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Attorneys for Complainant

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10 BEFORE THE DEPARTMENT OF CORPORATIONS  
11 OF THE STATE OF CALIFORNIA

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13	In the Matter of THE COMMISSIONER OF	)	DESIST AND REFRAIN ORDER PURSUANT
14	CORPORATIONS OF THE STATE OF	)	TO CALIFORNIA FINANCIAL CODE
15	CALIFORNIA,	)	SECTION 23050; and
16	Complainant,	)	ORDER VOIDING TRANSACTIONS
17	vs.	)	PURSUANT TO CALIFORNIA FINANCIAL
18	Vince Enterprises, Ltd. a.k.a.Vince Enterprise;	)	CODE SECTION 23060
19	and Prestige Group Marketing	)	
20	Respondent.	)	
21		)	

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24 The Commissioner of Corporations of the State of California (“Commissioner” or  
25 “Complainant”), is informed and believes, and based on such information and belief, finds as follows:

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I.

**FACTUAL BACKGROUND**

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3 1. Vince Enterprises, Ltd. a.k.a. Vince Enterprise (“Vince”) is, and was at all relevant  
4 times herein, an entity of unknown form and not registered by the California Secretary of State to do  
5 business in the State of California. Vince transacts business over the internet using the email address,  
6 customerservice@prestige-gm.com, and by telephone number, 1-877-878-2700, and fax number, 1-  
7 877-878-4700.

8 2. Prestige Group Marketing (“Prestige”) is, and was at all relevant times herein, an  
9 entity of unknown form and not registered by the California Secretary of State to do business in the  
10 State of California. Prestige transacts business over the internet using the email address,  
11 customerservice@prestige-gm.com, and by telephone number, 1-877-878-2700, and fax number, 1-  
12 877-878-4700.

13 3. The Commissioner has jurisdiction over deferred deposit transactions as set forth in  
14 the California Deferred Deposit Transaction Law (“CDDTL”) (California Financial Code sections  
15 23000 *et seq.*).

16 4. “Deferred deposit transaction” (commonly referred to as “payday loans” or “payday  
17 advances”) means a transaction whereby a person defers depositing a customer’s personal check until  
18 a specific date, pursuant to a written agreement for a fee or other charge. “Personal check,” which is  
19 referenced in California Financial Code section 23001, subdivision (a), includes the electronic  
20 equivalent of a personal check, such as an Automated Clearing House (“ACH”) or debit card  
21 transaction.

22 5. Starting from 2009, Vince offered, originated and/or made deferred deposit  
23 transactions and engaged in the business of deferred deposit transactions without having first  
24 obtained a license from the Commissioner, in violation of California Financial Code section 23005,  
25 subdivision (a).

26 6. On May 4, 2010, the Commissioner, pursuant to California Financial Code section  
27 23050, ordered Vince to desist and refrain from engaging in the business of deferred deposit  
28 transactions in the State of California without first obtaining a license from the Commissioner, or

1 otherwise being exempt. To date, no hearing has been requested by Vince and the Commissioner's  
2 Desist and Refrain Order issued on May 4, 2010 remains in full force and effect.

3 7. Since at least April, 2013, Vince and Prestige have engaged in the business of  
4 originating or offering to originate deferred deposit transactions via the internet to California  
5 residents as described below.

6 8. Prospective customers submit an online loan application that requires them to provide  
7 personal information, including address, telephone number, social security number, and banking and  
8 employment information. Shortly thereafter, Vince and/or Prestige calls the prospective customers to  
9 verify this information and offer payday loans that charge fees beyond what the CDDTL allows.  
10 Vince and/or Prestige then deposits the loan amount directly into the customer's bank account.

11 9. For example, in or around April, 2013, Vince and/or Prestige called at least one  
12 California resident who had submitted an online loan application. The California resident received at  
13 least one email communication from Prestige using the email address,  
14 [customerservice@prestigegm.com](mailto:customerservice@prestigegm.com), which included a loan agreement entitled, "Account Summary,"  
15 attached to the email. The loan agreement states, "By signing below you are authorizing Vince  
16 Enterprises Ltd, and/or their servicers, Vince Enterprises Ltd and/or affiliates to debit the pay off  
17 amount due \$390.00 from your account named above on your current due date. . . ." The California  
18 resident's name is printed, but not signed.

19 10. The loan agreement states the following terms: a \$300 loan amount at an interest rate  
20 of 730%, a "refinance fee" of \$90, a returned check fee of \$30, and a due date for the amount of \$390  
21 in two weeks. On the due date, and every two weeks thereafter to the present date, \$90 was  
22 automatically withdrawn from the California resident's bank account.

23 11. Neither Vince nor Prestige has been issued a deferred deposit transaction originator  
24 license by the Commissioner pursuant to the CDDTL. As such, neither Vince nor Prestige is  
25 authorized to engage in payday lending, or to offer, originate, or make a deferred deposit transaction,  
26 arrange a deferred transaction for a deferred deposit originator, act as an agent for a deferred deposit  
27 originator, or assist a deferred deposit originator in the origination of a deferred deposit transaction in  
28 California or to California residents.

1 **II.**

2 **DESIST AND REFRAIN ORDER**

3 The California Department of Corporations (“Department”) is responsible for enforcing  
4 provisions of the CDDTL found in California Financial Code commencing at section 23000. The  
5 Commissioner is authorized to pursue administrative actions and remedies against persons who  
6 engage in violations of the CDDTL.

7 California Financial Code section 23050 provides, in pertinent part:

8 Whenever, in the opinion of the commissioner, any person is engaged in  
9 the business of deferred deposit transactions . . . without a license from the  
10 commissioner, or any licensee is violating any provision of this division,  
11 the commissioner may order that person or licensee to desist and to refrain  
12 from engaging in the business or further violating this division. If within  
13 30 days, after the order is served, a written request for a hearing is filed  
14 and no hearing is held within 30 days thereafter, the order is rescinded.

