

1 IN THE MATTER OF :

2 FINANCIAL INSTITUTIONS DIVISION,

3 Petitioner,

4 v.

5 PRESTAMEX, I,LC,

6 Respondent.

CONSENT ORDER

FILED

MAR 06 2018

NEVADA
LABOR COMMISSIONER-CC

9
10 The Commissioner of the Financial Institutions Division for the State of Nevada, with the
11 agreement of PRESTAMEX, (hereafter, "Respondent"), through its Owner, Javier Avila, (hereafter,
12 "Avila"), and the Financial Institutions Division of the State of Nevada, Department of Business and
13 Industry, (hereafter, "Division"), finds, agrees, and orders as follows:

14 JURISDICTION

15 Respondent stipulates and agrees that it was at all relevant times, operating and/or engaging in
16 deferred deposit loan service, high interest loan service, title loan service, and/or check cashing service
17 activities in the State of Nevada, as governed by Nevada Revised Statutes ("NRS") Chapter 604A and
18 Nevada Administrative Code ("NAC") Chapter 604A without having first obtained a license, as alleged
19 in the Order to Cease and Desist Violations of NRS 604A and NAC 604 Activities ("C&D").
20 Respondent further agrees that it is subject to NRS Chapter 604A, NAC Chapter 604A, and to the
21 jurisdiction of the Division.

22 SUMMARY OF FACTS

- 23 1. Respondent registered under the laws of the State of Nevada on or about October 20,
24 2015, and its resident agent was Javier Avila ("Avila").
25 2. Respondent's business license expired on or about October 31, 2017, and it is currently
26 listed in a "default" status with the Nevada Secretary of State.
27 3. While in operation, Respondent's physical business location was 1514 S Eastern
28 Avenue, Las Vegas, Nevada 89104. Respondent has since closed said location.

- 1 4. Respondent's website address was www.prestamex.com. Said website is no longer
2 active.
- 3 5. Respondent conducted a lending business at 1514 S Eastern Avenue, Las Vegas, Nevada
4 89104, offering deferred deposit loan services, high interest loan services, title loan
5 services, and/or check cashing services.
- 6 6. Respondent has never possessed a license from the Financial Institutions Division to
7 conduct the business of lending in the State of Nevada pursuant to NRS Chapters 604A
8 or 675. As such, Respondent has engaged in the business of lending in the State of
9 Nevada without having first obtained a license under NRS Chapter 604A or Chapter
10 675.
- 11 7. During an investigation of a complaint filed by Customer A, it was discovered that
12 Respondent extended a title loan to Customer A, a resident of the State of Nevada, on or
13 about September 6, 2016.
- 14 8. The Division inspected the Respondent's physical location on December 1, 2016. At that
15 time, the building was under renovation and loan payments were received through a
16 mail drop box.
- 17 9. As a result of its investigation and findings, the Division issued the C&D on or about
18 January 9, 2017.
- 19 10. On or about January 26, 2017, Respondent filed a response to the C&D.
- 20 11. On or about February 3, 2017, this matter was referred to an Administrative Law Judge
21 ("ALJ") for hearing.
- 22 12. Based upon the findings of the investigation and in order to avoid further administrative
23 action, the parties have agreed to resolve this matter.
- 24 13. The Consent Order shall memorialize the corrective action, which the Respondent shall
25 take in order to resolve any concerns by the Division related to the aforementioned
26 investigation and as detailed in the C&D.

27 VIOLATIONS OF LAW

- 28 14. During the course of the Division's investigation, it was discovered that Respondent has

1 engaged in unlicensed activity under NRS Chapter 604A by advertising and offering deferred deposit
2 loan services, high interest loan services, title loan services, and/or check cashing services in the State
3 of Nevada without having first obtained a license with the Division.

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5 CONSENT ORDER

6 15. The Division was prepared to present its case to the assigned ALJ based upon the C&D
7 filed by the Division. However, Respondent expressed its intent to comply with NRS Chapter 604A and
8 NAC Chapter 604A and its desire to cooperate with the Division and to avoid the time and expense
9 involved in a formal administrative enforcement hearing.

10 16. Pursuant to NRS 233B.121(5), the Division and Respondent desire to compromise and
11 settle the instant controversy, and Respondent agrees to following terms and conditions:

12 17. Respondent admits to the facts and violations of law as alleged in the C&D.

13 18. Respondent further admits and acknowledges that any and all loan activity by
14 Respondent was done without first having obtained a license from the Division, and Respondent is
15 therefore liable for its unlicensed activities.

