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

10 In the Matter of the Orders Issued to:)
11)
TIOR Capital, LLC; TTG Services, LLC;) DESIST AND REFRAIN ORDER PURSUANT
12 Brian Bergfalk; and, Eric Quinlan,) TO CALIFORNIA FINANCIAL CODE
13) SECTION 23050; and
14 Respondents.) ORDER VOIDING TRANSACTIONS AND
15) DISGORGING ALL CHARGES AND FEES
16) PURSUANT TO CALIFORNIA FINANCIAL
17) CODE SECTION 23060
18)
19)

19 Complainant, the Commissioner of the Department of Corporations (“Commissioner” or
20 “Department”), is informed and believes, and based on such information and belief, finds as follows:

21 I.

22 **FACTUAL BACKGROUND**

23 At all relevant times, TIOR Capital, LLC (“TIOR”) is or was a Nevada limited liability
24 company formed on March 29, 2010 with a registered business address of 500 N. Rainbow
25 Boulevard, Suite 300A, Las Vegas, Nevada, 89107.

26 At all relevant times, TTG Services, LLC (“TTG”) is or was a California limited
27 liability company formed on March 29, 2010 with a registered business address of 101 Parkshore
28 Drive, Suite 100, Folsom, California, 95630.

1 At all relevant times, the managers of TIOR and TTG were Brian Bergfalk (“Bergfalk”) and
2 Eric Quinlan (“Quinlan”).

3 A deferred deposit transaction (commonly referred to as a “payday advance” or “payday
4 loan”) is a written transaction whereby one person gives funds to another person upon receipt of a
5 personal check and it is agreed that the personal check shall not be deposited until a later date.
6 “Personal check,” as referenced in California Financial Code section 23001, includes “the electronic
7 equivalent of a personal check,” such as an Automated Clearing House (“ACH”) or debit card
8 transaction.

9 Consumers may obtain payday loans directly from a licensed lender or by submitting a
10 general loan application online through a lead-generator website that contracts with multiple lenders.
11 Applicants are asked to provide their personal identifying data and employer contact information and
12 furnish their bank account and routing numbers.

13 Since at least September 2011, TIOR, TTG, Bergfalk and Quinlan (hereafter “Respondents”)
14 have engaged in the business of offering, originating, or making deferred deposit transactions in
15 California, as defined by the California Deferred Deposit Transaction Law (“CDDTL”) (California
16 Financial Code sections 23000 *et seq.*). Respondents have offered 24-hour payday advances or short-
17 term cash loans of up to \$1,500 in this state by advertising through Facebook and various lead-
18 generator websites such as paydayloanapplytoday.com and paydayloancashveryfast.com.

19 After accepting an application obtained from a lead-generator website, Respondents
20 electronically deposit the loan funds to the borrower’s personal banking account, in some instances,
21 without even contacting the borrower to disclose the loan terms or obtain borrower authorization.
22 Respondents defer making an ACH deduction until a later date in exchange for fees that exceed those
23 allowed by the CDDTL.

24 For example, in October 2011, Respondents electronically disbursed a \$300.00 payday loan to
25 a California resident, charging a 782.14% interest rate and \$90.00 finance charge, for a total payment
26 amount of \$390.00 due in two weeks. The loan was automatically “refinanced” for an additional
27 \$90.00 fee when the borrower did not repay the loan principal and refinance charges by the loan’s
28 due date.

1 Respondents have not been issued a deferred deposit transaction license by the Commissioner
2 pursuant to the CDDTL. As such, Respondents are not authorized to engage in payday lending, or to
3 offer, originate, or make a deferred deposit transaction, arrange a deferred deposit transaction for a
4 deferred deposit originator, act as an agent for a deferred deposit originator, or assist a deferred
5 deposit originator in the origination of a deferred deposit transaction in the State of California or to
6 California residents.

7 II.

8 **Desist and Refrain Order for Violations of California Financial Code Sections 23005 and 23036**

9 The Department is responsible for enforcing all provisions of the CDDTL, including the
10 regulation of deferred deposit transactions. The Commissioner is statutorily authorized to order any
11 person to desist and refrain from engaging in violations of the CDDTL.

12 California Financial Code section 23005, subdivision (a), provides, in pertinent part: “No
13 person shall offer, originate, or make a deferred deposit transaction . . . without first obtaining a
14 license from the commissioner and complying with the provisions of this division”

15 California Financial Code section 23036, subdivision (a), provides, “A fee for a deferred
16 deposit transaction shall not exceed 15 percent of the face amount of the check.”

17 California Financial Code section 23050 provides:

18 Whenever, in the opinion of the commissioner, any person is engaged in
19 the business of deferred deposit transactions, as defined in this division,
20 without a license from the commissioner, or any licensee is violating any
21 provision of this division, the commissioner may order that person or
22 licensee to desist and to refrain from engaging in the business or further
23 violating this division. If within 30 days, after the order is served, a written
24 request for a hearing is filed and no hearing is held within 30 days
25 thereafter, the order is rescinded.

26 The foregoing facts establish violations of the CDDTL by Respondents, including engaging in
27 the business of originating or offering to originate deferred deposit transactions without having first
28 obtained a license to do so from the California Corporations Commissioner in violation of section
23005, as well as charging excessive fees in violation of section 23036. The issuance of a Desist and
Refrain Order, therefore, is necessary for the protection of consumers and is consistent with the

1 purposes, policies, and provisions of the CDDTL.

2 Pursuant to California Financial Code section 23050, TIOR Capital, LLC, TTG Services,
3 LLC, Brian Bergfalk and Eric Quinlan are hereby ordered to desist and refrain from violating
4 California Financial Code sections 23005 and 23036. This Order shall remain in full force and effect
5 until further order of the Commissioner.

6 **III.**

7 **Order Voiding California Deferred Deposit Transactions and Disgorging All Charges and Fees**

8 California Financial Code Section 23060 provides:

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

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

19 Respondents willfully violated provisions of the CDDTL by charging at least one California
20 customer fees or charges without a license in violation of section 23005, including excess fees and
21 charges in conjunction with deferred deposit transactions in violation of section 23036. As a result of
22 willfully charging unauthorized fees or charges to customers, Respondents are not entitled to collect
23 or receive the principal amounts provided in those deferred deposit transactions, nor are they entitled
24 to any of the charges or fees associated with the transactions.

25 Pursuant to California Financial Code section 23060, TIOR Capital, LLC, TTG Services,
26 LLC, Brian Bergfalk and Eric Quinlan are hereby ordered to immediately cease collecting all
27 principal amounts, and return all principal amounts, provided in any and all deferred deposit
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1 transactions contracted with California customers or in the State of California, and to disgorge
2 any and all charges or fees received in conjunction with those deferred deposit transactions.

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4 Dated: February 29, 2012
5 Los Angeles, California

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JAN LYNN OWEN
California Corporations Commissioner

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By: _____
ALAN S. WEINGER
Deputy Commissioner
Enforcement Division

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