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10  
11 BEFORE THE DEPARTMENT OF CORPORATIONS  
12 OF THE STATE OF CALIFORNIA  
13

14 In the Matter of the Accusation/Statement of ) File No.: 100-2904; 100-3551  
Issues of THE CALIFORNIA )  
15 CORPORATIONS COMMISSIONER, ) 1) ACCUSATION /STATEMENT OF ISSUES  
2) CITATIONS AND DESIST AND REFRAIN  
16 Complainant, ) ORDER  
17 ) 3) ORDER VOIDING LOANS  
18 vs. )  
19 CNG FINANCIAL MANAGEMENT, INC., )  
20 Respondent. )  
21 )

22 The Complainant is informed and believes, and based upon such information and belief, alleges  
23 and charges Respondent as follows

24 I.

25 INTRODUCTION

26 The proposed orders seek to revoke the deferred deposit transaction license of CNG  
27 Financial Management, Inc. (herein "CNG" or "Respondent") pursuant to Section 23052 of the  
28 California Deferred Deposit Transaction Law (California Financial Code §§ 23000 et. seq.)(herein

1 “CDDTL”) and deny the issuance of another deferred deposit transaction license to CNG pursuant to  
2 CDDTL section 23011(a)(3) in that CNG has committed numerous violations of the CDDTL. If the  
3 Commissioner had known Respondent would engage in a scheme that violated multiple provisions  
4 of the California Financial Code, the California Corporations Commissioner, Preston DuFauchard  
5 (herein “Commissioner”) would have previously revoked the license issued to CNG and deny their  
6 pending application.

7 In view of the extent, nature and duration of violations the Commissioner believes it is in the  
8 best interests of the public to revoke Respondent’s CDDTL license pursuant to California Financial  
9 Code section 23052. The Commissioner has issued eight (8) citations in the amount of \$2,500 per  
10 citation and an order voiding at least (15) loans totaling at least \$11,510.00 made by Respondent,  
11 pursuant to Financial Code sections 23058 and 23060, respectively.

## 12 II.

### 13 FACTUAL BACKGROUND

14 The California Department of Corporations (herein the “Department”) is responsible for  
15 enforcing provisions of the CDDTL and authorized to pursue administrative actions and remedies  
16 against licensees who engage in violations of the CDDTL.

17 CNG, a California corporation, currently holds deferred deposit transaction originator  
18 license number 100-2904 for 395 N. E Street, Ste. #104, San Bernardino, California 92401. CNG  
19 was licensed by the Commissioner pursuant to the CDDTL at this location since on or about  
20 December 15, 2005. Since at least December 15, 2005 Respondent has engaged in the business of  
21 deferred deposit transactions by offering, originating and making deferred deposit transactions. A  
22 “deferred deposit transaction” (herein “DDT”) is a written transaction whereby one person gives  
23 funds to another person upon receipt of a personal check along with an agreement that the personal  
24 check shall not be deposited until a later date. These transactions are also referred to as “payday  
25 advances” or “payday loans.”

26 In or about January 2007, a regulatory examination of CNG at 395 N. E Street, Suite 104,  
27 San Bernardino, California (herein “Examination”) was commenced and disclosed the CDDTL  
28 violations set forth in this Accusation/Statement of Issues. Respondent willfully engaged in these

1 CDDTL violations. The examiner's review of Respondent's business revealed the CDDTL  
2 violations described below warranting a revocation, penalties and restitution to consumers.

3 CNG filed a short form application for a second deferred depository transaction license,  
4 application file number 100-3551, with the Commissioner on April 23, 2007 (herein "Application")  
5 pursuant to the CDDTL. The application was for a location situated at 24990 Alessandro Blvd.,  
6 Suite H, Moreno Valley, CA 92553. The Application identified Salah M. Mousa as the president of  
7 CNG and Salah M. Mousa verified the applications as the president of CNG.

### 8 III.

#### 9 DEFERRED DEPOSIT TRANSACTION LAW VIOLATIONS

##### 10 11 **A. CNG is in Violation of the CDDTL Because They Did Not Provide Written Notice &** 12 **Agreements To DDT Customers.**

13 Pursuant to California Financial Code sections 23035(c) and (e), any person engaged in  
14 the business of DDTs must distribute to customers written notice and transaction agreements  
15 outlining specific information regarding the DDT. During the course of the Examination, it was  
16 discovered that CNG did not distribute the required written notice to customers before engaging  
17 in a DDT in violation of California Financial Code section 23035(c).

18 Also discovered during this Examination was CNG's failure to distribute a written  
19 agreement to customers before engaging in a DDT, in violation of Financial Code section  
20 23035(e).

##### 21 **B. DDT Fees Charged By CNG Are In Violation of the CDDTL.**

22 California Financial Code sections 23036(a), (b), and (f), prohibit excess fees, extension  
23 fees and fees greater than 15% of the face amount of the check from being charged in a DDT.

