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10
11 BEFORE THE DEPARTMENT OF CORPORATIONS
12 OF THE STATE OF CALIFORNIA
13

14	In the Matter of the Accusation of THE)	Case No.: 100-1663
	CALIFORNIA CORPORATIONS)	
15	COMMISSIONER,)	
)	1) ACCUSATION IN SUPPORT OF
16	Complainant,)	LICENSE REVOCATION
)	
17	vs.)	2) CITATIONS; DESIST AND REFRAIN
)	ORDER
18)	
19	CALIFORNIA FINANCIAL SERVICES, INC.)	3) ORDER VOIDING TRANSACTIONS
	doing business as THE PAWN SHOP,)	
20)	
	Respondent.)	
21)	

22
23 The Complainant is informed and believes, and based upon such information and belief,
24 alleges and charges Respondent as follows:

25 **I.**
26 **INTRODUCTION**

27 On October 1, 2004, the Commissioner of the Department of Corporations (“Commissioner”)
28 issued Respondent, California Financial Services, Inc. doing business as The Pawn Shop (“California

1 Financial Services, Inc.”) a deferred deposit transaction originator license (File No. 100-1663)
2 pursuant to the California Deferred Deposit Transaction Law (“CDDTL”), which is set forth in
3 California Financial Code sections 23000 *et seq.* (All future references are to Financial Code
4 sections unless indicated otherwise.)

5 Respondent California Financial Services, Inc. is a California corporation. Respondent
6 corporation’s president is Samuel Newman. Mr. Newman’s spouse, Maria Antonio Newman, serves
7 as the corporation’s vice president. California Financial Services, Inc. operates its principal place of
8 business at 1612 Oakdale Road, Suite C, Modesto, California 95355.

9 By reason of Respondent California Financial Services, Inc.’s numerous and continuing
10 violations of the CDDTL, the Commissioner seeks an order to revoke the deferred deposit transaction
11 originator license of Respondent pursuant to Financial Code section 23052.

12 II.

13 **CALIFORNIA DEFERRED DEPOSIT TRANSACTION LAW VIOLATIONS**

14 On or about January 19, 2007, the Commissioner commenced a regulatory examination of the
15 books and records of Respondent California Financial Services, Inc. The examination revealed
16 various California Financial Code violations by California Financial Services, Inc. doing business as
17 The Pawn Shop.

18 During the regulatory examination, a Department of Corporations examiner, acting on behalf
19 of the Commissioner, discovered that Respondent failed to include a Department of Corporations
20 licensing disclosure in advertisements as required by section 23027(b). Customers’ checks had been
21 altered by Respondent in violation of section 23037(e). The Respondent failed to include in written
22 agreements all disclosures required by section 23035(e). Unsigned written agreements had been
23 accepted by the Respondent in violation of section 23035(a). There was evidence that checks or
24 forms containing blanks left to be filled-in after execution had been accepted by the Respondent in
25 violation of section 23037(h). The Respondent had used written agreements that contained
26 statements likely to mislead in connection with the business of deferred deposit transactions in
27 violation of section 23037(f). Respondent had also failed to maintain evidence of the checks for
28 deferred deposit transactions as required by Title 10 of the California Code of Regulations section

1 2025, subdivision (c)(1).

2 Further, the January 19, 2007 regulatory examination revealed that while engaged in the
3 business of deferred deposit transactions, California Financial Services, Inc. had charged extension
4 fees to several customers in violation of section 23036(b). The amounts of the extension fees charged
5 were equal to the loan finance charges, ranging between \$12.00 and \$36.00.

6 In a regulatory letter dated March 23, 2007, the Commissioner requested that California
7 Financial Services, Inc. correct all violations discovered in the January 19, 2007 examination.
8 California Financial Services, Inc. was also specifically instructed to conduct a self-audit and “refund
9 to all customers the extension fees charged since December 31, 2004”. The regulatory letter provided
10 the Respondent with examples of two customers who had been charged unlawful extension fees
11 totaling \$36.00. The Respondent was further asked to notify the Commissioner of all amounts that it
12 discovered should be refunded to customers pursuant to the self-audit.

13 In a letter received by the Commissioner on April 27, 2007, California Financial Services,
14 Inc. responded that all violations had been corrected. The Respondent’s letter stated that “all monies”
15 had been refunded to the customers identified in the Commissioner’s March 23, 2007 regulatory
16 letter. Copies of the fronts of two checks dated April 23, 2007 for “refund fees” totaling \$36.00 paid
17 to the two named customers were attached.

