MARY ANN SMITH
Deputy Commissioner
SEAN M. ROONEY
Assistant Chief Counsel
SOPHIA C. KIM (CA BAR NO. 265649)
Corporations Counsel
Department of Corporations
320 West 4th Street, Suite 750
Los Angeles, California 90013
Telephone: (213) 576-7594
Facsimile: (213) 576-7181

Attorneys for Complainant

BEFORE THE DEPARTMENT OF CORPORATIONS

OF THE STATE OF CALIFORNIA

In the Matter of THE COMMISSIONER OF CORPORATIONS OF THE STATE OF CALIFORNIA, Complainant, vs. Vince Enterprises, Ltd. a.k.a.Vince Enterprise; and Prestige Group Marketing Respondent.	DESIST AND REFRAIN ORDER PURSUANT TO CALIFORNIA FINANCIAL CODE SECTION 23050; and ORDER VOIDING TRANSACTIONS PURSUANT TO CALIFORNIA FINANCIAL CODE SECTION 23060

The Commissioner of Corporations of the State of California ("Commissioner" or "Complainant"), is informed and believes, and based on such information and belief, finds as follows:

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I.

FACTUAL BACKGROUND

1. Vince Enterprises, Ltd. a.k.a. Vince Enterprise ("Vince") is, and was at all relevant times herein, an entity of unknown form and not registered by the California Secretary of State to do business in the State of California. Vince transacts business over the internet using the email address, customerservice@prestigegm.com, and by telephone number, 1-877-878-2700, and fax number, 1-877-878-4700.

2. Prestige Group Marketing ("Prestige") is, and was at all relevant times herein, an entity of unknown form and not registered by the California Secretary of State to do business in the State of California. Prestige transacts business over the internet using the email address, customerservice@prestigegm.com, and by telephone number, 1-877-878-2700, and fax number, 1-877-878-4700.

3. The Commissioner has jurisdiction over deferred deposit transactions as set forth in the California Deferred Deposit Transaction Law ("CDDTL") (California Financial Code sections 23000 *et seq*.).

4. "Deferred deposit transaction" (commonly referred to as "payday loans" or "payday advances") means a transaction whereby a person defers depositing a customer's personal check until a specific date, pursuant to a written agreement for a fee or other charge. "Personal check," which is referenced in California Financial Code section 23001, subdivision (a), includes the electronic equivalent of a personal check, such as an Automated Clearing House ("ACH") or debit card transaction.

5. Starting from 2009, Vince offered, originated and/or made deferred deposit transactions and engaged in the business of deferred deposit transactions without having first obtained a license from the Commissioner, in violation of California Financial Code section 23005, subdivision (a).

6. On May 4, 2010, the Commissioner, pursuant to California Financial Code section 23050, ordered Vince to desist and refrain from engaging in the business of deferred deposit transactions in the State of California without first obtaining a license from the Commissioner, or

otherwise being exempt. To date, no hearing has been requested by Vince and the Commissioner's Desist and Refrain Order issued on May 4, 2010 remains in full force and effect.

7. Since at least April, 2013, Vince and Prestige have engaged in the business of originating or offering to originate deferred deposit transactions via the internet to California residents as described below.

8. Prospective customers submit an online loan application that requires them to provide personal information, including address, telephone number, social security number, and banking and employment information. Shortly thereafter, Vince and/or Prestige calls the prospective customers to verify this information and offer payday loans that charge fees beyond what the CDDTL allows. Vince and/or Prestige then deposits the loan amount directly into the customer's bank account.

9. For example, in or around April, 2013, Vince and/or Prestige called at least one California resident who had submitted an online loan application. The California resident received at least one email communication from Prestige using the email address, customerservice@prestigegm.com, which included a loan agreement entitled, "Account Summary," attached to the email. The loan agreement states, "By signing below you are authorizing Vince Enterprises Ltd, and/or their servicers, Vince Enterprises Ltd and/or affiliates to debit the pay off amount due $390.00 from your account named above on your current due date. . . ." The California resident's name is printed, but not signed.

10. The loan agreement states the following terms: a $300 loan amount at an interest rate of 730%, a "refinance fee" of $90, a returned check fee of $30, and a due date for the amount of $390 in two weeks. On the due date, and every two weeks thereafter to the present date, $90 was automatically withdrawn from the California resident's bank account.

11. Neither Vince nor Prestige has been issued a deferred deposit transaction originator license by the Commissioner pursuant to the CDDTL. As such, neither Vince nor Prestige is authorized to engage in payday lending, or to offer, originate, or make a deferred deposit transaction, arrange a deferred transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist a deferred deposit originator in the origination of a deferred deposit transaction in California or to California residents.

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II.

DESIST AND REFRAIN ORDER

The California Department of Corporations ("Department") is responsible for enforcing provisions of the CDDTL found in California Financial Code commencing at section 23000. The Commissioner is authorized to pursue administrative actions and remedies against persons who engage in violations of the CDDTL.

California Financial Code section 23050 provides, in pertinent part:

> Whenever, in the opinion of the commissioner, any person is engaged in the business of deferred deposit transactions . . . without a license from the commissioner, or any licensee is violating any provision of this division, the commissioner may order that person or licensee to desist and to refrain 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.

California Financial Code section 23005, subdivision (a) provides in pertinent part:

> (a) No person shall offer, originate, or make a deferred deposit transaction, arrange a deferred deposit transaction for a deferred deposit originator, act as an agent for a deferred deposit originator, or assist a deferred deposit originator in the origination of a deferred deposit transaction without first obtaining a license from the commissioner and complying with the provisions of this division.

California Financial Code section 23036, subdivision (a) limits fees to 15% of the face amount of the deferred deposit transaction. Section 23036, subdivision (e) limits the exclusive fee charged for the return of a dishonored check to fifteen dollars ($15).

The foregoing facts establish violations of the CDDTL by Vince Enterprises, Ltd. a.k.a. Vince Enterprise and Prestige Group Marketing, including: 1) engaging in the business of originating or offering to originate deferred deposit transactions without having first obtained a license to do so from the Commissioner, in violation of section 23005, subdivision (a); 2) charging excessive transaction fees in violation of section 23036, subdivision (a); and 3) charging excessive returned check fees in violation of section 23036, subdivision (e).

Pursuant to Financial Code section 23050 Vince Enterprises, Ltd. a.k.a. Vince Enterprise and Prestige Group Marketing are hereby ordered to desist and refrain from violating Financial Code

sections 23005 and 23036. This Order is necessary for the protection of consumers and consistent with the purposes, policies, and provisions of the CDDTL. This Order shall remain in full force and effect until further order of the Commissioner.

III.

ORDER VOIDING CALIFORNIA DEFERRED DEPOSIT TRANSACTIONS

California Financial Code section 23060 provides:

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

Pursuant to California Financial Code section 23060, subdivisions (a) and (b), any and all deferred deposit transactions contracted with California customers or in the State of California by Vince Enterprises, Ltd. a.k.a. Vince Enterprise and Prestige Group Marketing are therefore void. Vince Enterprises, Ltd. a.k.a. Vince Enterprise and Prestige Group Marketing 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 California, and to disgorge any and all charges or fees received in conjunction with those deferred deposit transactions.

Dated: June 13, 2013
Los Angeles, California

JAN LYNN OWEN
Commissioner of Corporations

By: _____
MARY ANN SMITH
Deputy Commissioner

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