13 California Financial Code section 23005, subdivision (a) provides in pertinent part:

14 (a) No person shall offer, originate, or make a deferred deposit transaction,  
15 arrange a deferred deposit transaction for a deferred deposit originator, act  
16 as an agent for a deferred deposit originator, or assist a deferred deposit  
17 originator in the origination of a deferred deposit transaction without first  
18 obtaining a license from the commissioner and complying with the  
19 provisions of this division.

18 California Financial Code section 23036, subdivision (a) limits fees to 15% of the face  
19 amount of the deferred deposit transaction. Section 23036, subdivision (e) limits the exclusive fee  
20 charged for the return of a dishonored check to fifteen dollars (\$15).

21 The foregoing facts establish violations of the CDDTL by Vince Enterprises, Ltd. a.k.a. Vince  
22 Enterprise and Prestige Group Marketing, including: 1) engaging in the business of originating or  
23 offering to originate deferred deposit transactions without having first obtained a license to do so  
24 from the Commissioner, in violation of section 23005, subdivision (a); 2) charging excessive  
25 transaction fees in violation of section 23036, subdivision (a); and 3) charging excessive returned  
26 check fees in violation of section 23036, subdivision (e).

27 Pursuant to Financial Code section 23050 Vince Enterprises, Ltd. a.k.a. Vince Enterprise and  
28 Prestige Group Marketing are hereby ordered to desist and refrain from violating Financial Code

1 sections 23005 and 23036. This Order is necessary for the protection of consumers and consistent  
2 with the purposes, policies, and provisions of the CDDTL. This Order shall remain in full force and  
3 effect until further order of the Commissioner.

4 **III.**

5 **ORDER VOIDING CALIFORNIA DEFERRED DEPOSIT TRANSACTIONS**

6 California Financial Code section 23060 provides:

7 (a) If any amount other than, or in excess of, the charges or fees permitted by  
8 this division is willfully charged, contracted for, or received, a deferred deposit  
9 transaction contract shall be void, and no person shall have any right to collect  
10 or receive the principal amount provided in the deferred deposit transaction, any  
11 charges, or fees in connection with the transaction.

12 (b) If any provision of this division is willfully violated in the making or  
13 collection of a deferred deposit transaction, the deferred deposit transaction  
14 contract shall be void, and no person shall have any right to collect or receive  
15 any amount provided in the deferred deposit transaction, any charges, or fees in  
16 connection with the transaction.

17 Pursuant to California Financial Code section 23060, subdivisions (a) and (b), any and all  
18 deferred deposit transactions contracted with California customers or in the State of California by  
19 Vince Enterprises, Ltd. a.k.a. Vince Enterprise and Prestige Group Marketing are therefore void.  
20 Vince Enterprises, Ltd. a.k.a. Vince Enterprise and Prestige Group Marketing are hereby ordered to  
21 immediately cease collecting all principal amounts, and return all principal amounts, provided in any  
22 and all deferred deposit transactions contracted with California customers or in the State of  
23 California, and to disgorge any and all charges or fees received in conjunction with those deferred  
24 deposit transactions.

25 Dated: June 13, 2013  
26 Los Angeles, California

27 JAN LYNN OWEN  
28 Commissioner of Corporations

By: \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner

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

**TO:** Vince Enterprise  
527 Southwest Boulevard  
Kansas City, MO 64108

**DESIST AND REFRAIN ORDER**  
**(For violations of California Financial Code section 23005)**

The California Corporations Commissioner finds that:

1. The California Corporations Commissioner (“Commissioner”) is informed and believes and based upon such information and belief alleges that Vince Enterprise is, and was at all relevant times herein a business with its principal place of business located at 527 Southwest Boulevard, Kansas City, MO 64108, and uses the following toll-free phone number for business: (877) 878-2700.
2. Vince Enterprise has engaged in the business of deferred deposit transactions by offering and/or originating deferred deposit transactions as described below.
3. Pursuant to California Financial Code section 23001(a), a deferred deposit transaction is “a transaction whereby a person defers depositing a customer’s personal check until a specific date, pursuant to a written agreement for a fee or other charge, as provided in Section 23035.”
4. Vince Enterprise has not been issued a license by the Commissioner authorizing it to engage in the business of deferred deposit transactions under the California Deferred Deposit Transaction Law (“CDDTL”) (California Financial Code §§ 23000 et seq.).
5. Vince Enterprise is not exempt from the licensing requirements of California Financial Code section 23005.
6. Vince Enterprise made deferred deposit transactions to California residents during 2009.

1 By reason of the foregoing, Vince Enterprise has offered, originated and/or made deferred  
2 deposit transactions and is engaging in the business of deferred deposit transactions without  
3 having first obtained a license from the Commissioner in violation of California Financial Code  
4 section 23005(a).

5 Pursuant to California Financial Code section 23050, Vince Enterprise is hereby ordered  
6 to desist and refrain from engaging in the business of deferred deposit transactions in the State of  
7 California without first obtaining a license from the Commissioner, or otherwise being exempt.  
8 This Order is necessary, in the public interest, for the protection of consumers and is consistent  
9 with the purposes, policies and provisions of the California Deferred Deposit Transaction Law.  
10 This order shall remain in full force and effect until further order of the Commissioner.

11 California Financial Code section 23050 provides in pertinent part:

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

16 Dated: May 4, 2010  
17 Sacramento, CA

PRESTON DuFAUCHARD  
California Corporations Commissioner

18  
19 By \_\_\_\_\_  
20 ALAN S. WEINGER  
21 Deputy Commissioner  
22 Enforcement Division  
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