18 As the Commissioner had actually identified more than two customers who were owed
19 refunds, it was evident that the Respondent did not conduct a thorough search of its records to
20 identify all customers charged unauthorized extension fees. Thereafter, the Commissioner contacted
21 California Financial Services, Inc. and reiterated that the Respondent was required to conduct a
22 complete self-audit of all contracts executed since December 31, 2004 and inform the Commissioner
23 of the results.

24 On May 17, 2007, the Commissioner received the Respondent’s second self-audit report.
25 California Financial Services, Inc. advised: “We have reviewed our files further and found additional
26 clients that were due refunds.” Copies of the fronts of six refund checks dated May 15, 2007 and
27 addressed to the six identified customers for extension fees totaling \$276.00 were enclosed.

28 The Commissioner contacted California Financial Services, Inc. for the third time to advise

1 that the self-audit results were clearly insufficient because other customers had been identified during
2 the Commissioner's January 19, 2007 examination who were not named in any of the Respondent's
3 prior two responses.

4 On June 11, 2007, the Commissioner received an envelope from California Financial
5 Services, Inc. containing copies of the fronts of 16 checks dated June 6, 2006 that were payable to the
6 order of customers for 19 extension fees totaling \$672.00.

7 As there were outstanding extension fees discovered during the first examination that still had
8 not been identified or refunded, the Respondent was informed that the Commissioner would be
9 returning to the Modesto business location for an expanded regulatory inspection to be conducted at
10 Respondent's expense.

11 The second regulatory examination took place at the Respondent's Modesto store on August
12 7, 2007. The store owner, Mrs. Newman, was present at the examination. The Commissioner asked
13 the Respondent to provide for inspection records of all deferred deposit transactions executed since
14 December 31, 2004. Although the Respondent initially stated that the location of the older contracts
15 was unknown, some of the records were eventually located in a storage area in the back of the
16 premises. Respondent informed the Commissioner that the rest of the records requested for
17 inspection were located in offsite storage. The Respondent indicated that it believed all of the older
18 files had been reviewed during the prior self-audits.

19 With Mrs. Newman present, the Commissioner reviewed the onsite files containing deferred
20 deposit transaction contracts executed by California Financial Services, Inc. since December 31,
21 2004. In these files alone, the Commissioner discovered an additional 59 extension fees totaling
22 \$1,932.00 that had not been identified or refunded to customers despite the Respondent's three prior
23 self-audit attempts. Thus, the second examination revealed that the Respondent had failed to make
24 good faith efforts to conduct a complete review of all records requested despite being provided
25 numerous self-correction opportunities by the Commissioner.

26 It was also discovered that not all of the extension-fee refund checks that the Respondent
27 previously appended copies of to its self-audit reports to the Commissioner had been actually mailed
28 to the customers. Instead, the Respondent informed that refund checks were given to the identified

1 customers when and if they physically returned to the Modesto store location. Thus, in addition to
2 failing to adequately comply with the Commissioner’s self-audit requests, the Respondent
3 misrepresented that refund checks had actually been tendered to the customers identified.

4 **III.**

5 **AUTHORITY SUPPORTING REVOCATION OF RESPONDENT’S**
6 **CALIFORNIA DEFERRED DEPOSIT TRANSACTION LICENSE**

7 California Financial Code section 23052 provides:

8 The commissioner may suspend or revoke any license, upon notice and reasonable
9 opportunity to be heard, if the commissioner finds any of the following:

10 (a) The licensee has failed to comply with any demand, ruling, or
11 requirement of the commissioner made pursuant to and within the authority
12 of this division.

13 (b) The licensee has violated any provision of this division or any rule or
14 regulation made by the commissioner under and within the authority of this
15 division.

16 (c) A fact or condition exists that, if it had existed at the time of the original
17 application for the license, reasonably would have warranted the commissioner in
18 refusing to issue the license originally.

19 The Commissioner finds that, by reason of the foregoing, the Respondent has violated
20 Financial Code section 23036(b) by charging unauthorized deferred deposit transaction extension
21 fees. Based thereon, grounds exist for the Commissioner to revoke the deferred deposit transactions
22 license of Respondent California Financial Services, Inc. doing business as The Pawn Shop.

