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

TO: BU YOUNG LEE CO., INC., dba OMEGA FINANCIAL
Bu Young Lee, Owner
108 W. Katella Avenue #F
Orange, California 92867

CITATIONS AND DESIST AND REFRAIN ORDER

(For violations of California Financial Code Sections 23005, 23018, 23024, 23035 and 23036 and California Code of Regulations, Title 10, Section 2025)

ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS

(California Financial Code Section 23060)

The California Corporations Commissioner finds that:

1. The California Corporations Commissioner (“Commissioner”), of the Department of Corporations (“Department”), is responsible for enforcing the California Deferred Deposit Transaction Law (“CDDTL”), Cal. Fin. Code § 23000 *et seq.*

2. At all relevant times, Bu Young Lee Co., Inc., dba Omega Financial, (“Omega Financial”) was a California corporation. Its principal place of business is 108 W. Katella Avenue #F, Orange, California 92867. Omega Financial’s owner is Bu Young Lee.

3. Since at least December 2004, Omega Financial has engaged in the business of deferred deposit transactions by offering, originating and making deferred deposit transactions, which is a written transaction whereby one person gives funds to another person upon receipt of a personal check and it is agreed that the personal check shall not be deposited until a later date. These transactions are sometimes referred to as “payday advances” or “payday loans.”

1 4. In January 2005, Omega Financial filed with the Department an application for a
2 license to make deferred deposit transactions and included a Declaration, designated as “Exhibit K”
3 to the application and signed under penalty of perjury by owner Bu Young Lee, stating:

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

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

11 5. Omega Financial’s Declaration under Exhibit K also states that “by signing this
12 declaration..., the applicant hereby agrees (or attests) or declares their understanding of the
13 following items listed below:”

14 1. That the applicant will submit to periodic examinations by the Commissioner
15 of Corporations as required by the California Deferred Deposit Transaction Law.

16 2. That the applicant will keep and maintain all records for 2 years following the
17 last entry on a deferred deposit transaction and will enable an examiner to review the
18 record keeping and reconcile each consumer deferred deposit transaction with
19 documentation maintained in the consumer’s file records.

20 3. That the applicant understands the examination process involving the
21 reconciliation of records will be facilitated if the applicant maintains, at minimum, a
22 ledger or listing of the following current and undated information for each deferred
23 deposit transaction (as specified in Financial Code section 23035): customer’s name
24 and address, account number, check number, amount provided, fee, amount of check,
25 corresponding annual percentage rate (e.g. 14-day or 30-day) and the deferred due
26 date.

27 4. That the applicant will maintain a file of all advertising for a period of 90 days
28 from the date of its use, which will be available to the Commissioner of Corporations
upon request.

 5. That the applicant will file with the Commissioner of Corporations an
amendment to this application prior to any material change in the information
contained in the application for licensure, including, without limitation, the plan of
operation.

 6. That the applicant will file with the Commissioner of Corporations any report
required by the Commissioner.

 7. That the applicant hereby attests that the applicant (including officers,

1 directors and principals) has not engaged in conduct that would be cause of denial of
2 a license.

3 6. Omega Financial was required to and did complete another Declaration designated as
4 “Exhibit L” to the application, which was signed under penalty of perjury, stating:

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

9 7. On May 4, 2005, the Commissioner issued Bu Young Lee Co., Inc., doing business as
10 Omega Financial, a deferred deposit transaction originator license pursuant to the CDDTL.

11 8. A letter accompanied the Commissioner’s issuance of a CDDTL
12 license to Omega Financial, which in part informed Omega Financial of the following:

13 [T]here are certain obligations and responsibilities that a licensee must comply with.
14 The following information about a licensee’s obligations and responsibilities
15 regarding certain requirements of the California Deferred Deposit Transaction Law is
16 provided for your reference.... [A] licensee should review and become familiar with
17 all provisions of the law and rules and regulations.

18
19 5. A licensee is subject to statutory books and records requirements....

20 9. Notwithstanding knowledge regarding the licensure requirements, Omega
21 Financial willfully engaged in CDDTL violations.

22 10. Financial Code section 23005, subd. (a), prohibits engaging in deferred deposit
23 transaction business without a license.

24 11. Financial Code section 23018, subd. (a), provides that the CDDTL license “shall be
25 conspicuously posted in the place of business authorized by the licensee.”

