

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 SOPHIA C. KIM (CA BAR NO. 265649)
Corporations Counsel
4 DEPARTMENT OF BUSINESS OVERSIGHT
320 West 4th Street, Suite 750
5 Los Angeles, California 90013
Telephone: (213) 576-7594
6 Facsimile: (213) 576-7180

7 Attorneys for Complainant

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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT

10

OF THE STATE OF CALIFORNIA

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In the Matter of THE COMMISSIONER OF) ORDER VOIDING TRANSACTIONS
BUSINESS OVERSIGHT OF THE STATE OF) PURSUANT TO CALIFORNIA FINANCIAL
13 CALIFORNIA,) CODE SECTION 23060; and

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Complainant,) CITATIONS PURSUANT TO CALIFORNIA
FINANCIAL CODE SECTION 23058

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vs.)

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Cash Yes a.k.a. Cashyes.com,)

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Respondent.)

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The Commissioner of Business Oversight of the State of California (“Commissioner”),¹ is
22 informed and believes, and based on such information and belief, finds as follows:

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I.

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FACTUAL BACKGROUND

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1. Cash Yes a.k.a. Cashyes.com (“Cash Yes”) is at all relevant times herein, an entity of
26 unknown form. Cash Yes maintains a website at www.cashyes.com listing its address as P.O. Box

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¹ As of July 1, 2013, the Department of Corporations and the Department of Financial Institutions merged to form the
Department of Business Oversight.

1 1469, Belize City, Belize Central America, with phone numbers 1-866-568-1419 and 1-866-568-
2 1422, and fax number 1-877-898-3183. Cash Yes lists the following email addresses on its website:
3 infocy@cashyes.com and recoveries@cashyes.com.

4 2. Cash Yes is engaged in the business of originating or offering to originate deferred
5 deposit transactions (commonly referred to as “payday loans” or “payday advances”) over the
6 internet to the general public, including California residents.

7 3. “Deferred deposit transaction” means a transaction whereby a person defers depositing
8 a customer’s personal check until a specific date, pursuant to a written agreement for a fee or other
9 charge. “Personal check,” which is referenced in California Financial Code section 23001(a),
10 includes the electronic equivalent of a personal check, such as an Automated Clearing House
11 (“ACH”) or debit card transaction.

12 4. On February 4, 2013, pursuant to California Financial Code section 23050, the
13 Commissioner issued a Desist and Refrain Order to Cash Yes a.k.a. Cashyes.com and Hong Kong
14 Partners d/b/a Cash Yes (“February 2013 Order”) ordering them to desist and refrain from violating
15 Financial Code sections 23005 (engaging in the business of payday lending in California without a
16 license), 23035 (payday lending face amounts exceeding \$300), and 23036 (charging excessive fees).
17 The February 2013 Order remains in full force and effect.

18 5. The Commissioner has not issued a deferred deposit transaction originator license to
19 Cash Yes pursuant to the CDDTL. As such, Cash Yes is not authorized to engage in payday lending,
20 or to offer, originate, or make a deferred deposit transaction, arrange a deferred deposit transaction
21 for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist a deferred
22 deposit originator in the origination of a deferred deposit transaction in California or to California
23 residents.

24 6. Yet, beginning in or around July 2013, Cash Yes originated a deferred deposit
25 transaction with at least one California resident who submitted a loan application on the internet. In
26 or around July 2013, Cash Yes electronically deposited approximately \$700 into the California
27 resident’s bank account. Between July 2013 and October 2013, Cash Yes electronically debited
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1 interest and fees from the California resident’s bank account on a bi-monthly basis, withdrawing a
2 total of approximately \$1580.

3 7. On or about November 5, 2013, the California resident received an email from Cash
4 Yes stating that Cash Yes had sold the loan to First Novus, located at P.O. Box 333, Parshall, North
5 Dakota 58770. On or about November 8, 2013, First Novus electronically debited \$200 from the
6 California resident’s bank account.

7 8. On or about November 20, 2013, the California resident received an email from First
8 Novus stating that the “pay in full amount” was \$585 and an automatic payment of \$185 in interest
9 and fees was scheduled to be electronically debited from the California resident’s bank account on or
10 about November 22, 2013. The telephone number to contact First Novus was the same as that of
11 Cash Yes: 1-866-586-1419.

