

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

4 TO: MERCHANT CHECK CASHING
5 MERCHANT CHECK CASHING AND PAYDAY ADVANCE
6 13844 Rosecrans Avenue
7 Santa Fe Springs, California 90670

8 Lisa Sierra
9 Elizabeth Hernandez
10 Arimda Merchant
11 737 N Rodeo Way
12 Walnut, California 91789

13 **DESIST AND REFRAIN ORDER**

14 (For violations of California Financial Code sections 23005, 23024, 23035, 23036, 23037)

15 **ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS**

16 (California Financial Code section 23060)

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

18 STATEMENT OF FACTS

19 1. Merchant Check Cashing, Merchant Check Cashing and Payday Advance are fictitious
20 business names owed and used by Lisa Sierra, Elizabeth Hernandez and Arimda Merchant,
21 hereinafter referred to as “MCC”. MCC does business at 13844 Rosecrans Avenue, Santa Fe
22 Springs, California. Co-located with MCC is Sierra Mortgage, the fictitious business name of
23 BSLM Inc., a licensed real estate broker with the California Department of Real Estate (license
24 number 01224741). BSLM Inc. employs Lisa Sierra as a salesperson (license number 1224741).

25 2. The Commissioner of the Department of Corporations (“Department”) is responsible
26 for enforcing the California Deferred Deposit Transaction Law (“CDDTL”) found in California
27 Financial Code section 23000 et seq. The Commissioner has not issued a license to MCC to
28 engage in the business of deferred deposit transactions pursuant to Financial Code section 23005.
MCC is not exempt from the licensing requirement of the CDDTL.

1 3. Since at least January 2005 MCC has engaged in the business of deferred deposit
2 transactions by offering, originating and making deferred deposit transactions as described below.

3 4. A deferred deposit transaction is a written transaction whereby one person gives funds
4 to another person upon receipt of a personal check and it is agreed that the personal check shall
5 not be deposited until a later date. These transactions are also referred to as “payday advances”
6 or “payday loans.”

7 5. MCC was aware that a CDDTL license was required to lawfully engage in the
8 business of deferred deposit transactions. On May 19, 2003, MCC filed with the Department an
9 incomplete CDDTL application requesting a license pursuant to Financial Code section 23005,
10 subdivision (a). In August 2004 and again in November 2004 the Department wrote to MCC
11 requesting it provide additional information to process its CDDTL application. MCC never
12 provided the requested information. As a result of MCC’s failure to comply with the Department’s
13 requests, the CDDTL application was abandoned. On March 10, 2005, the Department informed
14 MCC that the license had been withdrawn in accordance with Financial Code section 23011,
15 subdivision (b).

16 6. On April 17, 2007, the Commissioner’s examiner visited MCC and posed as a potential
17 customer to MCC’s manager, Lisa Sierra, who informed the examiner what she would need to
18 obtain a loan. Later Lisa Sierra informed the examiner that she could not give the examiner a loan
19 because there was a ‘problem with her license.’ Ms. Sierra stated that she had contacted the
20 Department because she needed to obtain a copy of her license.

21 7. The Commissioner’s examiner later identified herself as an examiner with the
22 Department. Ms. Sierra admitted to the Commissioner’s examiner that MCC engaged in the
23 business of deferred deposit transactions. When Ms. Sierra was asked about the number of MCC
24 loans provided to consumers during 2005 and 2006, she stated that approximately 30 customers
25 received loans on a biweekly basis (approximately two loans per month) resulting in about 720
26 loans for each year.

27 8. Thereafter, Ms. Sierra provided to the Department’s examiner various records relating to
28 MCC’s CDDTL activities.

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

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

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

8 (e) After the exhaustion of the review procedures provided for in this
9 section, the department may apply to the appropriate superior court for a
10 judgment in the amount of the administrative penalty and order
11 compelling the cited person to comply with the order of the department.
12 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.

13 **DESIST AND REFRAIN ORDER**

14 By reason of the foregoing, Merchant Check Cashing, Merchant Check Cashing and Payday
15 Advance, Lisa Sierra, Elizabeth Hernandez and Arimda Merchant have engaged in the business of
16 deferred deposit transactions without having first obtained a license from the Commissioner in
17 violation of the California Financial Code section 23005.

18 California Financial Code section 23050 provides in pertinent part:

19 Whenever, in the opinion of the commissioner, any person is engaged in the
20 business of deferred deposit transactions, as defined in this division, without
21 a license from the commissioner, or . . . violating any provision of this
22 division, the commissioner may order that person or licensee to desist and to
23 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.

24 Pursuant to Financial Code section 23050, Merchant Check Cashing, Merchant Check
25 Cashing and Payday Advance, Lisa Sierra, Elizabeth Hernandez and Arimda Merchant are hereby
26 ordered to desist and refrain from (1) engaging in the business of deferred deposit transactions in
27 the State of California without licensure or exemption and (2) violating Financial Code sections
28 23005, 23024, 23035, 23036 and 23037 and California Code of Regulations, title 10, section 2025.

1 This Order is necessary for the protection of consumers and consistent with the purposes, policies
2 and provisions of the CDDTL. This Order shall remain in full force and effect until further order of
3 the Commissioner.

4 **ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS**

5 Merchant Check Cashing, Merchant Check Cashing and Payday Advance, Lisa Sierra,
6 Elizabeth Hernandez or Arimda Merchant willfully violated section 23005, 23024, 23035, 23036
7 and 23037 of the CDDTL by entering into at least 1,364 consumer deferred deposit transactions
8 without a license. California Financial Code section 23060 states:

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

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

19 Pursuant to Financial Code section 23060, subdivisions (a) and (b), all 1,364 of the above
20 described deferred deposit transactions totaling at least \$58,484.31 shall be declared void; no
21 person shall have any right to collect or receive any amount provided in the deferred deposit
22 transaction, any charges, or fees in connection with those transactions, thus MCC is ordered to
23 forfeit and return all charges, fees and other amounts it received on all deferred deposit transactions.

24 Dated: August 24, 2007
25 Los Angeles, California

26 PRESTON DuFAUCHARD
27 California Corporations Commissioner

28 By _____
ALAN S. WEINGER
Lead Corporations Counsel
Enforcement Division