26 12. Financial Code section 23024 provides that the licensee shall maintain books and
27 records adequate to allow the Commissioner to determine whether the licensee is in compliance with
28 the CDDTL.

13. The California Code of Regulations, title 10, section 2025, subd. (c)(1), provides that
records of each deferred deposit transaction are to be maintained at the place of business.

14. Financial Code section 23035, subd. (a), provides that the face amount of a

1 customer's check shall not exceed \$300. Subdivision (c) provides that the licensee must provide
2 certain notices to customers. Subdivision (d) provides that certain notices must be posted
3 conspicuously at the place of business. Subdivision (e) provides that agreements to enter deferred
4 deposit transactions shall be in writing.

5 15. Financial Code section 23036 prohibits the licensee from charging fees in connection
6 with a deferred deposit transaction, other than those authorized in that section.

7 16. On or about March 22, 2006, the Commissioner commenced a regulatory
8 examination of the books and records of Omega Financial after giving it advance notice.

9 17. The Commissioner's examination revealed that while engaged in the business of
10 deferred deposit transactions, Omega Financial violated provisions of the California Financial Code
11 and the California Code of Regulations as more fully described below:

12 (A) Engaged in unlicensed deferred deposit transaction business from December
13 31, 2004 to May 1, 2005 in violation of section 23005, subd. (a). Omega Financial
14 originated 131 deferred deposit transactions during this period.

15 (B) Failed to post license in conspicuous view in licensed place of business in
16 violation of section 23018.

17 (C) Failure to maintain adequate books and records in violation of Financial Code
18 section 23024 and Code of Regulations title 10, section 2025, subd. (c)(1).

19 (D) Face amount of customer checks exceed \$300 in violation of Financial Code
20 section 23035, subd. (a).

21 (E) Failure to provide notice to customers prior to entering into deferred deposit
22 transaction agreement in violation of section 23035, subd. (c).

23 (F) Failure to post notice in violation of section 23035, subd. (d).

24 (G) Failure to enter into written agreements with customers for deferred deposit
25 transactions in violation of section 23035, subd. (e).

26 (H) Charged fees in excess of 15% of the face amount of the check, totaling
27 \$412.95, in violation of section 23036, subd. (a). Omega Financial has failed to
28 comply with the Department's demand to refund all excess charges to customers.

1 (I) Charged fees totaling \$16,556.59 for extending the due date of the loan in
2 violation of section 23036, subd. (b). Omega Financial has failed to comply with the
3 Department’s demand to refund all excess charges to customers.

4 (J) Charged late payment fee in amount of \$20 in violation of section 23036,
5 subd. (f). Omega Financial has failed to comply with the Department’s demand to
6 refund late payment fees to customers.

7 18. Based on the above findings, on May 23, 2006, the Commissioner issued a
8 regulatory letter notifying Omega Financial of its violations and ordering Omega Financial to
9 refund fees to customers. The regulatory letter required the licensee to respond within thirty
10 days.

11 19. Omega Financial failed to respond within thirty days. The Department
12 conducted a follow-up examination on August 16, 2007. The Department determined during
13 its follow-up examination that Omega Financial has failed to correct all of the violations and
14 issue the refunds listed in the regulatory letter.¹

15
16 **CITATIONS**

17 20. Section 23058 gives the Commissioner authority to issue citations:

18 (a) If, upon inspection, examination or investigation, based upon a complaint or
19 otherwise, the department has cause to believe that a person is engaged in the
20 business of deferred deposit transactions without a license, or a licensee or person is
21 violating any provision of this division or any rule or order thereunder, the
22 department may issue a citation to that person in writing, describing with particularity
23 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). All penalties collected under this section shall be deposited in the
State Corporations Fund.

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

26
27 ¹On October 4, 2007 the Commissioner issued to Omega Financial a Notice of Intention to Issue Order Revoking
28 Deferred Deposit Transaction License and Accusation for failure to comply with Financial Code section 23057. Omega
Financial did not request a hearing within the time frame provided by statute. Concurrently with these Citations and
Orders, the Commissioner is serving an Order Revoking California Deferred Deposit Transaction License on Omega
Financial.

