

1 MARY ANN SMITH
Deputy Commissioner
2 TIMOTHY L. Le BAS (BAR NO. 135565)
Senior Corporations Counsel
3 Department of Corporations
1515 K Street, Suite 200
4 Sacramento, CA 95814
5 Telephone (916) 322-2050 Fax (916) 445-6985

6 Attorneys for Complainant

7 BEFORE THE DEPARTMENT OF CORPORATIONS
8 OF THE STATE OF CALIFORNIA

9	In the Matter of THE CALIFORNIA)	DESIST AND REFRAIN ORDER (FIN CODE
10	CORPORATIONS COMMISSIONER,)	§23050)
)	
11	Complainant,)	AND
)	
12	vs.)	ORDER VOIDING TRANSACTIONS AND
13)	TO DISGORGE ALL CHARGES AND FEES
14	AALM Consulting Services, Ltd.,)	(FIN CODE §23060)
14	doing business as MultiLoanSource.com,)	
)	AND
15	Respondent.)	
16)	CITATIONS (FIN CODE §23058)
17)	

18 Complainant, the Commissioner of the Department of Corporations (“Commissioner” or
19 “Department”), is informed and believes, and based on this information and belief, finds as follows:

20 **FACTUAL BACKGROUND**

21 The Commissioner has jurisdiction over deferred deposit transactions, deferred deposit
22 originators, and licensees, as set forth in the California Deferred Deposit Transaction Law
23 (“CDDTL”) (California Financial Code section 23000 et seq., hereinafter referred to as “section”).
24 “Deferred deposit transaction” means a transaction whereby a person defers depositing a customer’s
25 personal check until a specific date, pursuant to a written agreement for a fee or other charge.
26 “Personal check,” as defined in section 23001, includes the electronic equivalent of a personal
27 check, such as an Automated Clearing House (“ACH”) or debit card transaction. “Deferred deposit
28 originator” and “licensee” are defined similarly to mean any person who offers, originates, or

1 makes a deferred deposit transaction.

2 AALM Consulting Services, Ltd. is an entity of unknown origin. AALM does business
3 under the name of MultiLoanSource.com (hereinafter both referred to collectively as “AALM”).
4 AALM operates over the internet using the domain name of multiloansource.com. AALM uses the
5 address of P.O. Box 5501 Spartanburg, South Carolina 29304. AALM provides the telephone
6 number of (800) 557-9038 and the fax number of (800) 574-2080.

7 Since at least December 2011, AALM has engaged in the business of offering, originating,
8 or making deferred deposit transactions (commonly referred to as payday loans or payday
9 advances) through its website of multiloansource.com. Customers submit an application online and
10 are required to provide personal information and checking account information to which loan
11 monies are automatically deposited. Customers are also required to provide authorization to effect
12 ACH debit entries and to allow deductions of payments, charges, fees and other monies directly
13 from the customer’s bank account.

14 As an example, AALM made a deferred deposit transaction to a California customer with
15 the following terms: \$550 loan amount, \$165 finance charge (30% of loan amount), an annual
16 percentage rate of 730%, a \$60 renewal fee, and a \$20 returned item fee. AALM has collected
17 \$1131 from this customer, more than twice the amount financed, by withdrawing amounts directly
18 from the customer’s bank account.

19 AALM has not been issued a deferred deposit transaction originator license by the
20 Commissioner pursuant to the CDDTL. As such, AALM is not authorized to engage in
21 payday lending or to offer, originate or make a deferred deposit transaction in California
22 or to California residents.

23 **CDDTL VIOLATIONS**

24 The Department is responsible for enforcing all provisions of the CDDTL, including the
25 regulation of deferred deposit transactions.

26 **A. Failure to Obtain a License**

27 Section 23005(a) states in relevant part:

28 “No person shall offer, originate, or make a deferred deposit transaction...without
first obtaining a license from the commissioner.”

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

“Person” is defined by section 23001(f) to include an individual, a corporation, partnership, limited liability company, joint venture, an association or unincorporated organization.

