

1 PRESTON DuFAUCHARD  
California Corporations Commissioner  
2 WAYNE STRUMPFER  
Deputy Commissioner  
3 ALAN S. WEINGER (CA BAR NO. 86717)  
Lead Corporations Counsel  
4 JOAN E. KERST (CA BAR NO. 123351)  
Senior Corporations Counsel  
5 Department of Corporations  
6 71 Stevenson Street, Ste. 2100  
7 San Francisco, California 94102  
8 Telephone: (415) 972-5847  
9 Facsimile: (415) 972-8550  
Attorneys for Complainant

10 BEFORE THE DEPARTMENT OF CORPORATIONS  
OF THE STATE OF CALIFORNIA

11  
12 In the Matter of the Accusation of )  
THE CALIFORNIA CORPORATIONS ) File Nos.: 100-3239 and 100-3291  
13 COMMISSIONER, )  
14 ) Statement in Support of Citations and  
Complainant, ) Desist and Refrain Order  
15 )  
16 v. )  
17 Radha Patel & Swati Dalal doing business as )  
Cash in Flash, )  
18 )  
19 Respondents. )

20 Complainant, the California Corporations Commissioner, (“Commissioner”) is informed and  
21 believes, and based upon such information and belief, alleges and charges Respondent as follows:

22 INTRODUCTION

23 On August 7 and August 30, 2006, the Commissioner of the Department of Corporations  
24 (“Department”) issued Respondents, Radha Patel & Swati Dalal doing business as Cash in Flash,  
25 two deferred deposit transaction originator licenses (File Nos. 100-3239 and 100-3291,  
26 respectively) pursuant to the California Deferred Deposit Transaction Law (“CDDTL”) set forth in  
27 California Financial Code sections 23000 et seq. (All future references to sections are to the  
28 California Financial Code unless indicated otherwise.)

1 The Department and the Commissioner is required to enforce all provisions of the CDDTL.  
2 On July 12, 2007, the Commissioner pursuant to section 23050 and 23058 issued Citations and  
3 Desist and Refrain Order to Radha Patel and Swati Dalal doing business as Cash in Flash  
4 (hereinafter “Respondents”) for violations of the legal standards required of all deferred deposit  
5 transaction originators. Respondents timely requested a hearing concerning the Department’s action.

6 I

7 FACTUAL BACKGROUND

8 1. Respondents Radha Patel (“Patel”) and Swati Dalal (“Dalal”) formed a partnership,  
9 Cash in Flash, and filed a fictitious business name statement in the county of Los Angeles to do  
10 business as Cash in Flash. The managing general partner of the partnership is Patel.

11 2. Respondents engaged in CDDTL business at two locations. Location 1 is a store at 103  
12 West Route 66, Suite E, Glendora, CA 91740, which the Department licensed and assigned File  
13 No. 100-3239. Location 2 is a store at 10948 Imperial Hwy, Norwalk, CA 90650, which the  
14 Department licensed and assigned File No. 100-3291.

15 3. Since at least August 2006 Respondents engaged in the business of deferred deposit  
16 transactions by offering, originating and making deferred deposit transactions as described below.

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

21 5. Respondents filed with the Department an application for a license to make deferred  
22 deposit transactions on June 16, 2006, and included a Declaration, designated as “Exhibit K” to the  
23 application, and Patel signed under penalty of perjury for Respondents, stating:

24 **I (we) have obtained and read copies of the California Deferred Deposit**  
25 **Transaction Law (Division 10 of the California Financial Code) and the Rules**  
26 **(Chapter 3, Title, 10, California Code of Regulations) and am familiar with**  
27 **their content: and,**

28 **I (we) agree to comply with all the provision[s] of the California Deferred**  
**Deposit Transaction Law, including any rules or orders of the Commissioner**  
**of Corporations.**

1 Respondent’s Declaration to the application also states that “by signing this declaration” “the  
2 applicant hereby agrees (or attests) or declares understanding of the following items listed below:”

