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STATE OF CALIFORNIA
BUSINESS, TRANSPORTATION AND HOUSING AGENCY
DEPARTMENT OF CORPORATIONS

TO: BRET ALLEN BIVINS, INDIVIDUALLY AND
DBA CHECK 'TIL PAYDAY
741 Shadowridge Drive
Vista, California 92083

DESIST AND REFRAIN ORDER

(For violations of section 23005(a) of the California Financial Code)

The California Corporations Commissioner finds that:

1. Bret Allen Bivins ("Bivins") is, and was at all relevant times herein, an individual doing business as Check 'TIL Payday. Bivins has a principal address of 741 Shadowridge Drive, Vista, California 92081.

2. Bivins has engaged in the business of deferred deposit transactions by originating deferred deposit transactions as described below.

3. An examination of Bivins dba Check 'TIL Payday conducted by the California Corporations Commissioner ("Commissioner") in December 2005 disclosed that Bivins dba Check 'TIL Payday has been offering deferred deposit transactions to the public in violation of the California Deferred Deposit Transaction Law ("CDDTL"), since at least January 24, 2005.

4. In or about March 2005, Bivins contacted the Department of Corporations ("Department") by telephone requesting information as to how to renew his Deferred Deposit Permit that was issued by the California Department of Justice. The Department informed Bivins that the Department was now the agency responsible for issuing a CDDTL license. Bivins was directed to cease further origination of deferred deposit transactions until he obtained a license from the Commissioner. On or about March 29, 2005, a letter was sent to Bivins along with an application for a CDDTL license reiterating

1 that he could not engage in the business of deferred deposit transactions unless and until
2 he obtained a CDDTL license from the Commissioner.

3 5. After Bivins failed to respond to the March 29, 2005 letter or file an
4 application for a license, the Department contacted Bivins by telephone on September
5 29, 2005 to inquire further. The Department's staff spoke to Cash 'TIL Payday's store
6 manager who denied any knowledge about the license application. The store manager
7 directed the Department to Bivins who the store manager said was responsible for all of
8 Cash 'TIL Payday's licensing matters. Bivins later returned the Department's telephone
9 call on the same day. Bivins claimed that he was not aware of the state's licensing
10 requirement and had not received the March 29, 2005 letter or the license application that
11 was sent to him. Bivins further claimed that the store manager with whom the
12 Department's staff had spoken to earlier was the person responsible for dealing with the
13 company's licensure needs. Bivins further informed the Department that the business
14 recently relocated its address and may not have received the Department's
15 correspondence due to the relocation.

16 6. On or about September 29, 2005, a letter was sent to Bivins asking him to
17 respond to the March 29, 2005 letter and again informing him that he could not engage in
18 the business of deferred deposit transactions unless and until he obtained a CDDTL
19 license. An application form for a license was included with the letter. The September
20 29, 2005 letter also requested pertinent information from Bivins, including but not limited
21 to, written statements that he had ceased engaging in the business of originating
22 deferred deposit transactions in California, and written assurances that an application for
23 a license under the CDDTL would be filed with the Department within 30 days up to and
24 including October 29, 2005.

25 7. On or about October 4, 2005, the Department received a facsimile
26 transmission from Bivins advising he had ceased engaging in originating deferred deposit
27 transactions pending receipt of a license from the Commissioner.

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1 8. On or about November 1, 2005, Bivins filed an application for a CDDTL with
2 the Commissioner. However, Bivins' application did not meet the net worth requirement
3 for the issuance of a CDDTL license.

4 9. On or about November 4, 2005, a letter was mailed to Bivins requesting
5 further documents necessary to complete his application. The November 4, 2005 letter
6 again reiterated that Bivins could not engage in deferred deposit transactions without
7 having first obtained a license from the Commissioner. Thereafter, on or about
8 November 22, 2005, the Department's staff contacted Bivins by telephone informing him
9 of the deficiency in his application. Specifically, Bivins was requested to furnish
10 information pertinent to his financial statement. Bivins responded that he would discuss
11 the matter with his accountant. On or about December 5, 2005 a deficiency letter was
12 issued to Bivins concerning his application.

13 10. Further examination of Bivins was commenced on or about December 8,
14 2005, when the Department had still not received the information requested regarding
15 Bivins' CDDTL license application. The Department's examiner visited Bivins at his
16 principal address whereupon an employee of Bivins informed him that they had ceased
17 originating deferred deposit transactions. Bivins later arrived at the store. Bivins
18 represented to the examiner that he had not originated any deferred deposit transactions
19 since about September 2005 and provided a written statement to this effect.
20 Notwithstanding Bivins' statements, an examination of his records revealed that at least
21 112 deferred deposit transactions had been originated since Bivins' initial inquiry with the
22 Department in March 2005, and at least 107 of the deferred deposit transactions were
23 originated after September 2005.

24 11. A deferred deposit transaction is a written transaction whereby one person
25 gives funds to another person upon receipt of a personal check and it is agreed that the
26 personal check shall not be deposited until a later date.

27 12. Bivins, neither in his individual name nor doing business as Cash 'TIL
28 Payday, has been issued a license by the Commissioner authorizing him to engage in the

1 business of deferred deposit transactions under the CDDTL (California Financial Code §§
2 23000 et seq.).

3 13. Bivins is not exempt from the licensing requirements of California Financial
4 Code section 23005.

5 By reason of the foregoing, Bivins dba Cash 'TIL Payday has engaged in the
6 business of deferred deposit transactions without having first obtained a license from the
7 Commissioner in violation of California Financial Code section 23005.

8 Pursuant to California Financial Code section 23050, Bret Allen Bivins, individually
9 and dba Cash 'TIL Payday or otherwise is hereby ordered to desist and refrain from
10 engaging in the business of deferred deposit transactions in the State of California
11 without having first obtained a license from the Commissioner, or otherwise being
12 exempt. This Order is necessary, in the public interest, for the protection of consumers
13 and is consistent with the purposes, policies and provisions of the California Deferred
14 Deposit Transaction Law. This order shall remain in full force and effect until further
15 order of the Commissioner.

16 California Financial Code section 23050 provides in pertinent part:

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

22 Dated: May 12, 2006
23 Los Angeles, CA

WAYNE STRUMPFER
Acting Corporations Commissioner

24 By: _____
25 Steven C. Thompson
26 Special Administrator
27 California Deferred Deposit Transaction Law
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