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10 BEFORE THE DEPARTMENT OF CORPORATIONS  
 11 OF THE STATE OF CALIFORNIA  
 12

13	In the Matter of the Accusation of	)	File No.: 100-2918
14	THE CALIFORNIA CORPORATIONS	)	
14	COMMISSIONER,	)	ORDER REVOKING CALIFORNIA
15		)	DEFERRED DEPOSIT TRANSACTION
15	Complainant,	)	LICENSE PURSUANT TO FINANCIAL
16	vs.	)	CODE SECTION 23052
17	Sunshine Liquor doing business as	)	
18	Sunshine Liquor, Inc. and Sunshine Check	)	
18	Cashing,	)	
19		)	
20	Respondent.	)	

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

22 The Commissioner of the Department of Corporations (“Department”) issued to  
 23 Respondent, Sunshine Liquor doing business as Sunshine Liquor, Inc. and Sunshine Check  
 24 Cashing, a deferred deposit transaction originator license pursuant to the California Deferred  
 25 Deposit Transaction Law (“CDDTL”). (California Financial Code §§ 23000 et seq.) Compliance  
 26 with the CDDTL is essential to retain a deferred deposit transaction originator license. At all  
 27 times Respondent was required to comply with all law and regulations enacted under this law, but  
 28 failed to do so.

1 Respondent conducted business at 12935 Nelson Street, Garden Grove, California 92840.  
2 The owner, president, chief executive officer (CEO) and manager of Respondent is Joseph Dibsy.

3 Since at least January 1, 2006, Respondent has engaged in the business of deferred  
4 deposit transactions by offering, originating and making deferred deposit transactions, which is a  
5 written transaction whereby one person gives funds to another person upon receipt of a personal  
6 check and it is agreed that the personal check shall not be deposited until a later date. These  
7 transactions are sometimes referred to as “payday advances” or “payday loans.”

8 In August 2005 Respondent filed with the Department an application for a license to  
9 make deferred deposit transactions and included a Declaration designated as “Exhibit K” to the  
10 application and signed under penalty of perjury by president/CEO Joseph Dibsy stating:

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

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

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

- 20 1. That the applicant will submit to periodic examinations by the  
21 Commissioner of Corporations as required by the California  
22 Deferred Deposit Transaction Law.
- 23 2. That the applicant will keep and maintain all records for 2 years  
24 following the last entry on a deferred deposit transaction and will  
25 enable an examiner to review the record keeping and reconcile  
26 each consumer deferred deposit transaction with documentation  
27 maintained in the consumer’s file records.
- 28 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.

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4. That the applicant will maintain a file of all advertising for a period of 90 days 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, directors and principals) has not engaged in conduct that would be cause of denial of a license.

As a part of the application process Respondent was required to and did complete another Declaration designated as "Exhibit L" to the application, which Joseph Dibsby 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).)

On December 23, 2005, a letter accompanied the Commissioner's issuance of a CDDTL license to Respondent, which in part informed Respondent of the following:

[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.

- ...
5. A licensee is subject to statutory books and records requirements . . . (Section 23024.)

Notwithstanding knowledge regarding the licensure requirements, Respondent willfully and knowingly engaged in violations of the California Deferred Deposit Transaction Law. The Commissioner's examiner notified Respondent several weeks in advance before the Department conducted its examination on March 19, 2007, of Respondent's business books and records.

1 The Department examiner's review of Respondent's business revealed multiple violations of the  
2 California Deferred Deposit Transaction Law warranting revocation as set forth below.

3 The Department's examiner found that the Respondent failed to post the license,  
4 disclosure notice and the schedule of fees as required by section 23035. When the Department  
5 examiner brought these deficiencies to the attention of Respondent's owner and manager,  
6 Joseph Dibsby, he showed the examiner a handwritten notice on the wall. However, this notice  
7 did not properly disclose the amount charged and the annual percentage rate ("APR") and other  
8 disclosures required by section 23035.

9 Respondent failed to maintain adequate books and records as required by section 23024  
10 and California Code of Regulations, title 10, section 2025. Respondent does not distribute to  
11 customers either the written agreement or the required disclosure notice in violation of sections  
12 23035, subdivision (c) and (e).

