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

11 In the Matter of:)	CDDTL LICENSE NO.: 100-4059
12 THE COMMISSIONER OF BUSINESS)	
13 OVERSIGHT,)	CONSENT ORDER
14 Complainant,)	
15 v.)	
16 GALT VENTURES, LLC,)	
17 Respondent.)	

18
19 This Consent Order is entered into between the Commissioner of Business Oversight
20 (Commissioner) and Galt Ventures, LLC (Galt) and is made with respect to the following facts:

21 **RECITALS**

22 A. The Department of Business Oversight, through the Commissioner, has jurisdiction
23 over deferred deposit transactions under the California Deferred Deposit Transaction Law
24 (CDDTL) (Fin. Code, § 23000 et seq.).

25 B. Galt Ventures, LLC is a Kansas Limited Liability Company with its principal place
26 of business at 3527 North Ridge Road, Wichita, Kansas. Galt has a CDDTL license (license
27 number 100-4059).

1 C. On or around April 25, 2016, the Commissioner commenced a regulatory
2 examination (the 2016 Exam) of Galt’s books and records under the CDDTL.

3 D. During the 2016 Exam, the Commissioner found that from June of 2014 through
4 February 2017, in some instances, Galt charged and collected a \$15 insufficient funds fee from
5 borrowers without first presenting the Automated Clearing House (ACH) transaction to the
6 depository institution in violation of Financial Code section 23036, subdivisions (e) and (f).

7 E. The Commissioner also found that in some instances, from at least December of
8 2015 through October 2, 2018, Galt accepted a cash payment while a borrower’s ACH payment was
9 processing over the network. Galt received an amount in excess of the amount permitted under
10 Financial Code section 23036 when the ACH payment subsequently cleared. Galt had policies and
11 procedures in place to detect the excess collection and refund borrowers.

12 F. Galt maintains that the excess collections were received through inadvertence and
13 not as a result of Galt’s willful misconduct. Galt maintains that it detected and substantially
14 refunded the excess collections at no net out-of-pocket loss to affected customers.

15 G. The Commissioner finds that entering into this Consent Order is in the public
16 interest and consistent with the purposes fairly intended by the policy and provisions of the
17 CDDTL.

18 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
19 forth herein, the parties agree as follows:

20 **TERMS AND CONDITIONS**

21 1. Purpose. This Consent Order is entered into for the purpose of judicial economy and
22 to avoid the expense and uncertainty of a hearing or other litigation.

23 2. Finality of Consent Order. Galt agrees to comply with this Consent Order and
24 stipulates that this Consent Order is hereby deemed final.

25 3. Desist and Refrain Order. In accordance with Financial Code section 23050, Galt
26 stipulates that it is Ordered to Desist and Refrain from violating Financial Code section 23036,
27 subdivisions (e) and (f) (the D&R Order).
28

1 4. Waiver of Hearing Rights. Galt acknowledges that the Commissioner is ready,
2 willing, and able to proceed with the filing of an administrative enforcement action on the charges
3 contained in this Consent Order. Galt hereby waives the right to any hearings, and to any
4 reconsideration, appeal, or other right to review which may be afforded under the CDDTL,
5 Administrative Procedure Act, Code of Civil Procedure, or any other provision of law. Galt further
6 expressly waives any requirement for the filing of an accusation pursuant to Government Code
7 section 11415.60, subdivision (b), Administrative Procedures Act, Code of Civil Procedure, or any
8 other provision of law. By waiving such rights, Galt consents to the finality of this Consent Order
9 and the D&R Order.

10 5. Administrative Penalty. Galt shall pay an administrative penalty of \$60,000.00 no
11 later than 30 days after the effective date of this Consent Order as defined in paragraph 24.

12 Galt shall pay the penalty by cashier’s check or Automated Clearing House deposit to the
13 Department of Business Oversight and transmitted to the attention of Accounting – Litigation, at the
14 Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814. Notice
15 of payment must be sent to Danielle A. Stoumbos, Senior Counsel, 320 West 4th Street, Suite 750,
16 Los Angeles, California 90013, or Danielle.Stoumbos@dbo.ca.gov.

17 6. Policies and Procedures. Galt submitted to the Commissioner procedures
18 implemented to correct and prevent the violations set forth in this Consent Order and ensure
19 compliance with the CDDTL and applicable regulations. Galt shall submit any proposed changes
20 or modifications to the procedures to the Commissioner before any changes or modifications are
21 made.

22 7. Future Actions by the Commissioner. The Parties acknowledge and agree that
23 nothing contained in this Consent Order shall limit the ability of the Commissioner to bring any
24 action to enforce compliance with this Consent Order and the D&R Order, seek penalties and/or
25 any other remedies for their violation. Further, the Commissioner reserves the right to bring any
26 future action(s) against Galt or any of its partners, owners, officers, directors, shareholders,
27 employees, or successors, for any prior violations, or any future violations of the law, except for the
28 violations alleged herein.

