

1 MARY ANN SMITH
Deputy Commissioner
2 DOUGLAS M. GOODING
Assistant Chief Counsel
3 TIMOTHY L. Le BAS (State Bar No. 135565)
Senior Counsel
4 Department of Business Oversight
1515 K Street, Ste. 200
5 Sacramento, California 95814
Telephone: (916) 322-2050
6 Facsimile: (916) 455-6985

7 Attorneys for Complainant

8

9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11	In the Matter of:)	DESIST AND REFRAIN ORDER (FIN CODE
)	23050)
12	THE COMMISSIONER OF BUSINESS)	
13	OVERSIGHT,)	AND
)	
14	Complainant,)	ORDER VOIDING TRANSACTIONS AND
)	TO DISGORGE ALL CHARGES AND FEES
15	v.)	(FIN CODE 23060)
16	UNCLE WARBUCKS,)	
17)	
18	Respondent.)	
19)	

20 The Commissioner of Business Oversight (“Commissioner”) finds that:

21 **I. FACTUAL BACKGROUND**

22 1. Uncle Warbucks is an entity of unknown origin with its last known address at P.O. Box 1469,
23 Kahnawake, Quebec, JOL 1B0. Uncle Warbucks maintains a phone number of (855) 885-4027 and a
24 customer service address of customerservice@unclewarbucks.com. Another entity, Money Messiah,
25 maintains the same address of P.O. Box 1469, Kahnawake, Quebec, JOL 1B0. Money Messiah also
26 maintains a website of http://www.moneymessiah.com, a phone number of (855) 877-8150 and a
27 customer service address of customerservice@moneymessiah.com.

28 2. Uncle Warbucks is and was operating a website on the internet at

1 <http://www.unclewarbucks.com>. According to that website, Uncle Warbucks makes loans of up to
2 one thousand dollars (\$1,000) to consumers. On its website, it makes available a loan application,
3 indicates that customers receive loan proceeds as soon as the next day, and states that people can rely
4 on an Uncle Warbucks quick cash loan. Consumers are instructed to review and sign a loan
5 agreement, and then cash is in the consumer's bank account the next day.

6 3. In the past, Uncle Warbucks made payday loans to at least two California consumers without
7 a license as required by Financial Code section 23005. As a result, on June 2, 2014, the
8 Commissioner issued a desist and refrain order against Uncle Warbucks, ordering it to stop making
9 payday loans without a license under the California Deferred Deposit Transaction Law (CDDTL).
10 Uncle Warbucks did not contest this order.

11 4. Despite the Commissioner's order, Uncle Warbucks continues to engage in business with
12 California customers without a license. Recently, Uncle Warbucks made a loan under the CDDTL to
13 at least one consumer named BM.

14 5. California Financial Code section 23005 provides:

15 "(a) A person shall not offer, originate, or make a deferred deposit transaction,
16 arrange a deferred deposit transaction for a deferred deposit originator, act as an
17 agent for a deferred deposit originator, or assist a deferred deposit originator in
18 the origination of a deferred deposit transaction without first obtaining a license
19 from the commissioner and complying with the provisions of this division."

19 6. Uncle Warbucks has not been issued a license by the Commissioner to engage in the business
20 of a deferred deposit originator, and Uncle Warbucks is not exempt from the licensing requirements
21 of Financial Code section 23005.

22 7. Moreover, Financial Code section 23035 provides that the face amount of a check shall not
23 exceed three hundred dollars (\$300). Yet, the deferred deposit transaction made by Uncle Warbucks
24 to BM exceeded this amount.

25 8. In addition, Financial Code section 23036 provides that a fee for a deferred deposit
26 transaction shall not exceed fifteen percent (15%) of the face amount of the check. Here, BM's fee
27 far exceeded that amount, with a fee of six hundred dollars (\$600).

28 ///

II. ORDERS

Desist and Refrain Order

9. By reason of the foregoing, Uncle Warbucks is continuing to engage in the business of a deferred deposit originator in the State of California without first obtaining a license from the Commissioner, or otherwise being exempt from licensure.

10. Pursuant to Financial Code section 23050, Uncle Warbucks is hereby ordered to desist and refrain from engaging in the business of a deferred deposit originator without first obtaining a license from the Commissioner, or otherwise being exempt.

Order Voiding California Deferred Deposit Transactions

11. Financial Code section 23060 provides that if any provision of the CDDTL is willfully violated in the making or collection of a deferred deposit transaction, the deferred deposit transaction 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. Similarly, if any amount exceeding the charges or fees permitted by the CDDTL is willfully charged, section 23060 provides that the transaction is void and no person shall collect or receive the principal amount, charges, or fees.

12. Despite the prior order by the Commissioner to prevent unlicensed activity, Uncle Warbucks has repetitively violated Financial Code section 23005 of the CDDTL by not obtaining a license to make deferred deposit transactions to California consumers. Uncle Warbucks also made a deferred deposit transaction in excess of three hundred dollars (\$300), in violation of Financial Code section 23035. In addition, Uncle Warbucks charged a fee of six hundred dollars (\$600), in violation of Financial Code section 23036. This pattern of business activity constitutes a willful violation of the CDDTL.

13. Accordingly, the loan between Uncle Warbucks and BM is void, and Uncle Warbucks shall not have any right to collect or receive any amount provided in the deferred deposit transaction, any charges, or fees in connection with this transaction in connection with this transaction.

14. Pursuant to Financial Code section 23060, any and all deferred deposit transactions contracted with California customers in violation of the CDDTL are also void, and Uncle Warbucks is hereby

1 ordered to immediately return the principal amounts provided under these transactions, together with
2 any charges and fees.

3 These orders are necessary, in the public interest, for the protection of consumers, and are
4 consistent with the purposes, policies and provisions of the California Deferred Deposit Transaction
5 Law.

6 DATED: January 8, 2016
7 Sacramento, California

JAN LYNN OWEN
Commissioner of Business Oversight

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

By: _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division