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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT

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OF THE STATE OF CALIFORNIA

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In the Matter of THE COMMISSIONER OF ) DESIST AND REFRAIN ORDER PURSUANT  
BUSINESS OVERSIGHT OF THE STATE OF ) TO CALIFORNIA FINANCIAL CODE  
13 CALIFORNIA, ) SECTION 23050

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Complainant,

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vs.

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Brighton FNL LLC,

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Respondent.

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The Commissioner of Business Oversight of the State of California (“Commissioner”) is  
24 informed and believes, and based on such information and belief, finds as follows:

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**I.**

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**FACTUAL BACKGROUND**

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1. Brighton FNL LLC (“Brighton Fnl”) is at all relevant times herein, an entity of  
28 unknown form. Brighton Fnl operates a website located at [www.brightonfnl.com](http://www.brightonfnl.com), uses the email

1 address, [help@brightonfnl.com](mailto:help@brightonfnl.com), and lists its physical address as 4001 South 700 East, 5<sup>th</sup> Floor, Salt  
2 Lake City, Utah 84107, with telephone number (800) 738 – 0995, and fax number (800) 862 – 8820.

3 2. Brighton Fnl has engaged in the business of originating or offering to originate  
4 deferred deposit transactions (commonly referred to as “payday loans” or “payday advances”) over  
5 the internet to the general public, including California residents.

6 3. “Deferred deposit transaction” means a transaction whereby a person defers depositing  
7 a customer’s personal check until a specific date, pursuant to a written agreement for a fee or other  
8 charge. “Personal check,” which is referenced in California Financial Code section 23001,  
9 subdivision (a),<sup>1</sup> includes the electronic equivalent of a personal check, such as an Automated  
10 Clearing House (“ACH”) or debit card transaction.

11 4. In or around December, 2013, Brighton Fnl contacted at least one California resident  
12 who had submitted a payday loan application on the internet. The email was sent from  
13 [help@brightonfnl.com](mailto:help@brightonfnl.com) and enclosed an attached document entitled, “Loan Note and Disclosure”  
14 stating an amount financed of \$200, annual percentage rate of 2320.36%, and a finance charge of  
15 \$89, for a total amount of \$289 due eleven days from the date of the document. The document was  
16 pre-filled with the California resident’s personal and bank account information and disclosed the  
17 following contact information for “the Lender:” Brighton FNL LLC, Woodlands, 4001 South 700  
18 Salt Lake City, UT 84107. On the next day, Brighton Fnl deposited \$200 into the California  
19 resident’s bank account.

20 5. The Commissioner has not issued a deferred deposit transaction originator license to  
21 Brighton Fnl pursuant to the California Deferred Deposit Transaction Law (“CDDTL”). Brighton  
22 Fnl is not exempt from the licensing requirements of Financial Code section 23005.

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28 <sup>1</sup> All further statutory references are to the California Financial Code unless otherwise indicated.

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**II.**

**DESIST AND REFRAIN ORDER**

The California Department of Business Oversight (“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.

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.

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.

Financial Code section 23036, subdivision (a) limits fees to 15% of the face amount of the check in a deferred deposit transaction.

The foregoing facts establish violations of the CDDTL by Brighton FNL LLC, 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 Financial Code section 23005, subdivision (a); and 2) charging excessive transaction fees, in violation of Financial Code section 23036, subdivision (a).

Pursuant to Financial Code section 23050 Brighton FNL LLC is hereby ordered to desist and refrain from violating Financial Code sections 23005 and 23036. This Order is necessary for the

1 protection of consumers and consistent with the purposes, policies, and provisions of the CDDTL.  
2 This Order shall remain in full force and effect until further order of the Commissioner.

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Dated: May 6, 2014  
Los Angeles, California

JAN LYNN OWEN  
Commissioner of Business Oversight

By: \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner