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BEFORE THE DEPARTMENT OF CORPORATIONS

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OF THE STATE OF CALIFORNIA

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In the Matter of the Statement of Issues of THE  
CALIFORNIA CORPORATIONS  
COMMISSIONER,

File No.: 100-3049

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Complainant,

)

Order Denying A California Deferred Deposit  
Transaction License Application

13

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vs.

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BRET ALLEN BIVINS doing business as  
CHECK 'TIL PAYDAY,

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Respondent.

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The California Corporations Commissioner (“Commissioner”) finds that:

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1. On March 29, 2005, Bret Allen Bivins, dba Check ‘Til Payday (“Bivins”), contacted  
the Department of Corporations (“Department”) by telephone requesting information on how to  
renew a deferred deposit permit. The Department informed Bivins that it was now the agency  
responsible for issuing California deferred deposit licenses. Following the telephone conversation,  
the Department sent an application for a California Deferred Deposit Transaction Law (“CDDTL”)

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1 license, along with a letter to Bivins on March 29, 2005 specifically informing Bivins that he could  
2 not engage in deferred deposit transactions unless and until he obtained a CDDTL license from the  
3 Commissioner.

4 3. On September 29, 2005, the Department contacted Bivins by telephone after Bivins  
5 failed to file a CDDTL license application or respond to the March 29, 2005 letter. Again, Bivins  
6 was told he could not originate deferred deposit transactions without a license from the  
7 Commissioner. Bivins was sent another application for a CDDTL license and a letter informing him  
8 he could not conduct unlicensed deferred deposit transactions.

9 4. On October 4, 2005, Bivins faxed the Department a letter stating that he had "ceased  
10 and desisted (sic) on any deferred deposit transactions until we (sic) have received our (sic) deferred  
11 deposit permit from the Department of Corporations."

12 5. On November 1, 2005, Bivins filed an application with the Department for a deferred  
13 deposit transaction license (File No. 100-3049, hereinafter "application"). The application was filed  
14 pursuant to the CDDTL (Financial Code sections 23000 et. seq.), in particular, California Financial  
15 Code section 23005. The application was for a location situated at 741 Shadowridge Drive, Vista,  
16 San Diego, California 92081.

17 6. Bivins had not filed any CDDTL application(s) with the Commissioner before filing  
18 the November 1, 2005 application. Bivins does not currently hold any CDDTL licenses issued by the  
19 Commissioner.

20 7. On November 4, 2005 the Department sent a letter to Bivins by mail requesting  
21 additional information in connection with his application. The November 4, 2005 letter again  
22 informed Bivins he could not engage in a deferred deposit transaction until a license from the  
23 Commissioner was obtained.

24 8. On November 22, 2004, the Department's staff contacted Bivins by telephone  
25 repeating their request that Bivins provide additional information. Thereafter, on December 5, 2005,  
26 the Department sent Bivins a deficiency letter advising him of the deficiency noted in his application.

27 9. The Department commenced an examination of Bivins on December 8, 2005 to  
28 determine if Bivins was conducting an unlicensed deferred deposit transaction business. The

1 Commissioner's examiner visited Bivins at his principal address where Bivins and his employee  
2 informed the examiner that they had ceased originating deferred deposit transactions. Bivins  
3 provided a written statement that he no longer engaged in deferred deposit transactions since  
4 September 2005. Bivins also provided a written statement that he was closing down his business and  
5 as such, was withdrawing his application. Notwithstanding Bivins' statements, the examination  
6 revealed that Bivins had originated at least 114 deferred deposit transactions from January 24, 2005  
7 through December 7, 2005 without a CDDTL license in violation of California Financial Code  
8 section 23005.

9 10. Bivins knew specifically that a CDDTL license was required to engage in the business  
10 of deferred deposit transactions as the letters from the Department to Bivins sent between March 29,  
11 2005 and December 5, 2005 repeatedly informed Bivins he could not engage in the business of  
12 deferred deposit transactions without having first obtained a CDDTL license.

13 11. Bivins continued to engage in the business of deferred deposit transactions in violation  
14 of the CDDTL notwithstanding three written notifications regarding licensure and written and oral  
15 representations from Bivins that such unlicensed activities had ceased.

16 12. The December 8, 2005 examination of Bivins disclosed that Bivins continued to  
17 engage in deferred deposit transactions through at least December 7, 2005, and as such, the  
18 representation of Bivins submitted to the Commissioner with the application that Bivins had ceased  
19 deferred deposit transaction business at least as of September 30, 2005 or earlier was false.

20 13. Bivins has committed at least 114 violations of California Financial Code section  
21 23005.

22 14. Bivins has made a false statement of material fact in his application.

23 15. Bivins is incapable of operating his business in compliance with the CDDTL as  
24 demonstrated by his flagrant and continuous pattern of violations.

25 16. It is in the best interests of the public to deny Bivins' application for a CDDTL  
26 license.

27 17. Engaging in deferred deposit transaction business without a license in violation of  
28 California Financial Code section 23005 and making a false statement of material fact in a license

1 application(s) are grounds under California Financial Code section 23011 to deny license  
2 application(s) issued under the CDDTL.

3 18. On May 12, 2006, the Commissioner issued a Notice of Intention to Issue Order  
4 Denying a California Deferred Deposit Transaction License Application, Statement of Issues, and  
5 accompanying documents against Bivins based upon the above, and Bivins was personally served  
6 with those documents on May 21, 2006. The Department has received no request for a hearing from  
7 Bivins and the time to request a hearing has expired.

8 NOW GOOD CAUSE APPEARING THEREFORE, it is hereby ordered that the application  
9 for a CDDTL license filed by Bivins is hereby denied. This order is effective as of the date hereof.

10 Dated: August 15, 2006  
11 Los Angeles, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

12 By: \_\_\_\_\_  
13 Steven C. Thompson  
14 Special Administrator  
15 California Deferred Deposit Transaction Law  
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