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8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
9 OF THE STATE OF CALIFORNIA

10	In the Matter of THE COMMISSIONER OF	)	FILE NO: 100-3227
11	BUSINESS OVERSIGHT OF THE STATE OF	)	
12	CALIFORNIA,	)	CITATIONS PURSUANT TO FINANCIAL
		)	CODE SECTION 23058
13	Complainant,	)	
		)	DESIST AND REFRAIN ORDER PURSUANT
14	v.	)	TO FINANCIAL CODE SECTION 23058
		)	
15	CONTINENTAL CURRENCY SERVICES,	)	
16	INC. DOING BUSINESS AS CCS,	)	
		)	
17	Respondent.	)	
		)	
18		)	
19		)	
20		)	

21 Complainant, the Commissioner of Business Oversight of the State of California  
22 (“Commissioner” or “Department”) is informed and believes, and based on such information and  
23 belief, finds as follows:

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I.

**BACKGROUND**

The Commissioner has jurisdiction over deferred deposit transactions as set forth in the California Deferred Deposit Transaction Law (“CDDTL”) (Fin. Code § 23000 et. seq.). The Commissioner is authorized to pursue administrative actions and remedies against persons who engage in violations of the CDDTL.

“Deferred deposit transaction,” as defined by section 23001, subdivision (a), 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. A “personal check” includes the electronic equivalent of a personal check, such as an Automated Clearing House (“ACH”) or debit card transaction.

Respondent, Continental Currency Services, Inc. doing business as CCS is a California corporation with a principal office located at 231 East 17<sup>th</sup> Street, Santa Ana, California, 92706.

On December 31, 2004, the Commissioner issued to Respondent a deferred deposit transaction originator license (File No. 100-3227) pursuant to the CDDTL. Respondent engages in its payday lending business at 56 licensed locations in California.

As part of its application to the Department for a license to make deferred deposit transactions, Respondent executed a Declaration, designated as “Exhibit K,” signed under penalty of perjury, which states:

I (we) have obtained and read copies of the California Deferred Deposit Transaction Law (Division 10 of the California Financial Code) and the Rules (Chapter 3, Title 10, California Code of Regulations) and am familiar with their content; and,

I (we) agree to comply with all the provision[s] of the California Deferred Deposit Transaction Law, including any rules or orders of the Commissioner of Corporations.<sup>1</sup>

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<sup>1</sup> Pursuant to the Governor’s Reorganization Plan No. 2, on July 1, 2013, the Department of Corporations and Department of Financial Institutions became the Department of Business Oversight.

1 By signing the Declaration, Respondent further attested to declare understanding of the  
2 following items on the application:

- 3 1. That the applicant will submit to periodic examinations by the  
4 Commissioner of Corporations as required by the California Deferred  
5 Deposit Transaction Law.
- 6 2. That the applicant will keep and maintain all records for 2 years  
7 following the last entry on a deferred deposit transaction and will  
8 enable an examiner to review the record keeping and reconcile each  
9 consumer deferred deposit transaction with documentation maintained  
10 in the consumer's file records.

## 11 II.

### 12 VIOLATIONS OF THE CDDTL

13 On or about December 3, 2013, the Commissioner commenced a regulatory examination of  
14 all of Respondent's licensed California locations. During the examination, the Commissioner's  
15 examiner discovered that Respondent did not maintain an actual copy of a customer's personal check  
16 for open transactions. Respondent informed that, since April 2012, its practice has been to generate  
17 an ACH authorization form as an "electronic equivalent" of a check for every deferred deposit  
18 transaction originated. The ACH authorization form included the following information: bank  
19 routing number, account number, customer's signature, signature date, and customer's name. The  
20 ACH authorization form did not include evidence of the customer's bank name or bank address.

21 The Commissioner's examination also disclosed that Respondent offered customers  
22 "NetSpend" prepaid debit cards issued by Meta Bank. Some of the ACH authorization forms  
23 contained in customer files identified the Meta Bank routing number but did not have any supporting  
24 documents, such as bank statements or voided checks to verify the customer's checking account  
25 information.