16 19. Respondent therefore agrees to:

- 17 a. Pay an administrative fine in the amount of \$25,000.00 at \$5,000 per month for 5
18 months beginning March 15, 2018;
- 19 b. Respondent will sign a personal guarantee for the debt;
- 20 c. Immediately return all automobile titles currently in Respondent or Avila's possession
21 and re-convey title back to the borrower(s); and,
- 22 d. Immediately cease and desist any and all collection efforts and any and all loan activity
23 on borrower account(s).
- 24 e. Provide a full and complete accounting to the Division for any and all loans ever issued
25 by Respondent. Respondent has provided the Division an initial accounting during the
26 course of this action. However, Respondent must provide the Division with a final,
27 updated accounting and/or verify via a sworn statement that the initial accounting
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1 provided is accurate, complete, and final within (30) days of the ALJ's execution of the
2 Consent Order. The accounting must include, at a minimum:

- 3 i. Loan numbers
- 4 ii. Date of loan
- 5 iii. Borrower name(s)
- 6 iv. Borrower address(es)
- 7 v. Borrower telephone number(s)
- 8 vi. Borrower email address(es)
- 9 vii. Amount borrowed
- 10 viii. Due date of last payment
- 11 ix. Principal and interest paid (to date)
- 12 x. Total fees, charges, etc. paid (to date)
- 13 xi. Full payment history record
- 14 xii. For title loans, if the vehicle collateral was repossessed
- 15 xiii. Disposition of any civil actions

16 f. Provide via certified mail notice of the unlicensed activity to all customers listed in the
17 accounting. The notice must include, at a minimum, an acknowledgement of the
18 unlicensed activity and reference to the customers' remedies available under NRS and
19 NAC Chapter 604A. The notice must be provided in both English and Spanish. The
20 notice must also include contact information for Respondent, Avila, and the Division.
21 The notice shall be provided to customers within (30) days of the date of the ALJ's
22 execution of the Consent Order, and the Division must review the proposed notice
23 before it is submitted to customers. A copy of the final notice must be provided to the
24 Division within (30) days of the ALJ's execution of the Consent Order, along with a
25 sworn statement acknowledging that said notice is an accurate and true copy of the
26 notice provided to customers.
27
28

1 g. Provide notice to the Division and all past customers of any change of address for
2 Mr. Avila for six (6) years from the date of the notice that is provided to customers as
3 referenced in section 19(c); and,

4 h. Maintain proof of mailing the above referenced notices, loan files, and any other related
5 documents and information for at least six (6) years,

6 20. The Division agrees not to pursue any other or greater remedies or fines in connection
7 with Respondent's alleged conduct referenced herein solely as it relates to the C&D. However,
8 Respondent acknowledges, agrees to, and understands, that any future violation(s) of NRS Chapter
9 604A and/or NAC Chapter 604A such as described and cited herein may be deemed willful
10 violation(s), and shall subject Respondent to additional administrative fines and costs as well as
11 remedies available pursuant to NRS 604A.910, 604A.920, 604A.930, and any other applicable section
12 of NRS Chapter 604A.

13 21. Respondent acknowledges and understands that past customers/borrowers are entitled to
14 seek separate remedies, solely at the election of the customers/borrowers, pursuant to NRS 604A.920
15 and 604A.930. Respondent further acknowledges and understands that the terms of this Consent Order
16 shall not preclude customers/borrowers from pursuing said remedies.

17 22. Respondent and the Division agree that by entering into this Consent Order, the Division
18 does not concede any defense or mitigation Respondent may assert. Respondent agrees and
19 understands that by entering into this Consent Order, Respondent is waiving its right to a hearing at
20 which Respondent may present evidence in its defense, its right to a written decision on the merits of
21 the C&D, its rights to reconsideration and/or rehearing, appeal and/or judicial review, and all other
22 rights which may be accorded by the Nevada Administrative Procedure Act, the Nevada Deferred
23 Deposit Loans, High-Interest Loans, Title Loans And Check-Cashing Services statutes and
24 accompanying regulations, and the federal and state constitutions.

25 23. Respondent understands that this Consent Order may be subject to public records laws.

26 24. Respondent fully understands that it has the right to be represented by legal counsel in
27 this matter at its own expense. Each party shall bear its own attorney's fees and costs. Neither this
28 Consent Order nor any statements made concerning this Consent Order may be discussed or introduced

1 into evidence at any hearing on the C&D if the Division must ultimately present its case based on the
2 C&D filed in this matter.