1 8. Failure to Comply. If Galt fails to comply with any of the terms of this Consent
2 Order, other than through inadvertent and isolated errors that are promptly corrected by Galt after
3 discovering such errors and that are reported to the Commissioner no later than 10 business days
4 after such corrections, the Commissioner may suspend Galt from engaging in business under its
5 CDDTL license until it provides evidence of compliance to the Commissioner’s satisfaction. Galt
6 hereby waives any hearing rights afforded under the Administrative Procedure Act, including
7 Government Code section 11415.60, subdivision (b); Code of Civil Procedure; or any other
8 provision of law to contest the summary suspension.

9 9. Full and Final Resolution. This Consent Order is intended to constitute a full and
10 final resolution of the findings described in paragraphs D and E of the recitals of this Consent
11 Order. The Commissioner will not bring any further action or proceeding concerning those findings
12 unless she discovers new or further violations by Galt that do not form the basis for this Consent
13 Order, including violations knowingly or willfully concealed from the Commissioner. If the
14 Commissioner discovers that Galt knowingly or willfully withheld information used and relied on
15 in this Consent Order, the Commissioner may rescind this Consent Order and pursue all remedies
16 available under the law against Galt.

17 10. Commissioner’s Duties. Nothing in this Consent Order limits the Commissioner’s
18 ability to assist any other government agency with any action brought by that agency against Galt,
19 including an action based on any of the acts, omissions, or events described in this Consent Order.

20 11. Third-Party Actions. The Parties intend that this Consent Order does not create any
21 private rights or remedies against Galt, create any liability for Galt, or limit Galt’s defenses against
22 any person or entity not a party to this Consent Order.

23 12. Independent Legal Advice. Each party represents that it has received independent
24 advice from its counsel or representatives regarding the advisability of executing this Consent
25 Order.

26 13. Reliance. Each party represents that in executing this Consent Order it has relied
27 solely on the statements in the Consent Order and on the advice of its counsel or representatives.
28 Each party also represents that it has not relied on any statement or promise not contained in this

1 Consent Order from any other person or on the failure of such person to make a statement or
2 promise. The parties have included this clause to preclude any claim that a party was fraudulently
3 induced to execute this Consent Order.

4 14. Integration. This Consent Order is the final written expression and the complete and
5 exclusive statement of all the agreements, conditions, promises, representations, and covenants
6 between the parties concerning its subject matter and supersedes all discussion regarding such
7 subject matter between the parties, their representatives, and any other person. The parties have
8 included this clause to preclude the introduction of parol evidence to vary, interpret, supplement, or
9 contradict the terms of this Consent Order.

10 15. No Presumption Against Drafting Party. Each party acknowledges that it has had the
11 opportunity to draft, review, and edit the language of this Consent Order. Accordingly, the Parties
12 intend that no presumption for or against the drafting party will apply in construing any part of this
13 Consent Order. The parties waive the benefit of Civil Code section 1654 and corresponding
14 provisions of any successor statute, which provide that in cases of uncertainty, language of a
15 contract should be interpreted most strongly against the party that caused the uncertainty to exist.

16 16. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
17 this Consent Order will be valid or binding unless it is in writing and signed by all parties affected
18 by it. Waiver of a provision of this Consent Order will not be deemed a waiver of any other
19 provision.

20 17. Headings. The headings in this Consent Order are for convenience only and do not
21 affect its meaning.

22 18. Governing Law. This Consent Order will be governed by and construed in
23 accordance with California law.

24 19. Authority to Sign. Each party represents that the person signing this Consent Order
25 on its behalf has the authority and capacity to do so.

26 20. Voluntary Agreement. Galt enters into this Consent Order voluntarily and without
27 coercion and acknowledges that no promises, threats, or assurances about this Consent Order have
28 been made by the Commissioner or any of the Commissioner’s officers or agents.

1 21. Public Record. Galt acknowledges that this Consent Order is a public record.

2 22. Counterparts. This Consent Order may be executed in any number of counterparts,
3 each of which will be deemed an original when executed. All counterparts together will be deemed
4 to constitute a single document.

5 23. Signatures. A signature delivered by facsimile or electronic mail will be deemed an
6 original signature.

7 24. Effective Date. This Consent Order will become effective on the date it is signed by
8 all parties and delivered by the Commissioner to Galt’s counsel, Hilary B. Miller, Esq., by
9 electronic mail to hilary@miller.net.

10 25. Notice. Any notice to Galt required under this Consent Order must be sent by mail to
11 Galt at 3527 North Ridge Road, Wichita, Kansas 67205 and contemporaneously by electronic mail
12 to Hilary B. Miller, Esq., at hilary@miller.net.

13
14 Dated: 10/19/18

JAN LYNN OWEN
Commissioner of Business Oversight

15
16 By: MARY ANN SMITH
17 Deputy Commissioner

18
19 Dated: 10/19/18

GALT VENTURES, LLC

20
21 By: DONALD F. GAVHARDT
22 President and Chief Executive Officer