Because AALM has not been issued a deferred deposit originator license by the Commissioner, it is prohibited from offering, originating, or making deferred deposit transactions and engaging in payday lending activities.

B. Illegally Charging Excessive or Unauthorized Amounts

Pursuant to section 23036:

- (a) A fee for a deferred deposit transaction shall not exceed 15 percent of the face amount of the check.
- (b) A licensee may allow an extension of time, or a payment plan, for repayment of an existing deferred deposit transaction but may not charge any additional fee or charge of any kind in conjunction with the extension payment plan...
...
- (e) A fee not to exceed fifteen dollars (\$15) may be charged for the return of a dishonored check by a depository institution in a deferred deposit transaction. A single fee charged pursuant to this subdivision is the exclusive charge for a dishonored check. No fee may be added for late payment.
- (f) No amount in excess of the amounts authorized by this section shall be directly or indirectly charged by a licensee pursuant to a deferred deposit transaction.

The fees and charges contracted for by AALM violate section 23036 of the CDDTL. As examples, the \$165 finance charge for a \$550 payday loan is in violation of subdivision (a), the \$60 renewal fee is in violation of subdivision (b), and the \$20 returned item fee is in violation of subdivision (e). All these amounts charged by AALM are in violation of subdivision (f), as they are not authorized by subdivisions (a), (b) and (e).

C. Agreement in Excess of \$300 and Deficient Notices and Disclosures

Subdivision (a) of section 23035 provides that the face amount of a check shall not exceed \$300. One customer was provided with a loan of \$550, well in excess of the \$300 loan limit.

1 Before entering into a deferred deposit transaction, paragraphs (2), (3), (4), (5)
2 and (6) of subdivision (c) of section 23035 require disclosures to be made, as specified, to
3 the customer concerning the following: a maximum returned item fee of \$15; the
4 customer cannot be subject to criminal prosecution to collect; the Department's toll-free
5 number; the licensee cannot accept collateral in connection with the transaction; and the
6 laws governing the deferred deposit transaction. One customer did not receive these
7 disclosures, as required by law.

8 Paragraphs (3), (9), (10), and (11) of subdivision (e) of section 23035 require the deferred
9 deposit agreement to disclose specified information concerning the following: name, address and
10 telephone number of the licensee; the customer cannot be subject to criminal prosecution to collect;
11 the licensee cannot accept collateral in connection with the transaction; and no transaction may be
12 contingent on the purchase of another product or service. The customer did not receive these
13 disclosures, as required by law.

14 ORDERS

15 **A. Desist and Refrain Order**

16 The Commissioner is statutorily authorized to order any person to desist and refrain from
17 engaging in violations of the CDDTL. Financial Code section 23050 provides:

18 Whenever, in the opinion of the commissioner, any person is engaged in the
19 business of deferred deposit transactions, as defined in this division, without a
20 license from the commissioner, or any licensee is violating any provision of this
21 division, the commissioner may order that person or licensee to desist and refrain
22 from engaging in the business or further violating this division. If within 30 days,
after the order is served, a written request for a hearing is filed and no hearing is
held within 30 days thereafter, the order is rescinded.

23 The foregoing facts establish multiple violations of the CDDTL by AALM. The issuance of
24 a Desist and Refrain Order, therefore, is necessary for the protection of consumers and is consistent
25 with the purposes, policies and provisions of the CDDTL.

26 Pursuant to section 23050, AALM Consulting Services, Ltd., doing business as
27 MultiLoanSource.com, is hereby ordered to desist and refrain from violating: California Financial
28 Code section 23005, subdivision (a); section 23035, subdivisions (a), (c), and (e); and section

1 23036, subdivisions (a), (b), (e) and (f).