- 3 1. That the applicant will submit to periodic examinations by the  
4 Commissioner of Corporations as required by the California Deferred  
5 Deposit Transaction Law.
- 6 2. That the applicant will keep and maintain all records for 2 years  
7 following the last entry on a deferred deposit transaction and will  
8 enable an examiner to review the record keeping and reconcile each  
9 consumer deferred deposit transaction with documentation maintained  
10 in the consumer’s file records.
- 11 3. That the applicant understands the examination process involving the  
12 reconciliation of records will be facilitated if the applicant maintains,  
13 at minimum, a ledger or listing of the following current and undated  
14 information for each deferred deposit transaction (as specified in  
15 Financial Code section 23035): customer’s name and address, account  
16 number, check number, amount provided, fee, amount of check,  
17 corresponding annual percentage rate (e.g. 14-day or 30-day) and the  
18 deferred due date.
- 19 4. That the applicant will maintain a file of all advertising for a period of  
20 90 days from the date of its use, which will be available to the  
21 Commissioner of Corporations upon request.
- 22 5. That the applicant will file with the Commissioner of Corporations an  
23 amendment to this application prior to any material change in the  
24 information contained in the application for licensure, including,  
25 without limitation, the plan of operation.
- 26 6. That the applicant will file with the Commissioner of Corporations  
27 any report required by the Commissioner.
- 28 7. That the applicant hereby attests that the applicant (including officers,  
directors and principals) has not engaged in conduct that would be  
cause of denial of a license.

6. On July 14, 2006, Respondents completed another CDDTL required Declaration  
designated as “Exhibit L” to the application, which Patel signed under penalty of perjury stating:

1. The applicant will comply with all federal and state laws and  
regulations (including Division 10, commencing with Section 23000,  
of the Financial Code), if it offers, arranges, acts as an agent for, or  
assists a deferred deposit originator in the making of a deferred deposit  
transaction (Financial Code Section 23037(i).)



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

The following notices shall be clearly and conspicuously posted in the unobstructed view of the public by all licensees in each location of a business providing deferred deposit transactions in letters not less than one-half inch in height: . . .

13. Section 23027 describes the advertising requirements for CDDTL licensees and subdivision (b) states:

(b) No licensee shall place an advertisement disseminated primarily in this state for a deferred deposit transaction unless the licensee discloses in the printed text of the advertisement, or the oral text in the case of a radio or television advertisement, that the licensee is licensed by the department pursuant to this division.

14. Section 23035, subdivision (e) states:

(e) An agreement to enter into a deferred deposit transaction shall be in writing and shall be provided by the licensee to the customer. The written agreement shall authorize the licensee to defer deposit of the personal check, shall be signed by the customer, and shall include all of the following:

- (1) A full disclosure of the total amount of any fees charged for the deferred deposit transaction, expressed both in United States currency and as an APR as required under the Federal Truth In Lending Act and its regulations.
- (2) A clear description of the customer's payment obligations as required under the Federal Truth In Lending Act and its regulations.
- (3) The name, address, and telephone number of the licensee.
- (4) The customer's name and address.
- (5) The date to which deposit of check has been deferred (due date).
- (6) The payment plan, or extension, if applicable as allowed under subdivision (c) of Section 23036.
- (7) An itemization of the amount financed as required under the Federal Truth In Lending Act and its regulations.
- (8) Disclosure of any returned check charges.
- (9) That the customer cannot be prosecuted or threatened with prosecution to collect.
- (10) That the licensee cannot accept collateral in connection with the transaction.
- (11) That the licensee cannot make a deferred deposit transaction contingent on the purchase of another product or service.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

(12) Signature space for the customer and signature of the licensee or authorized representative of the licensee and date of the transaction.

(13) Any other information that the commissioner shall deem necessary by regulation.

15. Section 23037 limits a licensee’s transactions and activities and in relevant part states:

In no case shall a licensee do any of the following:

...

(h) Take any check, instrument, or form in which blanks are left to be filled in after execution.

III  
DEFERRED DEPOSIT TRANSACTION LAW VIOLATIONS

16. On June 7, 2007, the Commissioner’s examiner visited Respondents after giving the licensee advance notice of the examination.

17. The Commissioner’s examiner found Respondents violated section 23019 and 23035, subdivision (d), because the required CDDTL notices were not at least ½ inch in height.

18. The Commissioner’s examiner found Respondents violated section 23027, subdivision (b), because the licensee’s advertisements lacked disclosure that the Department licensed Respondents pursuant to the CDDTL.

19. Additionally, the Commissioner’s examiner found that numerous versions of Respondents’ written agreements given to consumers contain blank spaces, which violates section 23037, subdivision (h) and in some cases section 23035, subdivision (e).

20. Moreover, the Commissioner’s examiner found that Respondents used customers’ checks that either did not contain the name of any payee or was not made payable to the licensee, which violates section 23023. The licensee also used a business name, Cash in Flash Payday, in its agreements that Respondents were not authorized to use and which constituted a violation of section 23023.

