd. ("Northway Broker") is a company licensed by the Malta Financial Services Authority with its principal place of business at Level 5, Plaza Commercial Centre, Bisazza Street, Sliema SLM 1640, Malta, European Union.

2. Northway Financial Corporation Ltd. ("Northway Financial") is a company licensed by the Malta Financial Services Authority with its principal place of business at Level 5, Plaza Commercial Centre, Bisazza Street, Sliema SLM 1640, Malta, European Union.

3. Northway Broker and Northway Financial engage in the business of originating or offering to originate deferred deposit transactions (commonly referred to as "payday loans") over the internet to the general public, including California residents.

4. Northway Broker engages in originating or offering to originate deferred deposit transactions under various fictitious names or "trading names," including but not limited to 247Greenstreet.com and 247 Green Street.

5. Payday loans are being offered over the internet to the general public on the following websites that indicate Northway Broker's and Northway Financial's mailing address, Level 5, Plaza Commercial Centre, Bisazza Street, Sliema SLM 1640, Malta, without mentioning either Northway Broker or Northway Financial: Mycashcentertransfers.com, Mypaydayavenue.com, Greenpicket.com, PRLDirect.com, and Zip19.com, and Sonicpaydayland.com.

6. "Deferred deposit transaction" means a transaction whereby a person defers depositing a customer's personal check until a specific date, pursuant to a written agreement for a fee or other charge. "Personal check," as referenced in California Financial Code Section 23001, subdivision (a), includes the electronic equivalent of a personal check, such as an Automated Clearing House ("ACH") or debit card transaction.

7. In or around March 2008, Northway Broker and Northway Financial originated a deferred deposit transaction with at least one California resident ("Customer A") through its website, www.cashtransfercenters.com, which authorized Northway Broker and Northway Financial to electronically debit Customer A's account by means of an ACH transaction the loan amount, fees,

and charges, on the due date.

8. Northway Broker and Northway Financial had not been issued a license by the Commissioner authorizing them to engage in the business of originating deferred deposit transactions under the CDDTL.

9. Northway Broker and Northway Financial were not exempt from the licensing requirements of California Financial Code Section 23005.

10. On August 27, 2008, pursuant to California Financial Code Section 23050, Northway Broker and Northway Financial were ordered to desist and refrain from engaging in the business of deferred deposit transactions in the State of California without first obtaining a license from the Commissioner or being exempt.

11. On or about August 29, 2008, Northway Broker and Northway Financial were served the Desist and Refrain Order at their business address, Level 8, Plaza Commercial Centre, Bisazza Street, Sliema SLM 15, Malta, European Union.

12. On or about March 6, 2009, Northway Broker and Northway Financial sent by mail a letter declining to request a hearing to challenge the Commissioner's Desist and Refrain Order. Hence, the Commissioner's Desist and Refrain Order of August 27, 2009 remains in full force and effect.

13. To date, Northway Broker and Northway Financial have never been issued a license by the Commissioner authorizing them to engage in the business of originating deferred deposit transactions under the CDDTL.

14. Yet since June 2011, Northway Broker and Northway Financial engaged in the business of offering, originating, and making deferred deposit transactions to California residents as described below.

15. Doing business under the fictitious names 247Greenstreet.com and 247 Green Street, Northway Broker advertises payday loans to the general public at www.247greenstreet.com, charging "a flat fee ranging from $19.98 to $24.98 for each $100 you borrow."

16. Prospective customers submit an online loan application that requires them to provide personal and checking account information. Northway Broker dba 247Greenstreet.com then contacts



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the customer via email and offers them payday loans.

17. A document entitled "Loan Agreement" that customers are asked to sign electronically states that the Creditor in the transaction is "Northway Financial Corporation Ltd., conducting business in and incorporated under the laws of the Republic of Malta and duly licensed by the Malta Financial Services Authority." The "Broker" is "Northway Broker Ltd. doing business as 247 Green Street."

18. In June 2011, 247Greenstreet.com contacted at least one California resident ("Customer B") who submitted an online application for a payday loan. Customer B received a document entitled "Loan Agreement" designating Northway Financial Corporation Ltd. as the "Creditor" and Northway Broker Ltd. "doing business as 247 Green Street" as the "Broker." The face amount of the payday loan was $700 with an annual percentage rate of 638.58%. The Finance Charge was therefore $146.86, for a total payment of $846.86. In addition, there was a $29.00 fee for each returned check.

19. After Customer B digitally signed the Loan Agreement, Northway Financial and Northway Broker dba 247Greenstreet.com and 247 Green Street made an electronic deposit of $700 into Customer B's bank account. When the due date on the deferred deposit transaction arrived, funds were withdrawn from Customer B's bank account to repay the loan.

