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 9 CALIFORNIA CORPORATIONS COMMISSIONER

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

14 In the Matter of the Orders Issued to:)
 15)
 16 National Money Store, S.A.,) DESIST AND REFRAIN ORDER PURSUANT
 17 a.k.a,) TO CALIFORNIA FINANCIAL CODE
 18 National Money Store, S.A. Corporation Costa) SECTION 23050; and
 19 Rica,)
 20 National Money Store,) ORDER VOIDING TRANSACTIONS AND
 21 and) TO DISGORGE ALL CHARGES AND FEES
 22 www.nationalmoneystore.com,) PURSUANT TO CALIFORNIA FINANCIAL
) CODE SECTION 23060
 Respondent.)
)
)
)

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 24 Complainant, the Commissioner of the Department of Corporations (“Commissioner” or
 25 “Department”), is informed and believes, and based on such information and belief, finds as follows:
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I.

FACTUAL BACKGROUND

National Money Store, S.A., also known as, National Money Store, S.A. Corporation Costa Rica, National Money Store, and www.nationalmoneystore.com (collectively, herein as “NMS”), is located in Houston, Texas, United States, with a mailing address of Post Office Box No. 940058, Houston, Texas, 77094-7058. NMS was incorporated as an “Anonymous Society” (S.A.), or corporation in San Jose, Republic of Costa Rica. NMS transacts business world wide, and in California, by way of the internet.

NMS offers deferred deposit transactions or “payday loans” to California residents by way of telephone number (877) 913-7500; internet website address www.nationalmoneystore.com; and email address admin@nationalmoneystore.com.

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 would not be deposited until a later date. “Personal check”, as referenced in California Financial Code section 23001, includes “the electronic equivalent of a personal check,” such as an Automated Clearing House (“ACH”) or debit card transaction. NMS offers these payday loans at a very high annual percentage rate of interest to borrowers.

Since at least January, 2011, NMS has engaged in the business of offering, originating, or making deferred deposit transactions in California, as defined by the California Deferred Deposit Transaction Law (“CDDTL”), as set forth in California Financial Code sections 23000 *et seq.*, whereby NMS either defers depositing the customer’s personal check or defers making an agreed upon ACH deduction until a specific date pursuant to a written agreement for a fee or other charge.

NMS customers submit an online loan application through their website, www.nationalmoneystore.com. Customers are required to provide their checking account information from which NMS eventually automatically debits payments, fees, and interest from the borrowers. NMS, however, then uses customers’ banking account information to deduct additional fees and charges beyond what customers were told they would expect to pay, sometimes in excess of more than double the amount of the original loan, and beyond what the CDDTL allows.

1 NMS has not been issued a deferred deposit transaction originator license by the
2 Commissioner pursuant to the CDDTL. As such, NMS is not authorized to engage in payday
3 lending, or to offer, originate, or make a deferred deposit transaction, arrange a deferred deposit
4 transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist
5 a deferred deposit originator in the origination of a deferred deposit transaction.

6 **II.**

7 **CDDTL VIOLATIONS AND ORDERS**

8 The Department is responsible for enforcing all provisions of the CDDTL, including the
9 regulation of deferred deposit transactions.

10 **A. Desist and Refrain Order**

11 The Commissioner is statutorily authorized to order any person to desist and refrain from
12 engaging in violations of the CDDTL. California Financial Code section 23050 provides, in pertinent
13 part:

14 Whenever, in the opinion of the commissioner, any person is engaged in
15 the business of deferred deposit transactions, as defined in this division,
16 without a license from the commissioner,...the commissioner may order
17 that person...to desist and to refrain from engaging in the business or
18 further violating this division...

19 The foregoing facts establish multiple violations of the CDDTL by National Money Store,
20 S.A., also known as, National Money Store, S.A. Corporation Costa Rica, National Money Store, and
21 www.nationalmoneystore.com, including engaging in the business of originating or offering to
22 originate deferred deposit transactions without having first obtained a license to do so from the
23 California Corporations Commissioner in violation of section 23005(a). The issuance of a Desist and
24 Refrain Order, therefore, is necessary for the protection of consumers and is consistent with the
25 purposes, policies, and provisions of the CDDTL.

26 Pursuant to California Financial Code section 23050, National Money Store, S.A., also known
27 as, National Money Store, S.A. Corporation Costa Rica, National Money Store, and
28 www.nationalmoneystore.com, is hereby ordered to desist and refrain from violating California

1 Financial Code section 23005(a). This Order shall remain in full force and effect until further order
2 of the Commissioner.

3 **B. Order Voiding California Deferred Deposit Transactions**

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

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

9 NMS willfully violated provisions of the CDDTL by repeatedly charging California
10 customers fees or charges without a license in violation of section 23005, including excess fees and
11 charges, in conjunction with deferred deposit transactions. Because NMS willfully charged its
12 customers unauthorized fees or charges, NMS is not entitled to collect or receive the principal
13 amounts provided in those deferred deposit transactions, nor is it entitled to any of the charges or fees
14 associated with the transactions.

15 Pursuant to California Financial Code section 23060, any and all deferred deposit
16 transactions contracted with California customers or in the State of California by NMS are
17 therefore void. National Money Store, S.A., also known as, National Money Store, S.A.
18 Corporation Costa Rica, National Money Store, and www.nationalmoneystore.com, is hereby
19 ordered to immediately return the principal amounts provided in any and all deferred deposit
20 transactions contracted with California customers or in the State of California, and to disgorge
21 any and all charges or fees received in conjunction with the deferred deposit transactions.

22 Dated: September 19, 2011
23 Sacramento, California

24 PRESTON DuFAUCHARD
California Corporations Commissioner

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26 By: _____
27 ALAN S. WEINGER
28 Deputy Commissioner
Enforcement Division