3 ...

4 25. In consideration of execution of this Consent Order, the Respondent and Avila in his
5 personal capacity, its/his successors, heirs, and assigns, and the like, hereby releases, romises, and
6 forever discharges the State of Nevada, the Department of Business and Industry, and the Division, and
7 each of their respective members, agents, employees and counsel in their individual and representative
8 capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions,
9 claims, and demands whatsoever, known and unknown, in law or equity, that the Respondent ever had,
10 now has, may have, or claim to have, against any or all of the persons or entities named in this section,
11 arising out of or by reason of the Division's investigation, this disciplinary action, and all other matters
12 relating thereto.

13 26. Respondent and Avila hereby indemnifies and holds harmless the State of Nevada, the
14 Department of Business and Industry, the Division, and each of their respective members, agents,
15 employees and counsel in their individual and representative capacities against any and all claims, suits,
16 and actions brought against said persons and/or entities by reason of the Division's investigation, this
17 disciplinary action and all other matters relating thereto, and against any and all expenses, damages, and
18 costs, including court costs and attorney fees, which may be sustained by the persons and/or entities
19 named in this section as a result of said claims, suits, and actions.

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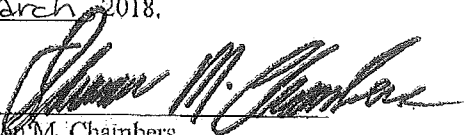
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1 27. If Respondent fails to comply with any terms of this Consent Order, Respondent shall be
2 subject to disciplinary action for violation of the Consent Order, NRS Chapter 604A, and NAC Chapter
3 604A as stated in the C&D, which may result in further disciplinary action. Additionally, the complete
4 terms of the C&D shall stand, and Respondent shall be liable for the remainder of the \$50,000.00
5 administrative fine as stated in the C&D and any other remedies allowed by law. Respondent has signed
6 and dated this Consent Order only after reading and understanding all terms herein.


7 IN WITNESS WHEREOF, we have each executed this Consent Order as of the date set forth
8 below.

9 SO ORDERED this 6th day of March, 2018.

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11 
12 Shannon M. Chambers
13 Administrative Law Judge/Hearing Officer
14 Labor Commissioner
15 State of Nevada

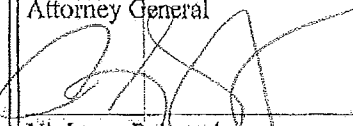
16 CONSENTED TO this 20th day of February, 2018.

17 PRESTAMEX, LLC

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19 
20 Javier Avila, Owner

21 Approved as to form:

22 ADAM PAUL LAXALT
23 Attorney General

24 
25 Vivienne Rakowsky
26 Rickisha Hightower-Singleton
27 Deputy Attorney General
28 Attorney for the Division

1 **CERTIFICATE OF MAILING**

2 I, Rosiland M. Hooper, do hereby certify that I mailed a true and correct copy of
3 the foregoing **CONSENT ORDER**, via the United States Postal Service, Carson City,
4 Nevada, in a postage-prepaid envelope to the following:

5 Ross Goodman, Esq.
6 GOODMAN LAW GROUP
7 520 So. 4th Street
8 Las Vegas, Nevada 89101

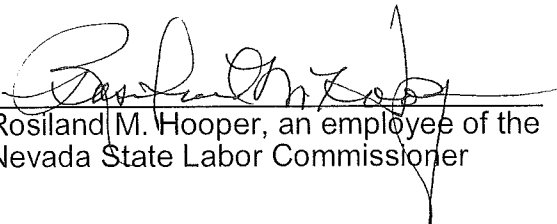
9 Attn: Javier Avila
10 Prestamex, LLC.
11 1514 So. Eastern Avenue
12 Las Vegas, Nevada 89104

13 Attn: Javier Avila
14 Prestamex, LLC.
15 2950 E. Flaminto Road, #K
16 Las Vegas, Nevada 89104

17 David Pope, Esq.
18 Vivienne Rakowsky, DAG
19 Office of the Attorney General
20 Division of Business and Taxation
21 555 E. Washington Avenue, Suite 3900
22 Las Vegas, Nevada 89101

23 Mary Young, Deputy Division Administrator
24 Financial Institutions Division
25 3300 W. Sahara Boulevard, Suite 250
26 Las Vegas, Nevada 89102

27 Dated this 6th day of March, 2018.
28

29 
30 Rosiland M. Hooper, an employee of the
31 Nevada State Labor Commissioner