23 **IV.**

24 **AUTHORITY TO ISSUE CITATIONS AND DESIST AND REFRAIN ORDER**

25 California Financial Code section 23058, subdivision (a), authorizes the Commissioner to
26 issue citations and provides:

27 If, upon inspection, examination or investigation, based upon a complaint or otherwise, the
28 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

1 order to desist and refrain and an assessment of an administrative penalty not to exceed two
2 thousand five hundred dollars (\$ 2,500). All penalties collected under this section shall be
3 deposited in the State Corporations Fund.

4 Additionally, the Commissioner is statutorily authorized to order any person or licensee to
5 desist and refrain from engaging in violations of the CDDTL. Financial Code section 23050
6 provides:

7 Whenever, in the opinion of the commissioner, any person is engaged in the business of
8 deferred deposit transactions, as defined in this division, without a license from the
9 commissioner, or any licensee is violating any provision of this division, the commissioner
10 may order that person or licensee to desist and to refrain from engaging in the business or
11 further violating this division. If within 30 days, after the order is served, a written request for
12 a hearing is filed and no hearing is held in 30 days thereafter, the order is rescinded.

13 During the expanded August 7, 2007 examination of the Respondent's records, the
14 Commissioner identified 59 deferred deposit transactions in which California Financial Services, Inc.
15 charged unauthorized extension fees totaling \$1,932.00 to customers in violation of section 23036(b).
16 These violations remained uncorrected by the Respondent despite being given three opportunities to
17 identify and refund the unauthorized fees prior to the August 7, 2007 examination.

18 **V.**
19 **CITATIONS**

20 The foregoing facts establish that California Financial Services, Inc. has violated California
21 Financial Code section 23036(b) by charging unauthorized extension fees, and based thereon the
22 Commissioner is statutorily authorized to issue the following Citations:

23 Citations 1 through 59 - Since about December 31, 2004 through at least about January 19,
24 2007, California Financial Services, Inc. has charged customers fees exceeding the amounts
25 authorized under the California Financial Code in connection with deferred deposit transactions in
26 violation of section 23036(b).

27 Pursuant to California Financial Code section 23058, California Financial Services, Inc. is
28 hereby ordered to pay to the Commissioner a total of 59 administrative penalties of \$2,500.00 each in
the amount of one-hundred forty-seven thousand and five-hundred dollars (\$147,500.00) for the

1 following Citations within 30 days from the date of these Citations:

2 Citations 1 through 59 -- Two thousand five hundred dollars (\$2,500) EACH, totaling
3 \$147,500.00.

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

5 **VI.**

6 **DESIST AND REFRAIN ORDER**

7 Based on the foregoing facts establishing multiple violations of the CDDTL by the
8 Respondent, the issuance of a Desist and Refrain Order is necessary for the protection of consumers
9 and is consistent with the purposes, policies, and provisions of the CDDTL.

10 Pursuant to California Financial Code sections 23050 and 23058, California Financial
11 Services, Inc. doing business as The Pawn Shop is hereby ordered to desist and refrain from violating
12 California Financial Code section 23036(b).

13 This Order shall remain in full force and effect until further order of the Commissioner.

14 **VII.**

15 **AUTHORITY TO VOID CALIFORNIA DEFERRED DEPOSIT TRANSACTIONS**

16 California Financial Code section 23060, subdivision (a), states:

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

21 Respondent California Financial Services, Inc. willfully violated Financial Code section
22 23036 by charging deferred transaction extension fees of \$1,932.00 in at least 59 transactions for
23 loans in the amount of \$16,340.00, collecting a total sum of \$18,272.00 from consumers. Respondent
24 California Financial Services, Inc. has no right to collect or receive any amount other than, or in
25 excess of, the charges or fees permitted by the CDDTL.
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VIII.

ORDER VOIDING CALIFORNIA DEFERRED DEPOSIT TRANSACTIONS

California Financial Services, Inc. doing business as The Pawn Shop is hereby ordered to immediately return to consumers any amount and all charges and fees received for the 59 deferred deposit transactions described above. The transactions totaling at least \$18,272.00 are declared void.

IX.

CONCLUSION AND PRAYER

The Commissioner finds that, by reason of the foregoing, the Respondent has violated California Financial Code section 23036(b), and based thereon, grounds exist for the Commissioner to revoke the deferred deposit transactions license of Respondent California Financial Services, Inc. doing business as The Pawn Shop.

WHEREFORE, IT IS PRAYED that the deferred deposit transactions license of California Financial Services, Inc. doing business as The Pawn Shop be revoked.

Dated: January 31, 2008
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
Alan S. Weinger
Lead Corporations Counsel
Enforcement Division