

**STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS**

TO: PAYDAY ADVANCE, LLC
12650 Sherman Way #14
North Hollywood, California 91605

CITATIONS

(California Financial Code section 23058)

DESIST AND REFRAIN ORDER

(For violations of California Financial Code sections 23036)

ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS

(California Financial Code section 23060)

The California Corporations Commissioner (“Commissioner”) finds that:

STATEMENT OF FACTS

1. Payday Advance, LLC (“Payday”) is a California limited liability company. Payday operates its principal places of business at 12650 Sherman Way #14, North Hollywood, California 91605 (“Hollywood”), 11518 W. Pico Boulevard, Los Angeles, California 90064 (“Pico”) and 6767 Sunset Boulevard #24, Los Angeles, California 90028 (“Sunset”).

2. The Commissioner of the Department of Corporations (“Department”) is responsible for enforcing the California Deferred Deposit Transaction Law (“CDDTL”) found in California Financial Code section 23000 et seq. On December 31, 2004 the Commissioner issued licenses for three Payday locations to engage in the business of deferred deposit transactions. The Hollywood location holds license number 100-0906, the Pico location holds license number 100-0907, and the Sunset location holds license number 100-0908.

3. Since at least January 2006, Payday has engaged in the business of deferred deposit transactions by offering, originating and making deferred deposit transactions as described below.

4. A deferred deposit transaction is a written transaction whereby one person gives funds to another person upon receipt of a personal check and it is agreed that the personal check shall

1 not be deposited until a later date. These transactions are also referred to as “payday advances”
2 or “payday loans.”

3 5. On or about March 10, 2008, the Commissioner commenced a regulatory examination of
4 the books and records of Payday. The examination revealed various California Financial Code
5 violations by Payday.

6 6. During the regulatory examination in Pico held on or about March 13 and 17, 2008, the
7 Examiner determined that multiple deferred deposit transactions (“DDTs”) were issued to the same
8 customer in the same timeframe. The second DDT was issued at Sunset prior to closure of the first
9 DDT issued in Pico. Loans are considered in effect and outstanding until the loan is paid off. Section
10 23036(c) states: “a licensee shall not enter into an agreement for a deferred deposit transaction with a
11 customer during the period of time that an earlier written agreement for a deferred deposit
12 transaction for the same customer is in effect.”

13 7. After further discovery and requests for documents, the Department of Corporations
14 discovered that Payday had issued 850 loans totaling \$239,682.13 while at least one other loan was
15 still in effect. Each of these loans is a violation of section 23036(c).

16 8. During the examinations commencing March 10, 2008, the Commissioner identified 850
17 deferred deposit transaction agreements entered into while at least one earlier agreement for the
18 same customer was in effect totaling \$239,682.13 in violation of section 23036(c).

19 CITATIONS

20 The foregoing facts establish that Respondent has violated California Financial Code section
21 23036(c) by entering into deferred deposit transaction agreements while at least one earlier
22 agreement for the same customer was in effect, and based thereon the Commissioner is statutorily
23 authorized to issue the following Citations:
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25 Citations 1 through 850 - Respondent has entered into deferred deposit transaction
26 agreements while at least one earlier agreement for the same customer was in effect in violation of
27 California Financial Code 23036(c).
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1 Pursuant to California Financial Code section 23058, Respondent is hereby ordered to pay to
2 the Commissioner a total of 850 administrative penalties of \$45.00 each in the amount of thirty-eight
3 thousand two-hundred and fifty dollars (\$38,250.00) for the above Citations within 30 days from the
4 date of this order.

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6 These Citations shall remain in full force and effect until further order of the Commissioner.

7 California Financial Code section 23058 states:

8 (a) If, upon inspection, examination or investigation, based upon a
9 complaint or otherwise, the department has cause to believe that a person
10 is engaged in the business of deferred deposit transactions without a
11 license, or a licensee or person is violating any provision of this division
12 or any rule or order thereunder, the department may issue a citation to that
13 person in writing, describing with particularity the basis of the citation.
14 Each citation may contain an order to desist and refrain and an assessment
15 of an administrative penalty not to exceed two thousand five hundred
16 dollars (\$ 2,500). All penalties collected under this section shall be
17 deposited in the State Corporations Fund.

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

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

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

27 (e) After the exhaustion of the review procedures provided for in this
28 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.

DESIST AND REFRAIN ORDER

By reason of the foregoing, Payday Advance, LLC has violated provisions of the California
Financial Code while engaging in the business of deferred deposit transactions.

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California Financial Code section 23050 provides in pertinent part:

Whenever, in the opinion of the commissioner, any person is engaged in the business of deferred deposit transactions, as defined in this division, without a license from the commissioner, or . . . 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.

Pursuant to California Financial Code sections 23050 and 23058, Payday Advance, LLC is hereby ordered to desist and refrain from violating California Financial Code section 23036(c). 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.

ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS

Payday Advance, LLC willfully violated Financial Code section 23036 by entering into deferred deposit transaction agreements while at least one earlier agreement for the same customer was in effect. Specifically, Payday Advance, LLC made 850 second and third loans while at least one previous agreement for the same customer was still in effect, totaling \$239,682.13.

California Financial Code section 23060 states:

- (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 Financial Code section 23060, subdivisions (a) and (b), all 850 of the above described deferred deposit transactions totaling at least \$239,682.13 shall be declared void; no person shall have any right to collect or receive any principal amount provided in the deferred

1 deposit transaction, any charges, or fees in connection with those transactions, thus Payday
2 Advance, LLC is ordered to forfeit and return all charges, fees and any amount it received on all
3 deferred deposit transactions.

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5 Dated: October 23, 2008
6 Sacramento, California

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By _____
Alan S. Weinger
Acting Deputy Commissioner
Enforcement Division

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