26 When the Commissioner inquired about the missing documentation, Respondent informed  
27 that the customer bank statements were not needed for debit card transactions. Respondent explained  
28 that so long as the customer's debit card was issued by a "participating provider," Respondent was  
able to obtain the customer bank account and routing numbers by swiping the customer's debit card  
and entering a code. However, upon inspecting the customer files for the debit card transactions, the

1 Commissioner's examiner discovered that although the Meta Bank routing and account numbers  
2 were present, it could not be ascertained whether the accounts identified were personal checking  
3 accounts.

4 In response to the Commissioner's request, Respondent provided a deferred deposit  
5 transaction report for the period of November 1, 2013 through March 31, 2014. This report disclosed  
6 that Meta Bank routing numbers were used as evidence of a personal check in approximately five  
7 percent of total transactions at 55 of the 56 licensed locations.

8 California Code of Regulations, title 10, section 2025, subdivision (c)(1), provide in pertinent  
9 part:

10 . . . [R]ecords to be maintained at each licensed business location for each deferred  
11 deposit transaction shall include at least the following: the deferred deposit transaction  
12 agreement, evidence of the check, written disclosure(s) used to provide notice in  
13 compliance with subdivision (c) of Section 23035 of the Financial Code, record of any  
14 and all extensions of time or payment plans for repayment of an existing deferred deposit  
15 transaction, record of time periods for each transaction, record of transaction fees and  
16 charges, and record of transaction payments.

17 Financial Code section 23024 provides:

18 Each licensee shall keep and use books, accounts, and records that will enable the  
19 commissioner to determine if the licensee is complying with the provisions of this  
20 division and with the rules and regulations promulgated by the commissioner. Each  
21 licensee shall maintain any other records as required by the commissioner. The  
22 commissioner or a designee of the commissioner may examine those records at any  
23 reasonable time. Upon the request of the commissioner, a licensee shall file an  
24 authorization for disclosure of financial records of the licensed businesses pursuant to  
25 Section 7473 of the Government Code. All records shall be kept for two years following  
26 the last entry on a deferred deposit transaction and shall enable an examiner to review the  
27 recordkeeping and reconcile each consumer deferred deposit transaction with  
28 documentation maintained in the consumer's deferred deposit transaction file records.

29 The book and recordkeeping requirements of section 2025, subdivision (c)(1), mandate that  
30 licensees maintain "evidence of the check" for each deferred deposit transaction. Section 23001,  
31 subdivision (a), expressly states that the check accepted in the deferred deposit transaction must be a  
32 "customer's personal check." Although a licensee may accept the "electronic equivalent" of a  
33

1 personal check, such as an ACH or debit card transaction, the licensee’s record of the proxy  
2 instrument must constitute sufficient evidence of a “customer’s personal check.”

3 The Commissioner finds that by failing to identify in its customer files the name or location of  
4 the originating financial institution and/or whether the funding account is a “personal” account,  
5 Respondent has failed to maintain evidence of a “customer’s personal check” for every deferred  
6 deposit transaction, in violation of section 2025, subdivision (c)(1).

7 Further, the Commissioner finds that Respondent has failed to keep records “that will enable  
8 the Commissioner to determine if the licensee is complying with the provisions of [the CDDTL]” and  
9 “reconcile each consumer deferred deposit transaction with documentation maintained in the  
10 consumer’s deferred deposit transaction file records,” in violation of section 23024.

### 11 III.

#### 12 CITATIONS

13 Financial Code section 23058 authorizes the Commissioner to issue a citation not exceeding  
14 \$2,500.00 for each violation of any provision of the CDDTL or any rule or order thereunder. Section  
15 23058, subdivisions (a) through (c), provides:

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

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

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

For the CDDTL violations of Continental Currency Services, Inc. doing business as CCS, the  
Commissioner hereby issues two separate Citations (A and B), as part of this single document:



1 Pursuant to Financial Code section 23058, Continental Currency Services, Inc. doing business  
2 as CCS is hereby ordered to desist and refrain from violating section 2025, subdivision (c)(1), of Title  
3 10 of the California Code of Regulations and Financial Code section 23024.

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

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8 Dated: January 13, 2015  
9 Sacramento, California

JAN LYNN OWEN  
Commissioner of Corporations

11 By: \_\_\_\_\_  
12 MARY ANN SMITH  
13 Deputy Commissioner