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STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: Edward J. Silva, dba
Credit Xpress and Creditxpress
3126 Story Road #3
San Jose, CA 95127

DESIST AND REFRAIN ORDER

(For violations of section 12200 of the Financial Code)

The California Corporations Commissioner finds that:

1. Edward J. Silva (“Silva”) conducts business as Credit Xpress and Creditxpress. Credit Xpress and Creditxpress are business names used by Silva and he refers to himself as the “manager” of Credit Xpress and Creditxpress.
2. Silva, dba Credit Xpress and Creditxpress, has an office located at 3126 Story Road #3, San Jose, California. Silva and his cousin, Albert Bena Benavide, filed as owners of the fictitious business name Credit Xpress in Santa Clara County on May 20, 1999.
3. Silva, dba Credit Xpress and Creditxpress, in concert or participation, or with others, engaged in activities which are in violation of the Check Sellers, Bill Payers and Proraters Law pursuant to the California Financial Code section 12000 et seq.
4. Silva, dba Credit Xpress and Creditxpress, offered two programs to consumers to assist them with their credit card debts. Silva offered in connection with other companies a program that involved working with a consumer and creditors of that consumer to renegotiate debt and arrange a payment schedule that restructures the consumer’s monthly payments to creditors. The second program Silva offered to consumers involved establishing a trust account whereby a consumer’s payments are made into the trust account and accumulate while Silva negotiates with a consumer’s creditors to completely pay the consumer’s creditors.

1 5. Silva, dba Credit Express and Creditxpress, represents his services to
2 California consumers as involving a “Debt Consolidation Program.” However, Silva presented
3 the contracts or forms of other companies such as “Pioneer Credit and Debt” [Pioneer Credit &
4 Debt Consolidation Services] or CCCF [Consumer Credit Counseling Foundation] and others to
5 consumers.

6 6. Silva claims that he is an independent agent to the above companies and as such
7 he is responsible for the initial counseling of a client. Silva completes the appropriate
8 application, checks and accumulates necessary credit history and sends the materials to the
9 appropriate “carrier.” In exchange for these services, Silva receives 40% of the carrier’s monthly
10 handling fees. Silva’s carrier then negotiates with the various creditors of Silva’s clients and
11 arranges for disbursement of the funds they receive from Silva’s clients.

12 7. Silva advertises his services to the general public by placing 4”x 5” postage-paid
13 cards on vehicle windshields and in other public locations. The recipient of a card can fill out
14 one side of the card and drops it in a U.S. mailbox. Silva also advertises in Latino newspapers
15 and in the telephone yellow pages.

16 8. Silva, dba Credit Xpress and Creditxpress and others, acting in concert or
17 participation with him, provide services that involve negotiations of repayment plans with
18 creditors of consumers, whereby Silva or others, acting in concert with him, will receive money
19 from a consumer for the purpose of negotiating with and paying a consumer's creditors.

20 9. Depending on which of the two programs offered by Silva that a consumer selected,
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22 a consumer would provide on a monthly basis a sum of money either directly to Silva or to one of
23 Silva’s carriers. Silva would then either act on behalf of a consumer to arrange for subsequent
24 distribution of consumer’s payments to a consumer’s creditors or forward the monthly
25 (consolidated) payment to a carrier for distribution in accordance with the creditor payment
26 schedule arranged by Silva or others acting in concert with him.

27 10. In exchange for these services, California consumers were charged and required
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1 to pay to Silva, directly or indirectly through the carrier, a fee approximately equal to the amount
2 of one monthly payment negotiated with creditors.

3 11. The Commissioner has jurisdiction over and regulates proraters under the Check
4 Sellers, Bill Payers and Proraters Law set forth in California Financial Code section 12000 et seq.
5 Financial Code section 12200, states:

6 No person shall engage in the business, for compensation, of
7 selling checks, drafts, money orders, or other commercial paper
8 serving the same purpose, or of receiving money as agent of an
9 obligor for the purpose of paying bills, invoices, or accounts of
10 such obligor, or acting as a prorater, nor shall any person, without
11 direct compensation and not as an authorized agent for a utility
12 company, accept money for the purpose of forwarding it to others
13 in payment of utility bills, without first obtaining a license from
14 the commissioner.

11 12. A prorater is defined in Financial Code section 12002.1, which states:

12 A prorater is a person who, for compensation, engages in whole or
13 in part in the business of receiving money or evidences thereof for
14 the purpose of distributing the money or evidences thereof among
15 creditors in payment or partial payment of the obligations of the
16 debtor.

16 13. The California Corporations Commissioner has not licensed Edward J. Silva,
17 Credit Xpress or Creditxpress to act as a bill payer or prorater in this State.

18 Based upon the foregoing findings, the California Corporations Commissioner is of the
19 opinion that Edward J. Silva, Credit Xpress or Creditxpress and others, acting in concert and/or
20 participation with them, have been engaging in the business of bill paying or prorating, as
21 defined in the Check Sellers, Bill Payers and Proraters Law without a license from the California
22 Corporations Commissioner.

23 Pursuant to Financial Code section 12103, the California Corporation Commissioner
24 hereby orders Edward J. Silva, Credit Xpress or Creditxpress and others, acting in concert and/or
25 participation with them, to desist and refrain from engaging in the business as a bill payer and
26 prorater unless and until they are licensed or exempt.

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3 This Order is necessary, in the public interest, and for the protection of consumers.

4 Dated: March 25, 2005

5 Los Angeles, California

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WILLIAM P. WOOD
California Corporations Commissioner

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By _____

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ALAN S. WEINGER
Supervising Counsel
Enforcement Division

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