20. In August 2011, 247Greenstreet.com contacted another California resident ("Customer C") who submitted an online application for a payday loan. 247Greenstreet.com emailed Customer C and arranged for an electronic deposit of $200 into Customer C's bank account. After depositing the $200 into Customer C's bank account, Customer C contacted 247Greenstreet.com to cancel the loan agreement. 247Greenstreet.com then withdrew the $200 from Customer C's bank account.

21. Northway Financial, Northway Broker, 247Greenstreet.com, and 247 Green Street are not licensed by the Commissioner to engage in the business of deferred deposit transactions. They are not exempt from the licensing requirements of California Financial Code Section 23005.

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## II.

## DESIST AND REFRAIN ORDER

The Department is responsible for enforcing provisions of the California Deferred Deposit Transaction Law ("CDDTL") found in California Financial Code commencing at Section 23000. The Commissioner is authorized to pursue administrative actions and remedies against persons who engage in violations of the CDDTL.

California Financial Code Section 23050 provides:

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

California Financial Code Section 23005 subdivision (a) prohibits any person from offering, originating, or making a deferred deposit transaction without first obtaining a license from the Commissioner, except as specified. Section 23035 subdivision (a) limits the face amount of the check in a deferred deposit transaction to three hundred dollars ($300). Section 23036 subdivision (a) limits fees to 15% of the face amount of the deferred deposit transaction. Section 23036 subdivision (e) limits the exclusive fee charged for the return of a dishonored check to fifteen dollars ($15).

The foregoing facts establish violations of the CDDTL by Northway Financial, Northway Broker, 247Greenstreet.com, and 247 Green Street, including: 1) engaging in the business of originating or offering to originate deferred deposit transactions without having first obtained a license to do so from the Commissioner, in violation of Section 23005(a); 2) offering or originating deferred deposit transactions with face amounts greater than $300, in violation of Section 23035(a); and 3) charging excessive transaction and returned check fees, in violation of Section 23036(a) and (e), respectively.

Pursuant to Financial Code Section 23050, Northway Financial Corporation Ltd., Northway Broker Ltd., 247Greenstreet.com, and 247 Green Street are hereby ordered to desist and refrain from

violating Financial Code Sections 23005, 23035, and 23036, unless licensed or otherwise exempt. 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 subdivisions (a) and (b), any and all deferred deposit transactions contracted with California customers or in the State of California by Northway Financial Corporation Ltd., Northway Broker Ltd., 247Greenstreet.com, and 247 Green Street are therefore void. Northway Financial Corporation Ltd., Northway Broker Ltd., 247Greenstreet.com, and 247 Green Street are hereby ordered to immediately cease collecting all principal amounts, and 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.

**IV.**

**CITATIONS**

For the CDDTL violations of Northway Financial, Northway Broker, 247Greenstreet.com, and 247 Green Street, the Commissioner herein issues six separate Citations (A through F), as part of this single document:



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**CITATION A** – In June 2011, Northway Financial, Northway Broker, 247Greenstreet.com, and 247 Green Street originated a deferred deposit transaction with at least one California resident through their website, www.247greenstreet.com without a license, in violation of Financial Code Section 23005;

**CITATION B** – In June 2011, Northway Financial, Northway Broker, 247Greenstreet.com, and 247 Green Street originated a deferred deposit transaction with at least one California resident through their website, www.247greenstreet.com without a license, in violation of the Commissioner's Desist and Refrain Order of August 27, 2008;

**CITATION C** – In June 2011, Northway Financial, Northway Broker, 247Greenstreet.com, and 247 Green Street originated a deferred deposit transaction with at least one California resident with face amount greater than $300, in violation of Section 23035(a);

**CITATION D** – In June 2011, Northway Financial, Northway Broker, 247Greenstreet.com, and 247 Green Street originated a deferred deposit transaction with at least one California resident charging excessive transaction and returned check fees, in violation of Section 23036(a) and (e), respectively;

**CITATION E** – In August 2011, Northway Financial, Northway Broker, 247Greenstreet.com, and 247 Green Street originated a deferred deposit transaction with at least one California resident through their website, www.247greenstreet.com without a license, in violation of Financial Code Section 23005; and

**CITATION F** – In August 2011, Northway Financial, Northway Broker, 247Greenstreet.com, and 247 Green Street originated a deferred deposit transaction with at least one California resident through their website, www.247greenstreet.com without a license, in violation of the Commissioner's Desist and Refrain Order of August 27, 2008.

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

> (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



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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 commissioner 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.

Pursuant to Financial Code Section 23058, Northway Financial Corporation Ltd., Northway Broker Ltd., 247Greenstreet.com, and 247 Green Street are hereby ordered to pay the Commissioner an administrative penalty of two thousand five hundred dollars ($2,500) for each of the six citations (Citations A through F) for the total amount of fifteen thousand dollars ($15,000) within 30 days from the date of this citation.

Dated: March 6, 2012
Los Angeles, California

JAN LYNN OWEN
California Corporations Commissioner

By: _____
ALAN S. WEINGER
Deputy Commissioner



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