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2 21. Pursuant to section 23058, Omega Financial is hereby ordered to pay to the
3 Commissioner, within 30 days from the date of these Citations, administrative penalties in the
4 amount of two thousand, five hundred dollars (\$2500) for each of the ten citations listed below, for a
5 total of twenty-five thousand dollars (\$25,000):

6 CITATION A (violation of Financial Code section 23005, subd. (a)):	\$2500
7 CITATION B (violation of § 23018):	\$2500
8 CITATION C (violation of § 23024):	\$2500
9 CITATION D (violation of § 23035(a)):	\$2500
10 CITATION E (violation of § 23035(c)):	\$2500
11 CITATION F (violation of § 23035(d)):	\$2500
12 CITATION G (violation of § 23035(e)):	\$2500
13 CITATION H (violation of § 23036(a)):	\$2500
14 CITATION I (violation of § 23036(b)):	\$2500
15 CITATION J (violation of § 23036(f)):	\$2500

16 22. These Citations shall remain in full force and effect until further order of the
17 Commissioner.

DESIST AND REFRAIN ORDER

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20 23. Financial Code section 23005 provides, in pertinent part:

21 No person shall offer, originate, or make a deferred deposit transaction, arrange a
22 deferred deposit transaction for a deferred deposit originator, act as an agent for a
23 deferred deposit originator, or assist a deferred deposit originator in the origination of
24 a deferred deposit transaction without first obtaining a license from the commissioner
25 and complying with the provisions of this division.

26 24. Financial Code section 23050 authorizes the Commissioner to order a licensee to
27 desist and refrain:

28 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

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commissioner, or any licensee is violating any provision of this division, the commissioner may order that person or licensee to desist and to refrain from engaging in the business or further violating this division.

25. The Commissioner’s examination revealed that Omega Financial originated 131 deferred deposit transactions from December 31, 2004 through May 1, 2005, during which Omega Financial was not licensed under the CDDTL. Omega Financial was not exempt from the licensing requirements of section 23005.

26. By reason of the foregoing, Omega Financial has engaged in the business of deferred deposit transactions without having first obtained a license from the Commissioner in violation of Financial Code section 23005. Further, Omega Financial has violated other provisions of the CDDTL as described in paragraph 17 above.

27. Pursuant to Financial Code sections 23050 and 23058, Omega Financial is hereby ordered to desist and refrain from engaging in the business of deferred deposit transactions in the State of California without first obtaining a license from the Commissioner, or otherwise being exempt.

28. The Desist and Refrain Order is necessary for the protection of consumers and consistent with the purposes, policies and provisions of the CDDTL. The Order shall remain in full force and effect until further order of the Commissioner.

ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS

29. Financial Code section 23060 provides:

(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.

1 30. Omega Financial willfully violated section 23036 in at least 441 deferred deposit
2 transactions by charging fees in excess of 15%, charging fees for extending the due dates of loans,
3 and charging a late payment fee. Omega Financial charged excess fees totaling at least \$412.95,
4 extension fees totaling at least \$16,556.59, and at least one late payment fee of \$20.00.

5 31. Pursuant to Financial Code section 23060, the above-described 441 transactions are
6 declared void. Further, Omega Financial has no right to collect or receive any amount provided in
7 those deferred deposit transactions or any charges or fees in connection with those transactions and
8 is hereby ordered to immediately return the principal and all charges and fees received for those
9 transactions.

10
11 WHEREFORE, the California Corporations Commissioner prays that:

12 1. Bu Young Lee Co., Inc., dba Omega Financial, pursuant to Financial Code section
13 23058, pay to the Commissioner an administrative penalty in the total amount of twenty-five
14 thousand dollars (\$25,000.00) for the above Citations A through J, inclusive, within thirty (30) days
15 from the date set forth below;

16 2. Bu Young Lee Co., Inc., dba Omega Financial, pursuant to Financial Code sections
17 23050 and 25058, be ordered to desist and refrain from engaging in the business of deferred deposit
18 transactions in the State of California without first obtaining a license from the Commissioner, or
19 otherwise being exempt, and from violating other provisions of the California Deferred Deposit
20 Transaction Law; and

21 3. Bu Young Lee Co., Inc., dba Omega Financial, pursuant to Financial Code section
22 23060, void loans and refund all principal, excess fees, extension fees, and late fees to its customers.

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Dated: February 14, 2008
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By: _____
ALAN S. WEINGER
Lead Corporations Counsel
Enforcement Division