13 During discussions with the Department examiner's about the business operation  
14 Respondent's president and manager, Joseph Dibsby, stated he does not maintain any type of  
15 record or log for the deferred deposit transactions and that the only document he used is one loan  
16 application per customer, regardless of the number of transactions. Respondent's documents  
17 indicate inconsistency with recording transactions dates, due dates, and loan amounts on the loan  
18 application and the applications do not contain the APR. Respondent's loan application does not  
19 contain the required items set forth in section 23035, subdivision (e).

20 Respondent's loan application states that legal and collection fees would be charged and  
21 states a fee of 10% or \$25 would be charged for non-sufficient funds, which exceeds the  
22 statutory maximum of \$15. Thus, Respondent's fees and excess charges violate section 23036,  
23 subdivisions (e) and (f). Moreover, the loan application contains false and misleading statements,  
24 such as the customer may be sued for the maximum amount allowable under Washington State  
25 law, in violation of section 23037, subdivision (f).

26 Respondent allows use of the same customer check for subsequent transactions in  
27 violation of section 23037, subdivision (a). The licensee failed to maintain evidence of the  
28 customers' checks and negotiates loans for more than thirty-one (31) days, in violation of

1 California Code of Regulations, title 10, section 2025 and section 23035, subdivision (a). The  
2 licensee transacts business under at least two names, "Check Masters" and "Sunshine Check  
3 Cashing #2" that are unlicensed in violation of section 23023.

4         Given the lack of records maintained by Respondent, the Department examiner asked the  
5 owner what information he uses to complete the annual report. In response Mr. Dibsby stated that  
6 he used the loan applications. However, since the loan applications do not provide the APR, the  
7 average APR cannot be calculated using these documents and because Respondent inconsistently  
8 recorded transaction dates, due dates, loan amounts(s) and loan status, Respondents' annual  
9 report cannot be a true and accurate account of Respondent's deferred deposit transaction  
10 activity in 2006. Thus, Respondent violated section 23026 and California Code of Regulations,  
11 title 10, section 2030.

12         Respondent's financial statements as of November 30, 2006, shows its net worth of  
13 \$24,626.70, which is below the minimum of \$25,000 required by section 23007.

14         In summary Respondent's violations include the following:  
15 a net worth deficiency and use of unauthorized names in violation of sections 23007 and 23023;  
16 failure to maintain deferred deposit transactions books and records as required by section 23024  
17 and by the California Code of Regulations, title 10, section 2025, subdivision (b); filing a false  
18 annual report in violation of section 23026, and California Code of Regulations, title 10, section  
19 2030; written agreements with customers that exceeded the maximum thirty-one (31) days and  
20 the agreements not containing all the required disclosures in violation of 23035, subdivision (a);  
21 failure to post its license, required notices and schedule of fees and failure to provide written  
22 notice to the consumer as required prior to entering into an a deferred deposit agreement in  
23 violation of section 25035, subdivisions (c), (d) and (e); charging excessive fees and charges in  
24 violation of section 23036, subdivisions (e) and (f); use of customer checks for subsequent  
25 transactions and failure to maintain evidence of checks in violation of section 23037, subdivision  
26 (a) and California Code of Regulations, title 10, section 2025, subdivision (c)(1) and making  
27 misleading statements in connection with the business of deferred deposit transactions in  
28 violation of section 23037, subdivision (f).

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On July 9, 2007, the Commissioner issued to Respondent a Notice of Intention to Issue Order Revoking the California Deferred Deposit Transaction License held by Respondent, an Accusation, a Statement to Respondent accompanied by relevant legal references, and a form pleading, whereby Respondent could file a Notice of Defense to request a hearing concerning the revocation. Respondent was served with the foregoing documents and transmittal letter by certified mail, return receipt requested on July 11, 2007. The Commissioner has not received any request for a hearing from Respondent and the time to request a hearing has expired.

THEREFORE, GOOD CAUSE APPEARING, pursuant to California Financial Code sections 23052 the deferred deposit transaction originator license issued to Respondent Sunshine Liquor doing business as Sunshine Liquor, Inc. and Sunshine Check Cashing, is hereby revoked. This Order is effective as of the date hereof.

Dated: July 26, 2007  
San Francisco, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner



By \_\_\_\_\_  
Steven C. Thompson  
Special Administrator  
California Deferred Deposit Transaction Law.