24 A review of CNG ledger entries during the Examination revealed a total of two hundred  
25 one (201) loan transactions, of which ninety-four (94) loans were extension loans. CNG noted  
26 the letters "Ext" along with the date in the notes section of the ledger. Fees were charged to  
27 customers by CNG to extend these loans, as noted in the ledger, in violation of Financial Code  
28 section 23036(b). In this same ledger, at least six (6) loan transactions were found to have

1 charged fees in excess of 15% of the face amount of the check, also in violation of Financial  
2 Code section 23036 (f). By these violations, CNG is also in violation of Financial Code section  
3 23036 (b), which states that a licensee is not permitted to charge fees in excess of what is  
4 permitted in the Financial Code.

5 **C. CNG DDT Loan Terms Are In Violation of the CDDTL.**

6 DDT's executed by CNG are in violation of the CDDTL. Financial Code section  
7 23035(a) prohibits any DDT term to be greater than thirty-one (31) days. Specifically, a licensee  
8 may defer the deposit of a customer's personal check for only a maximum of thirty-one days  
9 (31). A review of CNG's ledger during the Examination revealed that CNG executed at least  
10 twenty-four (24) DDT's with terms ranging from one (1) to three (3) days in excess of the  
11 requisite thirty-one (31) days in violation of the CDDTL.

12 **D. CNG Entered Into Multiple DDT With the Same Customer In Violation of**  
13 **the CDDTL.**

14 Financial Code section 23036(c) prohibits multiple DDT's with and to the same  
15 customers during the period of time that an earlier DDT agreement is in effect. During the  
16 Examination, at least two (2) transactions with and to the same customer were found during a  
17 previous DDT agreement, in violation of Financial Code section 23036(c).

18 **E. CNG Engaged In Other Activity In Violation of the CDDTL.**

19 The information gathered during the Examination determined that CNG was using an  
20 unauthorized name, in violation of Financial Code section 23023. CNG allows and/or uses the  
21 unauthorized name of "Cash": and "Salah M. Mousa" as the payee on customer checks.  
22 According to Department records and CNG's applications, the only authorized name that CNG  
23 may use to execute DDT's is "CNG Financial Management, Inc.". As such, CNG is in violation  
24 of Financial Code section 23023.

25 Moreover, CNG failed to maintain adequate books and records in violation of Title 10 of  
26 the California Code of Regulations section 2025(c)(1).

27 Finally, CNG did not post notices as required by Financial Code section 23035(d).  
28 Examination results also revealed that, as previously stated above, CNG did not provide the

1 required notices to customers, required by Financial Code section 23035(c). As such, CNG is  
2 again in violation of the CDDTL.

3 **F. CNG is in Violation of the CDDTL Because CNG Engaged In Unlicensed**  
4 **Activity.**

5 Pursuant to California Financial Code section 23005(a), one must be licensed prior to  
6 engaging in DDT's. CNG was licensed on or about December 15, 2005. Analysis of CNG  
7 ledgers revealed unlicensed activity from in or about July 2005 to December 2005, prior to being  
8 licensed, in violation of the CDDTL. CNG entered into ten DDT's without being licensed. As  
9 such, CNG engaged in unlicensed DDT activity and is again, in violation of the CDDTL.

10 **IV.**

11 **COMMISSIONER'S AUTHORITY**

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13 **A. The CDDTL Grants The Commissioner The Authority To Revoke CNG's License.**

14 California Financial Code section 23052 states the grounds for revocation of a CDDTL  
15 license:

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

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

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

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

28 **B. The CDDTL Grants The Commissioner The Authority To Issue Citations.**

California Financial Code section 23058 grants the Commissioner the authority to issue the  
citations issued herein, states:

1 (a) If, upon inspection, examination or investigation, based upon a  
2 complaint or otherwise, the department has cause to believe that a person  
3 is engaged in the business of deferred deposit transactions without a  
4 license, or a licensee or person is violating any provision of this division  
5 or any rule or order thereunder, the department may issue a citation to that  
6 person in writing, describing with particularity the basis of the citation.  
7 Each citation may contain an order to desist and refrain and an assessment  
8 of an administrative penalty not to exceed two thousand five hundred  
9 dollars (\$ 2,500). All penalties collected under this section shall be  
10 deposited in the State Corporations Fund.

11 (b) The sanctions authorized under this section shall be separate  
12 from, and in addition to, all other administrative, civil, or  
13 criminal remedies.

14 (c) If within 30 days from the receipt of the citation of the person cited  
15 fails to notify the department that the person intends to request a hearing  
16 as described in subdivision (d), the citation shall be deemed final.

17 (d) Any hearing under this section shall be conducted in accordance with  
18 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of  
19 Title 2 of the Government Code, and in all states the commissioner has  
20 all the powers granted therein.

21 (e) After the exhaustion of the review procedures provided for in this  
22 section, the department may apply to the appropriate superior court for a  
23 judgment in the amount of the administrative penalty and order  
24 compelling the cited person to comply with the order of the department.  
25 The application, which shall include a certified copy of the final order of  
26 the department, shall constitute a sufficient showing to warrant the  
27 issuance of the judgment and order.

