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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT

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OF THE STATE OF CALIFORNIA

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In the Matter of THE COMMISSIONER OF ) AMENDED DESIST AND REFRAIN ORDER  
BUSINESS OVERSIGHT OF THE STATE OF ) PURSUANT TO CALIFORNIA FINANCIAL  
13 CALIFORNIA, ) CODE SECTION 23050; and

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Complainant, ) CITATION PURSUANT TO CALIFORNIA  
FINANCIAL CODE SECTION 23058

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vs. )

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B&J Service Center & Check Cashing, Inc., )

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Respondent. )

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This Order partially amends and supersedes the Order issued on October 9, 2013 by deleting  
22 the allegation that B&J Service Center & Check Cashing, Inc. violated California Financial Code  
23 section 23036 by charging fees in excess of the limit of 15% of the face amount of the loan.

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The remaining portions of the October 9, 2013 Order remain in effect.

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The California Commissioner of Business Oversight, formerly the Commissioner of  
26 Corporations (“Commissioner”), is informed and believes, and based on such information and belief,  
27 finds as follows:  
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**I.**

**FACTUAL BACKGROUND**

1. B&J Service Center & Check Cashing, Inc. (“B&J”), a California corporation, is a deferred deposit transaction originator licensed by the Department of Business Oversight, formerly the Department of Corporations (“Department”), pursuant to the California Deferred Deposit Transaction Law, commencing at California Financial Code section 23000 (“CDDTL”). On April 17, 2012, B&J was issued license number 100-4405 to conduct business as a deferred deposit transaction originator at 2306 Almaden Road, # 160, San Jose, California 95125. On May 11, 2012, B&J was issued license number 100-4415 to conduct business as a deferred deposit transaction originator at 991 Saratoga Avenue, #120, San Jose, California 95129 (“991 Saratoga”). The sign on the storefront of 991 Saratoga bears the name, “Smoke ‘N Cash.”

2. At all relevant times herein, Richard Eid is the president and owner of B&J with business address located at 991 Saratoga Avenue.

3. On or around May 31, 2012, the Department conducted a regulatory examination of B&J, which revealed that prior to its being issued license numbers 100-4405 and 100-4415, starting from at least April 28, 2008 through on or around March 22, 2012, B&J had engaged in the business of deferred deposit transactions at 991 Saratoga as follows:

a. A posted sign advertised, “Payday Loan” for a minimum charge of \$17.50, a maximum loan amount of \$255.00, for a term of 14 days. Requirements for a payday loan included a recent bank statement, social security number, driver’s license, recent paystub, and home bill, such as a utility bill. The sign also stated the following charges:

<b>Loan Amount</b>	<b>Charges</b>
\$100.00	\$17.50
\$125.00	\$22.00
\$150.00	\$26.00
\$175.00	\$30.00

\$200.00	\$35.00
\$225.00	\$40.00
\$255.00	\$45.00

b. Customers completed a “Cash Advance Form” on which they disclosed personal, business, and banking information. The form stated the loan amount, loan term, and payoff amount. Customers then signed at the bottom authorizing B&J, its collection agency, or another credit reporting agency to call their employer to confirm employment, to call their residence to confirm a working home phone number, and to obtain their bank account information.

c. B&J loaned customers the agreed-to loan amount in cash.

d. When the due date arrived, customers paid B&J the loan amount plus the fee charged using a post-dated personal check or by going to 991 Saratoga to pay in cash.

4. From at least April 28, 2008 through March 22, 2012, B&J offered and originated approximately 2299 payday loans, financing a total amount of approximately \$510,596.00, and charging approximately \$89,881.00 in loan fees, as follows:

<b>Dates</b>	<b>Total # of loans</b>	<b>Total Amounts Loaned</b>	<b>Total Fees Charged</b>	<b>Total Loan Amounts plus Fees Charged</b>
04/28/08 – 12/31/08	259	\$55,908.00	\$9,867.00	\$65,775.00
01/01/09 – 12/31/09	657	\$148,899.00	\$26,877.50	\$175,776.50
01/01/10 – 12/31/10	633	\$140,734.00	\$24,062.50	\$164,796.50
01/01/11 – 12/31/11	619	\$133,920.00	\$23,587.50	\$157,507.50
01/01/12 – 03/22/12	131	\$31,135.00	\$5,486.50	\$36,621.50
<b>TOTALS</b>	<b>2299</b>	<b>\$510,596.00</b>	<b>\$89,881.00</b>	<b>\$600,477.00</b>

5. Pursuant to California Financial Code section 23001(a), “deferred deposit transaction” (commonly referred to as “payday loans” or “payday advances”) 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.

1 6. From at least April 28, 2008 through on or around March 22, 2012, B&J engaged in  
2 the business of deferred deposit transactions without a license by the Commissioner.

3 **II.**

4 **DESIST AND REFRAIN ORDER**

5 The Department is responsible for enforcing provisions of the CDDTL found in the California  
6 Financial Code commencing at section 23000. The Commissioner is authorized to pursue  
7 administrative actions and remedies against persons who engage in violations of the CDDTL.

8 California Financial Code section 23050 provides:

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

17 California Financial Code section 23005, subdivision (a) provides in pertinent part:

18 (a) No person shall offer, originate, or make a deferred deposit transaction,  
19 arrange a deferred deposit transaction for a deferred deposit originator, act  
20 as an agent for a deferred deposit originator, or assist a deferred deposit  
21 originator in the origination of a deferred deposit transaction without first  
22 obtaining a license from the commissioner and complying with the  
23 provisions of this division . . . .

24 The foregoing facts establish violations of California Financial Code section 23005,  
25 subdivision (a) by B&J in that during the period of at least April 28, 2012 to March 22, 2012, B&J  
26 was not licensed by the Commissioner to offer or originate deferred deposit transactions.

27 Pursuant to California Financial Code section 23050 B&J Service Center & Check Cashing,  
28 Inc. is hereby ordered to desist and refrain from violating California Financial Code section 23005.  
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.

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**III.**

**CITATION**

For the CDDTL violations of B&J Service Center & Check Cashing, Inc., the Commissioner herein issues Citation A as part of this single document:

**CITATION A** – During the period of at least April 28, 2012 to March 22, 2012, B&J Service Center & Check Cashing, Inc. was not licensed by the Commissioner to offer or originate approximately 2299 deferred deposit transactions, in violation of Financial Code section 23005.

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 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.

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Pursuant to Financial Code section 23058, B&J Service Center & Check Cashing, Inc. is hereby ordered to pay the Commissioner an administrative penalty of two thousand five hundred dollars (\$2,500) for Citation A within 30 days from the date of this citation.

Dated: October 14, 2013  
Los Angeles, California

JAN LYNN OWEN  
Commissioner of Business Oversight

By: \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner