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

10	In the Matter of:)	CDDTL LICENSE NOS.: 100-0991
11	THE COMMISSIONER OF BUSINESS)	100-0992
12	OVERSIGHT,)	100-0993
13	Complainant,)	ACCUSATION IN SUPPORT OF ORDER
14	v.)	REVOKING CALIFORNIA DEFERRED
15	ROSEMOLE VINCENT MATHEW doing)	DEPOSIT TRANSACTION LAW LICENSE
16	business as SAN FRANCISCO CHECK)	PURSUANT TO FINANCIAL CODE
17	CASHING, ARMY CHECK CASHING, and)	SECTION 23052
18	BAY VIEW CHECK CASHING,)	
19	Respondent.)	

20
21 Complainant, the Commissioner of the Department of Business Oversight (“Commissioner”
22 or “Department”), is informed and believes, and based on such information and belief, finds as
23 follows:

24 **I.**

25 **BACKGROUND**

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

1 engage in violations of the CDDTL.

2 2. “Deferred deposit transaction,” as defined by section 23001, subdivision (a), means a
3 transaction whereby a person defers depositing a “customer’s personal check” until a specific date,
4 pursuant to a written agreement for a fee or other charge. A “personal check” includes the electronic
5 equivalent of a personal check, such as an Automated Clearing House (“ACH”) or debit card
6 transaction.

7 3. On December 31, 2004, the Commissioner issued to Respondent, Rosemole Vincent Mathew
8 doing business as San Francisco Check Cashing, a deferred deposit transaction originator license
9 (license number 100-0991) pursuant to the CDDTL. Respondent also does business as Army Check
10 Cashing (license number 100-0992) and Bay View Check Cashing (license number 100-0993) at two
11 licensed branch locations in San Francisco, California. Respondent’s principal office is located at
12 847 Divisadero Street, San Francisco, California, 94117.

13 4. As part of Respondent’s application to the Commissioner for a license to make deferred
14 deposit transactions, Respondent executed a Declaration, designated as “Exhibit K,” signed under
15 penalty of perjury, which states:

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

20 I (we) agree to comply with all the provision[s] of the California Deferred
21 Deposit Transaction Law, including any rules or orders of the
22 Commissioner of Corporations.

22 5. By signing the Declaration, Respondent further attested to declare understanding of the
23 following items on the application:

- 24 1. That the applicant will submit to periodic examinations by the
25 Commissioner of Corporations as required by the California Deferred
26 Deposit Transaction Law.
27 2. That the applicant will keep and maintain all records for 2 years
28 following the last entry on a deferred deposit transaction and will
enable an examiner to review the record keeping and reconcile each
consumer deferred deposit transaction with documentation maintained
in the consumer’s file records.

II.

VIOLATIONS OF THE CDDTL

6. On or about May 20, 2013, the Commissioner commenced a regulatory examination of all of Respondent's licensed California locations. During the examination, the Commissioner's examiner discovered that Respondent used an internet advertisement at www.paydayadvance.info that did not state that Respondent was licensed by the Department pursuant to the CDDTL, as required by Financial Code section 23027, subdivision (b).

7. Subdivision (b) of section 23027 states:

No licensee shall place an advertisement disseminated primarily in this state for a deferred deposit transaction unless the licensee discloses in the printed text of the advertisement, or the oral text in the case of a radio or television advertisement, that the licensee is licensed by the department pursuant to this division.

8. The Commissioner's examination also disclosed that Respondent did not maintain at the licensed business location evidence of the customer's check for each deferred deposit transaction as required by California Code of Regulations, title 10, section 2025, subdivision (c)(1). When the Commissioner's examiner inquired about the missing documentation, Respondent replied that the business scanner was broken.

9. Subdivision (c)(1) of section 2025 provides in pertinent part:

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

10. Financial Code section 23024 requires that all CDDTL records be maintained by the licensee for a period of two years and states:

Each licensee shall keep and use books, accounts, and records that will enable the commissioner to determine if the licensee is complying with the provisions of this division and with the rules and regulations promulgated by the commissioner. Each licensee shall maintain any other records as required by the commissioner. The commissioner or a designee of the commissioner may examine those records

1 at any reasonable time. Upon the request of the commissioner, a licensee shall
2 file an authorization for disclosure of financial records of the licensed businesses
3 pursuant to Section 7473 of the Government Code. All records shall be kept for
4 **two years** following the last entry on a deferred deposit transaction and shall
5 enable an examiner to review the recordkeeping and reconcile each consumer
6 deferred deposit transaction with documentation maintained in the consumer's
7 deferred deposit transaction file records. (Emphasis added.)

6 11. The Commissioner's examination also disclosed that a customer check for a May 2, 2013
7 deferred deposit transaction appeared to contain a date that had been altered by Respondent in
8 violation of Financial Code section 23037, subdivision (e).

9 12. Subdivision (e) of section 23037 provides:

10 In no case shall a licensee do any of the following:
11 . . . (e) Alter the date or any other information on a check.

12 13. On October 22, 2014, the Commissioner sent Respondent a regulatory examination letter
13 reporting the findings of the May 20, 2013 examination. The regulatory examination later informed
14 the licensee that a written response to the violations cited in the letter was required within 30 calendar
15 days. Respondent failed to timely respond to the regulatory examination letter.

16 14. On January 21, 2015, the Commissioner sent a follow-up letter to Respondent by certified
17 mail, which included a copy of the regulatory examination letter dated October 22, 2014. This letter
18 demanded that Respondent provide a response to the regulatory examination letter and/or evidence of
19 compliance within 10 days from the date of the letter. The letter further advised that failure to
20 comply would result in referral for administrative action. To date, Respondent has failed to provide
21 the Commissioner any response to the October 22, 2104 regulatory examination letter or the January
22 21, 2015 demand letter.

23 15. Financial Code section 23052, subdivision (b), provides that failure to comply with any
24 demand, ruling, or requirement of the Commissioner constitutes grounds for revocation of a CDDTL
25 license.

26 **III.**

27 **REVOCATION STATUTE**

28 16. Financial Code section 23052 states the grounds for revocation of a CDDTL license:

1 The commissioner may suspend or revoke any license, upon notice and
2 reasonable opportunity to be heard, if the commissioner finds any of the
3 following:

4 (a) The licensee has failed to comply with any demand, ruling, or
5 requirement of the commissioner made pursuant to and within the
6 authority of this division.

7 (b) The licensee has violated any provision of this division or any
8 rule or regulation made by the commissioner under and within the
9 authority of this division.

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

13 **IV.**

14 **CONCLUSION**

15 17. Complainant finds, due to the foregoing, that Respondent violated the following provisions of
16 the CDDTL: section 23027, subdivision (b); section 2025, subdivision (c)(1); section 23024, and
17 23027, subdivision (e) Pursuant to section 23052, each of the aforementioned violations of the
18 CDDTL is grounds for the Commissioner to revoke the license of Respondent..

19 WHEREFORE, Complainant, the Commissioner of Business Oversight, prays that the
20 deferred deposit transaction licenses of Respondent Rosemole Vincent Mathew doing business as
21 San Francisco Check Cashing, Army Check Cashing, and Bay View Check Cashing be revoked
22 pursuant to Financial Code section 23052.

23 Dated: April 27, 2015
24 Sacramento, California

25 JAN LYNN OWEN
26 Commissioner of Business Oversight

27 By: _____
28 Miranda LeKander
Senior Counsel