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7 Attorneys for Complainant

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

11	In the Matter of:)	CDDTL LICENSE NO.: 100-0854
12	THE COMMISSIONER OF BUSINESS)	
13	OVERSIGHT,)	CONSENT ORDER
14	Complainant,)	
15	v.)	
16	SPEEDY CASH,)	
17	Respondent.)	

18
19 This Consent Order is entered into between the Commissioner of Business Oversight
20 (Commissioner) and Speedy Cash 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. Speedy Cash is a Nevada corporation with its principal place of business at 3527
26 North Ridge Road, Wichita, Kansas 67205. Speedy Cash has a CDDTL license (license number
27 100-0854).

1 C. On or around April 25, 2016, the Commissioner commenced a regulatory
2 examination (the 2016 Exam) of Speedy Cash’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 Speedy Cash charged and collected a \$15 insufficient funds fee
5 from 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. As a result of the 2016 Exam, the Commissioner also learned that in some instances
8 from December of 2015 through October 2, 2018, Speedy Cash accepted a cash payment while a
9 borrower’s ACH payment was processing over the network. Speedy Cash received an amount in
10 excess of the amount permitted under Financial Code section 23036 when the ACH payment
11 subsequently cleared. Speedy Cash had policies and procedures in place to detect the excess
12 collection and provide borrowers with a refund.

13 F. Speedy Cash maintains that the excess collections were received through
14 inadvertence and not as the result of Speedy Cash’s willful misconduct. Speedy Cash maintains that
15 it detected and substantially refunded the excess collections, at no net out-of-pocket loss to the
16 affected consumers.

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

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

22 **TERMS AND CONDITIONS**

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

25 2. Finality of Consent Order. Speedy Cash agrees to comply with this Consent Order
26 and stipulates that this Consent Order is hereby deemed final.
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1 3. Desist and Refrain Order. In accordance with Financial Code section 23050, Speedy
2 Cash stipulates that it is Ordered to Desist and Refrain from violating Financial Code section 23036,
3 subdivisions (e) and (f) (the D&R Order).

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

13 5. Administrative Penalty. Speedy Cash shall pay an administrative penalty of
14 \$90,000.00 no later than 30 days after the effective date of this Consent Order as defined in
15 paragraph 24.

16 Speedy Cash shall pay the penalty by cashier’s check or Automated Clearing House deposit
17 to the Department of Business Oversight and transmitted to the attention of Accounting-Litigation, at
18 the Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814.
19 Notice of payment must be sent to Danielle A. Stoumbos, Senior Counsel, 320 West 4th Street, Suite
20 750, Los Angeles, California 90013, or Danielle.Stoumbos@dbo.ca.gov.

21 6. Policies and Procedures. Speedy Cash submitted to the Commissioner procedures
22 implemented to correct and prevent the violations set forth in this Consent Order and ensure
23 compliance with the CDDTL and applicable regulations. Speedy Cash shall submit any proposed
24 changes or modifications to the procedures to the Commissioner before any changes or
25 modifications are made.

26 7. Future Actions by the Commissioner. The Parties acknowledge and agree that
27 nothing contained in this Consent Order shall limit the ability of the Commissioner to bring any
28 action to enforce compliance with this Consent Order and the D&R Order, seek penalties and/or

1 any other remedies for their violation. Further, the Commissioner reserves the right to bring any
2 future action(s) against Speedy Cash or any of its partners, owners, officers, directors, shareholders,
3 employees, or successors, for any prior violations, or any future violations of the law, except for the
4 violations alleged in Paragraphs D and E herein.

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

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

21 10. Commissioner’s Duties. Nothing in this Consent Order limits the Commissioner’s
22 ability to assist any other government agency with any action brought by that agency against
23 Speedy Cash, including an action based on any of the acts, omissions, or events described in this
24 Consent Order.

25 11. Third-Party Actions. The Parties intend that this Consent Order does not create any
26 private rights or remedies against Speedy Cash, create any liability for Speedy Cash, or limit
27 Speedy Cash’s defenses against any person or entity not a party to this Consent Order.
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1 12. Independent Legal Advice. Each party represents that it has received independent
2 advice from its counsel or representatives regarding the advisability of executing this Consent
3 Order.

4 13. Reliance. Each party represents that in executing this Consent Order it has relied
5 solely on the statements in the Consent Order and on the advice of its counsel or representatives.
6 Each party also represents that it has not relied on any statement or promise not contained in this
7 Consent Order from any other person or on the failure of such person to make a statement or
8 promise. The Parties have included this clause to preclude any claim that a party was fraudulently
9 induced to execute this Consent Order.

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

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

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

26 17. Headings. The headings in this Consent Order are for convenience only and do not
27 affect its meaning.
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1 18. Governing Law. This Consent Order will be governed by and construed in
2 accordance with California law.

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

5 20. Voluntary Agreement. Speedy Cash enters into this Consent Order voluntarily and
6 without coercion and acknowledges that no promises, threats, or assurances about this Consent
7 Order have been made by the Commissioner or any of the Commissioner’s officers or agents.

8 21. Public Record. Speedy Cash acknowledges that this Consent Order is a public
9 record.

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

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

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

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

4
5 Dated: 10/19/18

JAN LYNN OWEN
Commissioner of Business Oversight

6
7 By: _____
8 MARY ANN SMITH
9 Deputy Commissioner

10 Dated: 10/19/18

SPEEDY CASH

11
12 By: _____
13 DONALD F. GAVHARDT
14 President and Chief Executive Officer