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9
10 BEFORE THE DEPARTMENT OF CORPORATIONS
OF THE STATE OF CALIFORNIA

11 In the Matter of the Accusation of)
12 THE CALIFORNIA CORPORATIONS) File No.: 100-2332
13 COMMISSIONER,)
14 Complainant,) ORDER SUSPENDING CALIFORNIA
DEFERRED DEPOSIT TRANSACTION
15 vs.) LAW LICENSE PURSUANT TO
FINANCIAL CODE SECTION 23052
16 James Yarbrough and Janet Applegarth-Yarbrough,)
17 doing business as Cash It Now,)
18 Respondents.)

19 Complainant, the California Corporations Commissioner, (“Commissioner”) of the
20 Department of Corporations ("Department") finds:

21 1. On December 31, 2004, the Commissioner issued to Respondents, James Yarbrough and
22 Janet Applegarth-Yarbrough, doing business as Cash It Now, a deferred deposit transaction
23 originator license (File No. 100-2332) pursuant to the California Deferred Deposit Transaction Law
24 (“CDDTL”) set forth in California Financial Code section 23000 et seq. (All future references to
25 sections are to the California Financial Code unless indicated otherwise.)

26 2. Since at least January 1, 2005, Respondents have engaged in the business of deferred
27 deposit transactions by offering, originating and making deferred deposit transactions. A deferred
28 deposit transaction is a written transaction whereby one person gives funds to another person upon

1 receipt of a personal check along with an agreement that the personal check shall not be deposited
2 until a later date. These transactions are also referred to as “payday advances” or “payday loans.”

3 3. Complainant in an Accusation and amended Accusation alleged Respondents violated
4 numerous provisions of the CDDTL rules and regulations thereunder. Thus Respondent sought a
5 revocation of Respondents’ CDDTL license pursuant to section 23052, issuance of 98 citations and
6 voiding of 98 loans made by Respondents, pursuant to sections 23058 and 23060, respectively.

7 4. Section 23058 gives the Commissioner authority to issues citations and, in part, states:

8 (a) If, upon inspection, examination or investigation, based upon a
9 complaint or otherwise, the department has cause to believe that a person
10 is engaged in the business of deferred deposit transactions without a
11 license, or a licensee or person is violating any provision of this division
12 or any rule or order thereunder, the department may issue a citation to that
13 person in writing, describing with particularity the basis of the citation.
14 Each citation may contain an order to desist and refrain and an assessment
15 of an administrative penalty . . .

16 5. Section 23060 states:

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

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

27 6. Section 23052 states:

28 The commissioner may suspend or revoke any license, upon notice and
reasonable opportunity to be heard, if the commissioner finds any of the
following:

(a) The licensee has failed to comply with any demand, ruling, or
requirement of the commissioner made pursuant to and within the
authority of this division.

(b) The licensee has violated any provision of this division or any
rule or regulation made by the commissioner under and within
the authority of this division.

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(c) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

7. Respondents pursuant to a settlement agreement agree to, inter alia, the issuance by the Commissioner of an Order Suspending Respondents' CDDTL license pursuant to section 23052. The settlement agreement is incorporated herein by reference.

NOW, BASED UPON THE FOREGOING, AND GOOD CAUSE APPEARING, it is hereby ORDERED under the provisions of section 23052 that Respondents CDDTL license is suspended for a period of four months beginning March 10, 2008. This suspension precludes Respondents from engaging in any CDDTL transactions with either new or existing clients during the suspension period. This suspension does not preclude Respondents from engaging in collection activities that permit: (1) receipt of cash from customers for existing transactions entered into before March 10, 2008; (2) forwarding any checks received from Respondents' clients to Respondents' bank for deposit relating to transactions entered into before March 10, 2008; (3) responding to regulatory inquiries from the Department of Corporations or other agencies; (4) making the Citation Payment and Refunds described in the settlement agreement; and, (5) otherwise responding to customer inquiries concerning existing transactions. If Respondents timely comply with all the requisite terms and conditions of the settlement agreement, the suspension of their CDDTL license will terminate on July 10, 2008. Otherwise, the time period of Respondent's license suspension may be extended in accordance with the applicable provisions set forth in the settlement agreement.

Dated: March 5, 2008
Los Angeles, California

PRESTON DuFAUCHARD
California Corporations Commissioner

By _____
ALAN S. WEINGER
Lead Corporations Counsel
Attorney for Complainant