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BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of THE COMMISSIONER OF CORPORATIONS, Complainant, vs. EAST SIDE LENDERS, LLC, Respondent.	DESIST AND REFRAIN ORDER (FIN CODE §23050) AND ORDER VOIDING TRANSACTIONS AND TO DISGORGE ALL CHARGES AND FEES (FIN CODE §23060) AND CITATIONS (FIN CODE §23058)

Complainant, the Commissioner of Corporations of the Department of Corporations ("Commissioner" or "Department"), is informed and believes, and based on this information and belief, finds as follows:

FACTUAL BACKGROUND

1. The Commissioner has jurisdiction over deferred deposit transactions, deferred deposit originators, and licensees, as set forth in the California Deferred Deposit Transaction Law ("CDDTL") (California Financial Code section 23000 et seq., hereinafter referred to as "section"). "Deferred deposit transaction" 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. "Personal check," for purposes of section 23001, includes the electronic equivalent of a personal

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check, such as an Automated Clearing House ("ACH") or debit card transaction. "Deferred deposit originator" and "licensee" are defined similarly to mean any person who offers, originates, or makes a deferred deposit transaction.

2. East Side Lenders, LLC is a Delaware limited liability company that operates over the internet using the domain name of eastsidelenders.com. East Side Lenders, LLC uses the address of 40 East Main Street, Suite 410, Newark, Delaware 19711. East Side Lenders, LLC provides the telephone number of (866) 569-6636.

3. Since at least October 2009, East Side Lenders, LLC has engaged in the business of offering, originating, or making deferred deposit transactions (commonly referred to as payday loans or payday advances) to California customers through its website of eastsidelenders.com. Customers submit an application online and are required to provide personal information and checking account information to which loan monies are automatically deposited. Customers are also required to provide authorization to effect ACH debit entries and to allow deductions of payments, charges, fees and other monies directly from the customer's bank account.

4. On October 22, 2009, the Commissioner issued a desist and refrain order to East Side Lenders, LLC. East Side Lenders, LLC was ordered to desist and refrain from engaging in the following: 1) conducting business of deferred deposit transactions without licensure in violation of California Financial Code section 23005, 2) making loans in amounts exceeding $300, in violation of Financial Code section 23035, and 3) charging excessive fees in violation of Financial Code sections 23036 and 23037. That order was served on East Side Lenders, LLC. East Side Lenders, LLC did not request a hearing to contest the order, and therefore the order was final.

5. Despite the Commissioner's order, East Side Lenders, LLC continues to engage in business with Californians without a license, providing loan amounts in excess of the $300 maximum allowed by law, and with loan fees that exceed the maximum of 15% allowed by law, all in violation of Financial Code sections 23005, 23035, and 23036. Examples of unlicensed loans by East Side Lenders, LLC, with unlawful loan amounts or fees, involving California customers are as follows:

a. During November 2009, customer YT received one $700 payday loan from East Side Lenders, LLC and paid approximately $2,137. Therefore, the loan fees were $1,437.

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b. During August 2011, customer LA received one payday loan from East Side Lenders, LLC totaling $300. East Side Lenders, LLC collected $570. Consequently, the loan fees were $270.

c. During September 2011, customer SB received one $300 payday loan from East Side Lenders, LLC, and East Side Lenders LLC collected at least $480, resulting in fees of at least $180.

d. During June 2012, customer GF received one $500 payday loan from East Side Lenders, LLC. GF returned the $500 to East Side Lenders, LLC. Nevertheless, East Side Lenders, LLC collected at least $500 in fees.

e. From June 2012 to July 2012, customer DH received two payday loans from East Side Lenders, LLC totaling $1,750, and East Side Lenders, LLC collected $2,495 for the two loans. Thus, the total fees were $745.

f. From January 2011 to March 2012, customer PP received three loans from East Side Lenders, LLC totaling $2,450, and East Side Lenders, LLC collected $5,632.50 for the three loans. Thus, the total fees were $3,182.50.

CDDTL VIOLATIONS

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

A. Failure to Obtain a License

Section 23005(a) states in relevant part:

> "No person shall offer, originate, or make a deferred deposit transaction…without first obtaining a license from the commissioner."
> "Person" is defined by section 23001(f) to include an individual, a corporation, partnership, limited liability company, joint venture, an association or unincorporated organization.

7. Because East Side Lenders, LLC has not been issued a deferred deposit originator license by the Commissioner, it is prohibited from offering, originating, or making deferred deposit transactions and engaging in payday lending activities.

B. Making Loans in Excess of $300

8. Subdivision (a) of section 23035 provides that the face amount of a check shall not exceed $300. Customers YT, LA, GF, DH and PP received loan amounts ranging from $500 to $1,000, well

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in excess of the $300 loan limit.

C. Charging Excessive Amounts

9. Pursuant to section 23036:

(a) A fee for a deferred deposit transaction shall not exceed 15 percent of the face amount of the check.

