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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.

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

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

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

21 Dated: March 5, 2008  
22 Los Angeles, California

23 PRESTON DuFAUCHARD  
24 California Corporations Commissioner

25 By \_\_\_\_\_  
26 ALAN S. WEINGER  
27 Lead Corporations Counsel  
28 Attorney for Complainant