

1 PRESTON DUFAUCHARD
California Corporations Commissioner
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Deputy Commissioner
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8 Attorneys for Complainant

9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA

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12)
13 The California Corporations Commissioner,) Case No. 100-3229
14 Complainant,) **ORDER REVOKING CALIFORNIA**
15 v.) **DEFERRED DEPOSIT TRANSACTION**
16) **LICENSE**
17 JOSEPH BARNETT HUBBARD dba CASH TIL)
PAYDAY,)
18 Respondent.)
19)

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21 The California Corporations Commissioner finds:

22 1. Respondent Joseph Barnett Hubbard doing business as Cash Til Payday (“Cash Til Payday”
23 or “Respondent”) is a deferred deposit transaction originator licensed by the California Corporations
24 Commissioner (“Commissioner”) pursuant to the California Deferred Deposit Transaction Law
25 (California Financial Code § 23000 et seq.) (“CDDTL”). On or about July 20, 2006, License
26 Number 100-3229 was issued to Respondent’s principal place of business located at 32245 Mission
27 Trail, Suite D3, Lake Elsinore, CA 92530.
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1 2. On December 28, 2007, the Commissioner issued Citations and ordered Respondent to desist
 2 and refrain from engaging in the business of offering, originating, and making deferred deposit
 3 transactions pursuant to section 23050 for the following violations: (1) Failure to include the
 4 Department's toll free number in the notice distributed to the customer prior to entering into the
 5 agreement in violation of section 23035(c)(4); (2) Failure to include statutorily required disclosures
 6 in/on posted notices in violation of section 23035(d)(1); and (3) Respondent charged customers an
 7 NSF fee of \$15 for checks that were neither deposited to the bank or returned by the bank in violation
 8 of section 23036(f).

9 3. Despite the Respondent's ample notice and acknowledgement¹, of the CDDTL licensing
 10 requirements, Respondent willfully violated several sections of that law. On June 27, 2007, the
 11 Department conducted a noticed regulatory examination of Respondent in Lake Elsinore, California.
 12 During the examination, the examiner acting on behalf of the Commissioner discovered Respondent
 13 failed to include the Department's toll free number in the notice distributed to the customer prior to
 14 entering into the agreement in violation of section 23035(c)(4).

15 4. Additionally, the Commissioner's examiner discovered that Respondent violated subdivision
 16 (d)(1) of section 23035 by failing to include statutorily required disclosures in/on posted notices.
 17 Specifically, the required posted notices did not include the disclosure that Respondent may not use
 18 the criminal process against customers to collect any deferred deposit transaction. Finally, the
 19 Commissioner's examiner discovered that Respondent, in violation of section 23036 (f), charged
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22 ¹ The application that Respondent filed with the Department included a signed Declaration, designated as "Exhibit K" to the application, wherein Respondent attested under
 23 penalty of perjury: *I (we) have obtained and read copies of the California Deferred Deposit Transaction Law (Division 10 of the California Financial Code) and the Rules*
 24 *(Chapter 3, Title, 10, California Code of Regulations) and am familiar with their content; and; I (we) agree to comply with all the provision[s] of the California Deferred*
 25 *Deposit Transaction Law, including any rules or orders of the Commissioner of Corporations. Respondent's declaration in support of their application for license also*
 26 *states, in pertinent part, that "by signing this declaration", "the applicant hereby agrees (or attests) or declares understanding of the following items listed below:" (1) That the*
 27 *applicant will submit to periodic examinations by the Commissioner of Corporations as required by the California Deferred Deposit Transaction Law; (2) That the applicant*
 28 *will keep and maintain all records for 2 years following the last entry on a deferred deposit transaction and will enable an examiner to review the record keeping and*
reconcile each consumer deferred deposit transaction with documentation maintained in the consumer's file records; (3) That the applicant understands the examination
process involving the reconciliation of records will be facilitated if the applicant maintains, at minimum, a ledger or listing of the following current and undated information
for each deferred deposit transaction (as specified in Financial Code section 23035): customer's name and address, account number, check number, amount provided, fee,
amount of check, corresponding annual percentage rate (e.g. 14-day or 30-day) and the deferred due date. Respondent also signed under penalty of perjury another required
Declaration, designated as "Exhibit L" to the application, which states: 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.)). Moreover, the Department correspondence mailed with the license sent to Respondent informed of the following facts:
[T]here are certain obligations and responsibilities that a licensee must comply with. The following information about a licensee's obligations and responsibilities regarding
certain requirements of the California Deferred Deposit Transaction Law is provided for your reference . . . a licensee should review and become familiar with all provisions
of the law and rules and regulations. . . .

1 customers a Non Sufficient Funds fee of \$15 for checks that were neither deposited to the bank nor
2 returned by the bank.

3 5. On December 28, 2007, the Commissioner issued Citations and a Desist and Refrain Order
4 (“Desist and Refrain Order”) to Hubbard for violations of California Financial Code sections 23000
5 *et seq.* The multiple violations of the CDDTL that were discovered during the review of
6 Respondent’s business warranted the Commissioner’s issuance of Citations and a Desist and Refrain
7 Order on December 28, 2007.

8 6. On February 21, 2008, the Commissioner issued a Statement in Support of the Citations and
9 Desist and Refrain Order (“Statement in Support”). An administrative hearing concerning the
10 Citations and Desist and Refrain Order took place at the Los Angeles Office of Administrative
11 Hearings on June 27, 2008 (designated as OAH Case Number L2008030198). On July 17, 2008, the
12 Office of Administrative Hearings issued its proposed decision. On October 28, 2008, the proposed
13 decision was adopted by the Commissioner and became final (“Commissioner’s Decision”). Hubbard
14 was served with the Commissioner’s Decision on February 1, 2009.

15 7. The Decision affirmed the Desist and Refrain Order in favor of the Department of
16 Corporations, by affirming Citations B- \$1,500.00 and C -\$2,500.00, reducing Citation A to
17 \$1,000.00, and ordering Respondent to pay a total administrative penalty of \$5,000.00 within 30 days
18 of the Decision. In addition to the administrative penalty, Respondent must also pay the following
19 fees: Department of Corporations Examination Expense of \$1,233.43 and Department of
20 Corporations Administrative Assessment of \$941.00. Respondent requested consideration in the
21 payment of all fees due, including the administrative penalty of \$5,000.00 ordered in the Decision,
22 alleging financial hardship and inability to pay any fees or administrative penalties. The Department
23 executed a settlement agreement, which set forth a schedule of payment of all fees due and
24 administrative penalties in an effort to assist the Respondent in meeting its obligations.

25 8. Respondent failed to execute the settlement agreement. To date, Respondent has not made any
26 payments towards the fees and administrative penalties due.

27 9. On April 15, 2009, the Commissioner issued a Notice of Intention to Issue Order Revoking
28 CDDTL License, Accusation and accompanying documents against Cash Til Payday based upon the

1 above, and Cash Til Payday was served with those documents via certified mail, return receipt
2 requested, at its licensed location on file with the California Department of Corporations. The
3 Department has not received a request for hearing from Cash Til Payday and the time to request a
4 hearing has expired.

5 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the deferred
6 deposit transaction license issued by the Commissioner to Joseph Barnett Hubbard doing business as
7 Cash Til Payday, is hereby revoked, pursuant to California Financial Code section 23052. This order
8 is effective as of the date hereof.

9 DATED: June 15, 2009
10 Sacramento, CA

PRESTON DuFAUCHARD
California Corporations Commissioner

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14 By _____
15 Alan S. Weinger
16 Deputy Commissioner
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