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13 **II.**

14 **ORDER VOIDING CALIFORNIA DEFERRED DEPOSIT TRANSACTIONS**

15 California Financial Code section 23060 provides:

16 (a) If any amount other than, or in excess of, the charges or fees permitted by
17 this division is willfully charged, contracted for, or received, a deferred deposit
18 transaction contract shall be void, and no person shall have any right to collect
19 or receive the principal amount provided in the deferred deposit transaction, any
20 charges, or fees in connection with the transaction.

21 (b) If any provision of this division is willfully violated in the making or
22 collection of a deferred deposit transaction, the deferred deposit transaction
23 contract shall be void, and no person shall have any right to collect or receive
24 any amount provided in the deferred deposit transaction, any charges, or fees in
25 connection with the transaction.

26 Pursuant to California Financial Code section 23060 subdivisions (a) and (b), any and all
27 deferred deposit transactions contracted with California customers or in the State of California by
28 Cash Yes a.k.a. Cashyes.com are therefore void. Cash Yes a.k.a. Cashyes.com are hereby ordered to
immediately cease collecting all principal amounts, and return all principal amounts, provided in any
and all deferred deposit transactions contracted with California customers or in the State of

1 California, and to disgorge any and all charges or fees received in conjunction with those deferred
2 deposit transactions.

3 **III.**

4 **CITATIONS**

5 For the CDDTL violations of Cash Yes a.k.a. Cashyes.com, the Commissioner herein issues
6 six (6) separate Citations (A through F), as part of this single document:

7 **CITATION A** – In or around July 2013, Cash Yes a.k.a. Cashyes.com originated a deferred deposit
8 transaction with at least one California resident without a license, in violation of Financial Code
9 section 23005;

10 **CITATION B** – In or around July 2013, Cash Yes a.k.a. Cashyes.com originated a deferred deposit
11 transaction with at least one California resident without a license, in violation of the February 2013
12 Order;

13 **CITATION C** – In or around July 2013, Cash Yes a.k.a. Cashyes.com originated a deferred deposit
14 transaction with at least one California resident with a face amount exceeding the limit of \$300, in
15 violation of Financial Code section 23035;

16 **CITATION D** – In or around July 2013, Cash Yes a.k.a. Cashyes.com originated a deferred deposit
17 transaction with at least one California resident with a face amount exceeding the limit of \$300, in
18 violation of the February 2013 Order;

19 **CITATION E** – In or around July 2013, Cash Yes a.k.a. Cashyes.com originated a deferred deposit
20 transaction with at least one California resident charging an excessive transaction fee, in violation of
21 Financial Code section 23036; and

22 **CITATION F** – In or around July 2013, Cash Yes a.k.a. Cashyes.com originated a deferred deposit
23 transaction with at least one California resident charging an excessive transaction fee, in violation of
24 the February 2013 Order.

25 California Financial Code section 23058 gives the Commissioner the authority to issue
26 citations for the foregoing CDDTL violations. Section 23058 states:

27 (a) If, upon inspection, examination or investigation, based upon a complaint or
28 otherwise, the department has cause to believe that a person is engaged in the
business of deferred deposit transactions without a license, or a licensee or

1 person is violating any provision of this division or any rule or order thereunder,
2 the department may issue a citation to that person in writing, describing with
3 particularity the basis of the citation. Each citation may contain an order to
4 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.

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

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

9 (d) Any hearing under this section shall be conducted in accordance with
10 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2
11 of the Government Code, and in all states the commissioner has all the powers
12 granted therein.

13 (e) After the exhaustion of the review procedures provided for in this section,
14 the department may apply to the appropriate superior court for a judgment in the
15 amount of the administrative penalty and order compelling the cited person to
16 comply with the order of the department. The application, which shall include a
certified copy of the final order of the department, shall constitute a sufficient
showing to warrant the issuance of the judgment and order.

17 Pursuant to California Financial Code section 23058, Cash Yes a.k.a. Cashyes.com is hereby
18 ordered to pay the Commissioner an administrative penalty of two thousand five hundred dollars
19 (\$2,500) for each of the six (6) citations (Citations A through F) for the total amount of ten thousand
20 dollars (\$15,000) within thirty (30) days from the date of this citation.

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22 Dated: March 28, 2014
23 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

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27 By: _____
MARY ANN SMITH
28 Deputy Commissioner