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STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Express Cash and Loan, Inc. (Department File No.100-0652)
Rebecca A. Martin, President/CEO
300 North E Street
Madera, CA 93638

DESIST AND REFRAIN ORDER
(For violations of California Financial Code sections 23036 and 23037)

ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS
(California Financial Code section 23060)

The California Corporations Commissioner (“Commissioner”) finds that:

1. The California Department of Corporations (“Department”) is responsible for enforcing provisions of the California Deferred Deposit Transaction Law (“CDDTL”) found in California Financial Code section 23000 et seq. The Commissioner is authorized to pursue administrative actions and remedies against its licensees who violate the CDDTL.

2. On December 31, 2004, the Commissioner issued a CDDTL license (Department File No. 100-0652) to Express Cash and Loan, Inc., a California corporation that conducts business at 300 N. E Street, Madera, California 93638.

3. Rebecca A. Martin (“Martin”) is the President, CEO and shareholder of Express Cash and Loan, Inc., hereafter Martin and Express Cash and Loan, Inc. are referred to as the “Licensee”.

4. Since January 1, 2005, the Department’s Licensee engaged in the business of deferred deposit transactions by offering, originating and making deferred deposit transactions.

5. A deferred deposit transaction is a written transaction whereby one person gives funds to another person upon receipt of a personal check along with an agreement that the personal check will not be deposited until a later date. This type of transaction is also referred to as a “payday advance” or “payday loan.”

1 6. The Licensee had knowledge of the CDDTL and represented that it would comply with
2 all provisions of the CDDTL, as shown by the declarations signed under penalty of perjury by
3 Martin.

4 7. After giving the Licensee written and oral notice in advance of the Department’s
5 2007 regulatory examination, the Department’s examiner visited the Licensee business and
6 discovered that the Licensee engaged in CDDTL violations, notwithstanding representations made in
7 sworn declarations to the Commissioner that it would comply with the CDDTL.

8 8. All licensees are required to comply with all CDDTL requirements and are prohibited
9 from charging excessive or unauthorized fees in connection with deferred deposit transactions.
10 Financial Code section 23036, subdivisions (a), (e) and (f), limit fees and charges stating:

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

13 (e) A fee not to exceed fifteen dollars (\$15) may be charged for the
14 return of a dishonored check by a depository institution in a deferred
15 deposit transaction. A single fee charged pursuant to this subdivision is
16 the exclusive charge for a dishonored check. No fee may be added for
17 late payment.

18 (f) No amount in excess of the amounts authorized by this section shall
19 be directly or indirectly charged by a licensee pursuant to a deferred
20 deposit transaction.

21 11. Financial Code section 23037 limits a licensee’s transactions and activities stating:
22 In no case shall a licensee do any of the following: . . .

23 (a) Accept or use the same check for a subsequent transaction, or
24 permit a customer to pay off all or a portion of one deferred
25 deposit transaction with the proceeds of another.

26 12. During the Department’s regulatory examination the Licensee was informed that it
27 was in violation of the CDDTL. Financial Code section 23036 specifically limits the amounts
28 and types of fees that Licensees may charge customers. During the regulatory examination, the
Licensee failed to provide the Department’s examiner with complete information to enable an
accurate determination of the amount and type of each fee it required its customers to pay.

ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS

The Commissioner finds the Licensee willfully violated Financial Code sections 23036 and 23037, respectively by charging 27 customers excessive or unauthorized fees and by using the same check from each of 52 customers for a subsequent transaction with these customers.

California Financial Code section 23060 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 contract 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.

Pursuant to Financial Code section 23060, the Commissioner declares void each of the Licensee’s above-described deferred deposit transactions with 79 California consumers identified by the Licensee in the documents provided to the Commissioner.

The Commissioner finds the Licensee has no right to collect or receive any amount provided in the deferred deposit transaction or any charges, or fees in connection with the deferred deposit transactions involving the 79 customers identified by the Licensee. Pursuant to Financial Code section 23060 the Commissioner hereby orders that within 30 days from the date of this Order, as shown below, the Licensee forfeit and return all charges, fees and other amounts collected or received in connection with the 79 customers’ deferred deposit transactions.

Dated: November 2, 2007
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
ALAN S. WEINGER
Lead Corporations Counsel
Enforcement Division