2 **B. Order Voiding California Deferred Deposit Transactions**

3 Section 23060 of the CDDTL states:

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

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

14 AALM willfully violated provisions of the CDDTL, by engaging in business without a
15 license in violation of subdivision (a) of section 23005; by charging excess amounts in violation of
16 subdivision (a) of section 23035 and subdivisions (a), (b), (e) and (f) of section 23036; by failing to
17 provide notices in violation of subdivision (c) of section 23035; and by failing to provide
18 disclosures in the agreement in violation of subdivision (e) of section 23036. Accordingly, AALM
19 is not entitled to collect or receive the principal amount provided in its deferred deposit
20 transactions, or any charges or fees associated with the transactions.

21 Pursuant to subdivisions (a) and (b) of section 23060, any and all deferred deposit
22 transactions contracted with California customers or in this state are therefore void. AALM
23 Consulting, Ltd., doing business as MultiLoanSource.com, is hereby ordered to immediately return
24 the principal amounts provided in any and all deferred deposit transactions contracted with
25 California customers or in this state, and to disgorge any and all charges or fees received in
26 conjunction with the deferred deposit transactions.

27 **C. Citations**

28 The foregoing violations were revealed after inspection, examination or investigation by the
department and warrant citations pursuant to section 23058, subdivision (a), which states in part:

If, upon inspection, examination, or investigation, based upon a complaint or
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 person
is violating any provision of this division or any rule or order thereunder, the

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

department may issue a citation to that person in writing, describing with particularity 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)...

The Commissioner herein issues fourteen (14) separate citations, incorporating the above order to desist and refrain, for the following violations by AALM since December 2011:

- 1) Originating a deferred deposit transaction without a license, in violation of subdivision (a) of section 23005.
- 2) Originating a deferred deposit transaction for \$550, in violation of the \$300 maximum amount required by subdivision (a) of section 23035.
- 3) Originating the \$550 transaction with a loan fee of \$165, in violation of the 15% maximum amount required by subdivision (a) of section 23036.
- 4) Charging an additional fee of \$60 for renewing the deferred deposit transaction, in violation of subdivision (b) of section 23036 which prohibits that fee.
- 5) Charging a fee of \$20 for any ACH debit entry that is returned unpaid, in violation of subdivision (e) of section 23036 which sets a limitation of \$15.
- 6) Failing to provide notice about the maximum returned payment fee of \$15, in violation of paragraph (2) of subdivision (c) of section 23035.
- 7) Failing to provide notice that no criminal prosecution is allowed, in violation of paragraph (3) of subdivision (c) of section 23035.
- 8) Failing to provide notice about the Department's toll-free number, in violation of paragraph (4) of subdivision (c) of section 23035.
- 9) Failing to provide notice that no collateral may be accepted in conjunction with the transaction, in violation of paragraph (5) of subdivision (c) of section 23035.
- 10) Failing to provide notice that the transaction is made pursuant to the Financial Code, as specified, in violation of paragraph (6) of subdivision (c) of section 23035.
- 11) Failing to disclose the name, address, and telephone number of AALM, in violation of paragraph (3) of subdivision (e) of section 23035.
- 12) Failing to disclose that a customer cannot be prosecuted to collect, in violation of paragraph (9) of subdivision (e) of section 23035.
- 13) Failing to disclose that no collateral may be accepted for the transaction, in violation of paragraph (10) of subdivision (e) of section 23035.
- 14) Failing to disclose that a transaction is not contingent on the purchase of another service or product, in violation of paragraph (11) of subdivision (e) of section 23035.

Pursuant to section 23058, AALM Consulting, Ltd., doing business as MultiLoanSource.com, is ordered to pay the Commissioner an administrative penalty of two thousand five hundred dollars (\$2,500) for each of the fourteen (14) citations above, for a total

1 amount of thirty five thousand dollars (\$35,000), payable by check made out to the Department of
2 Corporations and received by Timothy L. Le Bas at 1515 K Street, Suite 200, Sacramento, CA
3 95814 no later than sixty (60) days from the date of the final order.

4 Dated: September 17, 2012
5 Sacramento, CA

JAN LYNN OWEN
California Corporations Commissioner

6
7
8 By _____
9 MARY ANN SMITH
10 Deputy Commissioner
11 Enforcement Division
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28