21. Respondents were informed about all of their violations at the time of the examination. On July 12, 2007, the Commissioner issued Citations and Desist and Refrain Order to Respondents but only cited and issued an order to them for violations of three CDDTL sections. Violations of

1 two CDDTL sections involving signage that occurred at each of Respondents’ locations comprised  
2 Citation A. The violation involving the advertising is contained in Citation B.

3 **CITATION A** – The CDDTL requires a notice to be conspicuously posted in the  
4 unobstructed view of the public at each of its licensed location in letters no less than ½ inch in  
5 height. Respondents’ notices at both of its licensed business locations did not met this requirement  
6 and therefore violated sections 23035, subdivision (d) and 23019 at each of their business locations.

7 **CITATION B** – Respondents failed to disclose in advertising that they are licensed by the  
8 Department pursuant to the CDDTL and therefore violated section 23027, subdivision (b).

9 IV

10 COMMISSISONER’S AUTHORITY TO ISSUE CITATIONS

11 Section 23058 gives the Commissioner’s authority to issues citations and states:

12 (a) If, upon inspection, examination or investigation, based upon a  
13 complaint or otherwise, the department has cause to believe that a person  
14 is engaged in the business of deferred deposit transactions without a  
15 license, or a licensee or person is violating any provision of this division  
16 or any rule or order thereunder, the department may issue a citation to that  
17 person in writing, describing with particularity the basis of the citation.  
18 Each citation may contain an order to desist and refrain and an assessment  
19 of an administrative penalty not to exceed two thousand five hundred  
20 dollars (\$ 2,500). All penalties collected under this section shall be  
21 deposited in the State Corporations Fund.

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

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

27 (d) Any hearing under this section shall be conducted in accordance with  
28 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.

1 The application, which shall include a certified copy of the final order of  
2 the department, shall constitute a sufficient showing to warrant the  
3 issuance of the judgment and order.

4 **CITATIONS**

5 Pursuant to section 23058, Respondents were ordered to pay to the Commissioner the  
6 administrative penalty listed below for each citation for the total amount of three thousand five  
7 hundred dollars (\$3,500).

8 **CITATION A.** - \$1,000 (\$500 penalty for each of two locations.)

9 **CITATION B.** - \$2,500

10 The Commissioner did not issue citations or a desist and refrain order for Respondents’  
11 multiple violations of section 23023 and 23037, subdivision (h).

12 **V**

13 **COMMISSISONER’S AUTHORITY TO ISSUE A DESIST AND REFRAIN ORDER**

14 Respondents, Radha Patel & Swati Dalal doing business as Cash in Flash, engaged in the  
15 business of deferred deposit transactions at two locations that violated provisions of the CDDTL.

16 California Financial Code section 23050 provides in pertinent part:

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

23 Pursuant to section 23050, the Commissioner ordered Respondents to desist and refrain  
24 from engaging in the business of deferred deposit transactions in the State of California in  
25 violation of California Financial Code sections 23019, 23035, subdivision (d) and 23027,  
26 subdivision (b). However, Respondents also violated sections 23023, 23035, subdivision (e) and  
27 23037, subdivision (h) and should be ordered to desist and refrain from violations of these  
28 CDDTL provisions as well.

The Desist and Refrain Order was properly issued and necessary for the protection of  
consumers and consistent with the purposes, policies and provisions of the CDDTL.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

CONCLUSION

Complainant finds by reason of the foregoing that Respondents, Radha Patel & Swati Dalal doing business as Cash in Flash, violated sections 23019, 23023, 23027, 23035, and 23037. Therefore, the Commissioner is justified in issuing Citations to Respondents pursuant to section 23058 and is also justified in issuing a Desist and Refrain Order to Respondents pursuant to section 23050.

THEREFORE IT IS PRAYED THAT:

- a. Respondents be ordered to immediately pay to the Commissioner an administrative penalty in the total amount of three thousand five hundred dollars (\$3,500) for Citations A and B described above; and,
- b. The Desist and Refrain Order issued pursuant to Financial Code section 23050 be upheld to prohibit Respondents from violating Financial Code sections 23019, 23035, subdivision (d), section 23027, subdivision (b) and that Respondents also be ordered to desist and refrain from violating Financial Code sections 23023, 23035, subdivisions (e) and 23037, subdivision (h).

Dated: August 2, 2007  
San Francisco, California

Respectfully submitted,

PRESTON DuFAUCHARD  
California Corporations Commissioner

By \_\_\_\_\_  
Joan E. Kerst  
Senior Corporations Counsel  
Attorney for Complainant