28 **C. The CDDTL Grants The Commissioner The Authority To Issue Desist & Refrain  
Orders.**

California Financial Code section 23050 grants the Commissioner the authority to issue the  
desist and refrain order issued herein, and states:

Whenever, in the opinion of the commissioner, any person is engaged in the  
business of deferred deposit transactions, as defined in this division, 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

1 30 days, after the order is served, a written request for a hearing is filed and no  
2 hearing is held within 30 days thereafter, the order is rescinded.

3 **D. The CDDTL Grants The Commissioner The Authority To Void DDT's.**

4 California Financial Code section 23060 provides for the voiding of loan transactions:

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

9 **E. The CDDTL Grants The Commissioner The Authority to Deny Applications.**

10 California Financial Code section 23011 provides for the denial of DDT license applications:

11 (a) Upon reasonable notice and the opportunity to be heard, the commissioner may  
12 deny the application for any of the following reasons:

13 (1) Any false statement of material fact has been made in the application.

14 (2) Any officer, director, general partner, or person owning or controlling,  
15 directly or indirectly, 10 percent or more of the outstanding interests or equity  
16 securities of the applicant has, within the last 10 years (A) been convicted of  
17 or pleaded nolo contendere to a crime, or (B) committed any act involving  
18 dishonesty, fraud, or deceit, if the crime or act is substantially related to the  
19 qualifications, functions, or duties of a person engaged in business in  
accordance with this division.

20 (3) The applicant or any officer, director, or general partner, or person owning or  
21 controlling, directly or indirectly, 10 percent or more of the outstanding  
22 interests or equity securities of the applicant has violated any provision of this  
23 division or the rules thereunder or any similar regulatory scheme of the State  
of California or a foreign jurisdiction.

24 (b) The application shall be considered withdrawn within the meaning of this section  
25 if the applicant fails to respond to a written notification of a deficiency in the  
application within 90 days of the date of the notification.

26 (c) The commissioner shall, within 60 days from the filing of a full and complete  
27 application for a license and the payment of required fees, either issue a license or file  
28 a statement of issues prepared in accordance with Chapter 5 (commencing with  
Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

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V.

**CITATIONS AND ORDERS**

**CITATIONS**

Pursuant to Financial Code section 23058, Respondent is hereby ordered to pay to the Commissioner within 30 days from the date of the following Citations an administrative penalty of two thousand five hundred dollars (\$2,500) for eight (8) citations, totaling twenty thousand dollars (\$20,000):

CITATION A: violation of section 23035(e) - \$2,500.00

CITATION B: violation of section 23036(a)(b) & (f) -\$2,500.00

CITATION C: violation of section 23035(a) - \$2,500.00

CITATION D: violation of section 23035(c) - \$2,500.00

CITATION E: violation of section 23023- \$2,500.00

CITATION F: violation of section 2025(c)(1) - \$2,500.00

CITATION G: violation of section 23035(d)(1) - \$2,500.00

CITATION H: violation of section 23005(a) - \$2,500.00

**TOTAL - \$20,000.00**

**DESIST AND REFRAIN ORDER**

By reason of the foregoing, the CNG has engaged in charging excessive fees and in illegal deferred deposit transactions in violation of the California Financial Code sections 23036 and 23037. Pursuant to Financial Code sections 23050 and 23058, CNG Financial Management, Inc. and Salah M. Mousa are hereby ordered to desist and refrain from violating Financial Code sections 23036 and 23037. 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.



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VI.

**ORDER VOIDING DEFERRED DEPOSIT TRANSACTIONS**

Respondent willfully violated the above sections of the CDDTL by charging excessive or unauthorized fees and by entering into illegal deferred deposit transactions with consumers. Illegal loan transactions consist of at least fifteen (15) customers and at least six (6) loan transactions totaling at least \$11,510.00. Therefore, by reason of the foregoing, the Commissioner seeks to void Respondent’s transactions with at least 15 consumers and at least six (6) loan transactions and order the return of the consumers’ funds in an amount that aggregates at least \$11,510.00.

Pursuant to California Financial Code section 23060 the above described deferred deposit transactions are declared void. Further, Respondent had no right to collect or receive any amount provided in the deferred deposit transactions or any charges or fees in connection with these consumer transactions and is hereby ordered to immediately return any amount and all charges and fees that Respondent directly or indirectly received for these transactions. This Order shall remain in full force and effect until further order of the Commissioner.

VII.

**CONCLUSION**

Complainant, due to the foregoing, has issued eight (8) Citations and a Desist and Refrain Order, and has voided at least fifteen (15) loan transactions pursuant to California Financial Code sections 23050, 23058 and 23060, respectively.

WHEREFORE, Complainant, the California Corporations Commissioner prays that the deferred deposit transaction license of Respondent, CNG Financial Management, Inc. and Salah M. Mousa, be revoked pursuant to California Financial Code section 23052 and that the short form

1 application for a second deferred deposit transaction license, file number 100-.3551 filed with the  
2 Commissioner on April 23, 2007 be denied, pursuant to California Financial Code section 23011.

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Dated: March 6, 2008

Sacramento, California



PRESTON DuFAUCHARD  
California Corporations Commissioner

By: \_\_\_\_\_

ALAN S. WEINGER  
Lead Corporations Counsel