10. Customer YT paid fees of approximately $1,437 for a loan of $700 (205% of the loan amount). Customer LA paid fees of $270 for a loan of $300 (90% of the loan amount). Customer SB paid fees of at least $180 for a loan of $300 (60% of the loan amount). Customer GF paid fees of at least $500 for a $500 loan (100% of the loan amount). DH paid fees of $225 for a loan of $750 (30% of the loan amount), paid fees of $30 for a loan of $200 (18% of the loan amount), and paid $520 for a loan of $1,000 (52% of the loan amount). PP paid fees of $2,092.50 for a loan of $750 (279% of the loan amount), paid fees of $2,040 for a loan of $700 (291% of the loan amount), and paid fees of $1,500 for a loan of $1,000 (150% of the loan amount). The fees contracted for by East Side Lenders, LLC violate section 23036 of the CDDTL.

ORDERS

Desist and Refrain Order

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

> 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 any licensee is violating any provision of this division, the commissioner may order that person or licensee to desist and 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.

12. The foregoing facts establish multiple violations of the CDDTL (and the prior Desist and Refrain order of the Commissioner) by East Side Lenders, LLC. The issuance of a Desist and Refrain Order, therefore, is necessary for the protection of consumers and is consistent with the purposes, policies and provisions of the CDDTL.

13. Pursuant to section 23050, East Side Lenders, LLC is hereby ordered to desist and refrain

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from violating: California Financial Code section 23005, subdivision (a); section 23035, subdivision (a); and section 23036, subdivision (a).

Order Voiding California Deferred Deposit Transactions

14. Section 23060 of the CDDTL 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 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.

15. East Side Lenders, LLC willfully violated provisions of the CDDTL, by engaging in business without a license in violation of subdivision (a) of section 23005; by making loans in excess of $300 in violation of subdivision (a) of section 23035; and by collecting fees in excess of 15%, in violation of subdivision (a) of section 23036. Accordingly, pursuant to subdivisions (a) and (b) of section 23060, East Side Lenders, LLC is not entitled to collect or receive the principal amount provided in its deferred deposit transactions, or any charges or fees associated with the transactions.

16. Pursuant to subdivisions (a) and (b) of section 23060, any and all deferred deposit transactions contracted with California customers or in this state are therefore void. East Side Lenders, LLC is hereby ordered to immediately return the principal amounts provided in any and all deferred deposit transactions contracted with California customers or in this state, and to disgorge any and all charges or fees received in conjunction with the deferred deposit transactions.

Citations

17. The foregoing violations were revealed after inspection, examination or investigation by the department and warrant citations pursuant to section 23058, subdivision (a), which states in part:

> 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

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> 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)…

18. The Commissioner herein issues thirty one (31) separate citations, incorporating the above order to desist and refrain, for the following violations by East Side Lenders, LLC since January 2011:

1) Originating twelve (12) deferred deposit transactions without a license, in violation of subdivision (a) of section 23005 as follows:

2) Originating nine (9) deferred deposit transactions in excess of $300, in violation of subdivision (a) of section 23035.

3) Originating ten (10) deferred deposit transactions with loan fees in excess of the 15% maximum amount required by subdivision (a) of section 23036.

19. The above violations are demonstrated by the following twelve loan transactions:

a. Loan of $700 made to YT on November 24, 2010, with loan fees of approximately $1,437 (205% of the loan amount).

b. Loan of $300 made to LA on August 25, 2011, with loan fees of $270 (90% of the loan amount).

c. Loan of $600 made to LA on October 7, 2011, with repayment of principal of $515.

d. Loan of $300 made to SB on September 19, 2011, with loan fees of at least $180 (60% of the loan amount).

e. Loan of $500 made to GF on June 18, 2012, with loan fees of at least $500 (100% of loan amount).

f. Loan of $750 made to DH on June 18, 2012, with loan fees of $225 (30% of the loan amount).

g. Loan of $200 made to DH on July 9, 2012, with loan fees of $35 (18% of the loan amount).

h. Loan of $1,000 made to DH on July 30, 2012, with loan fees of $520 (52% of the loan

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amount).

i. Loan of $1,000 made to DH on September 12, 2012, with repayment of principal of $845.

j. Loan of $750 made to PP on January 19, 2011, with loan fees of $2,092.50 (279% of the loan amount).

k. Loan of $700 made to PP on September 6, 2011, with loan fees of $2,040 (291% of the loan amount).

l. Loan of $1,000 made to PP on December 22, 2011, with loan fees of $1,500 (150% of the loan amount).

20. Pursuant to section 23058, East Side Lenders, LLC is ordered to pay the Commissioner an administrative penalty of two thousand five hundred dollars ($2,500) for each of the thirty-one (31) citations above, for a total amount of seventy seven thousand five hundred dollars ($77,500), payable by check made out to the Department of Corporations and received by Timothy L. Le Bas at 1515 K Street, Suite 200, Sacramento, CA 95814 no later than sixty (60) days from the date of the final order.

Dated: May 6, 2013
Sacramento, CA

JAN LYNN OWEN
Commissioner of Corporations

By_____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

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