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CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT CALIFORNIA**

PIONEER MILITARY LENDING, INC., and
PIONEER MILITARY LENDING OF NEVADA, INC.

Pioneer Military Lending, Inc. et al v. DuFauchard

Plaintiff,

vs.

PRESTON DUFAUCHARD,
Commissioner, Department of Corporations,
State of California

Defendant.

Case no. 2:06-CV-01445-LKK-PAN

Doc. 18

**ORDER GRANTING APPLICATION OF
PLAINTIFFS FOR TEMPORARY
RESTRAINING ORDER AGAINST
DEFENDANT**

FINDINGS

Plaintiffs Pioneer Military Lending, Inc., and Pioneer Military Lending of Nevada, Inc. (collectively "Plaintiffs") having applied for a temporary restraining order against defendant Preston DuFauchard, in his official capacity as Commissioner of the

California Department of Corporations, pursuant to Federal Rule of Civil Procedure 65, for the reason that defendants have threatened to act unconstitutionally against Plaintiff, and the Court having reviewed the Complaint, Plaintiffs' memorandum of law, declarations and exhibits submitted therewith, defendant's opposition, if any, the Court finds that there is good cause appearing to issue a temporary restraining order and finds as follows:

1. Plaintiffs are likely to succeed in showing that defendant will violate the Commerce Clause of the United States in attempting to enforce California Finance Lenders Law, Cal. Fin. Code § 22001 *et seq.*, against an out-of-state company, despite having no logical state interest in regulating such company. The facts presented are not significantly different from those presented in *Pioneer Military Lending, Inc. v. Manning*, 2 F.3d 280 (1993), in which the Eighth Circuit found no state interest in the regulation of Pioneer Military Lending, Inc., in its business in the state of Missouri.

2. Plaintiffs are likely to succeed in showing that defendant will unlawfully enforce California Finance Lenders Law, Cal. Fin. Code § 22001 *et seq.*, against Pioneer Military Lending of Nevada, Inc., in that defendant cannot show such a logical nexus to a California.

3. Defendant's threatened enforcement actions against Plaintiffs, if effected as promised, will result in immediate an irreparable injury to Plaintiffs in the form of damage to Plaintiffs' reputation and goodwill, the attachment of civil and possible criminal penalties against Plaintiffs, the effective closure of Plaintiffs' business in the state of California, and interference in Plaintiffs' ability to maintain its customer relationships if defendant's unconstitutional regulations of Plaintiffs' interstate commercial activity.

4. Plaintiffs' harm from denial of the requested temporary restraining order outweighs the harm to defendant's legitimate interest from granting such an order.

5. The relief requested by Plaintiffs is in the public's interest.

TEMPORARY RESTRAINING ORDER

IT IS ORDERED THAT pending the hearing on the Order to Show Cause set forth in a separate order pursuant to Local Rule 65-231, defendant, Preston DuFauchard, Commissioner, Department of Corporations, State of California, and his deputies, agents, officers, employees, staff members or anyone else acting on his behalf for his or the Department's benefit, or in active concert or participation with them, or anyone else having notice of this Order by personal service or otherwise, are HEREBY TEMPORARILY RESTRAINED as follows:

1. Defendant shall not take any action to enforce or make effective the California Finance Lenders Law against Plaintiffs pending this Court's decision after a Preliminary Injunction Hearing.
2. Defendant shall suspend Commissioner's Release No. 57-FS (May 19, 2006) and leave in operation Commissioner's Specific Ruling OP 6547CFLL pending this Court's decision after a Preliminary Injunction Hearing.

DATED: 7/3/2006



DISTRICT COURT JUDGE

[Proposed] Order Prepared By:
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