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

11 In the Matter of:) CFL LICENSE NO.: 603F589
12 THE COMMISSIONER OF BUSINESS)
13 OVERSIGHT,)
14 Complainant,) CONSENT ORDER
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 the licensing and regulation of persons and entities engaged in the business of finance lending
24 or brokering under the California Financing Law (CFL) (Fin. Code, § 22000 et seq.).¹

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28 ¹ Effective October 4, 2017, the name of the California Finance Lenders Law changed to the California
Financing Law. (Assem. Bill No. 1284 (2017-2018 Reg. Sess.) § 4.) For purposes of this document, a reference to the
California Financing Law means the California Finance Lenders Law before October 4, 2017, and the California
Financing Law on and after that date. (Fin. Code, § 22000.)

1 B. Under the CFL, the Commissioner has authority to issue orders to desist and refrain
2 from violations of the CFL; to deny, suspend, or revoke licenses pending or issued under the CFL;
3 and to assess penalties.

4 C. The purpose of the CFL is to ensure an adequate supply of credit to borrowers in
5 California; to simplify, clarify, and modernize the law governing loans made by finance lenders; to
6 foster competition among finance lenders; to protect borrowers against unfair practices by some
7 lenders, having due regard for the interests of legitimate and scrupulous lenders; to permit and
8 encourage the development of fair and economically sound lending practices; and to encourage and
9 foster a sound economic climate in this state. (Fin. Code, § 22001, subd. (a).)

10 D. Speedy Cash is a Nevada corporation with its principal place of business at 3527
11 North Ridge Road, Wichita, Kansas 67205.

12 E. Speedy Cash is a finance lender licensed by the Commissioner under license number
13 603F589. As of December 31, 2016, Speedy Cash had 32 branch locations in California, each with
14 its own CFL license.

15 F. Beginning on September 22, 2014, the Commissioner conducted an examination of
16 Speedy Cash’s CFL business (CFL Examination) and found evidence of the following:

17 i. Speedy Cash charged some borrowers rates greater than those authorized by
18 Financial Code sections 22303 and 22304 and administrative fees greater than those authorized by
19 section 22305 based on the following examination findings. Speedy Cash made loans of \$2,500.00
20 or more to borrowers who sought loans of less than \$2,500.00. Before making such loans, Speedy
21 Cash told the borrowers that the minimum loan amount it offered was \$2,600.00 but that they could
22 make an advance payment shortly after funding of whatever amount they did not want. Therefore,
23 although those borrowers’ loans were loans of \$2,500.00 or more and therefore exceeded the
24 regulatory ceilings specified in sections 22303, 22304, and 22305, Speedy Cash used the regulatory
25 ceiling provisions for the purpose of evading the CFL within the meaning of section 22251. Thus,
26 under section 22251, those borrowers’ loans were not loans of a bona fide principal amount of
27 \$2,500.00 or more and were subject to the limitations on charges and administrative fees in sections
28 22303, 22304, and 22305.

1 to any reconsideration, appeal, or other right to review which may be afforded under the CFL,
2 Administrative Procedure Act, Code of Civil Procedure, or any other provision of law. Speedy Cash
3 further expressly waives any requirement for the filing of an accusation pursuant to Government
4 Code section 11415.60, subdivision (b). By waiving such rights, Speedy Cash consents to the
5 finality of this Consent Order and the desist-and-refrain order in it.

6 5. Refund Calculation. Speedy Cash shall calculate refunds to certain borrowers as
7 follows:

8 (a) Speedy Cash shall audit its files and identify all loans made under its CFL
9 licenses between January 1, 2011, and September 6, 2016, for which it received an advance
10 payment on the day of funding or one business day after funding that would have reduced the
11 outstanding principal balance to \$1,700.00 or less if the entire payment had been applied to the
12 principal (Refund Population).

13 (b) Speedy Cash shall recast each loan in the Refund Population by reducing the
14 original principal amount by the amount of the advance payment and determining the amount of
15 interest and administrative fee it would have charged for the reduced principal amount based on an
16 annual interest rate of 21 percent and the limitations on administrative fees in Financial Code
17 section 22305 (Recast Interest Amount and Recast Administrative Fee, respectively).

18 (c) For each loan in the Refund Population, Speedy Cash shall determine the
19 amount of excess interest charged (Interest Overcharge) by subtracting the Recast Interest Amount
20 from the actual amount of interest charged.

21 (d) For each loan in the Refund Population, Speedy Cash shall determine the
22 amount of excess administrative fee charged (Administrative-Fee Overcharge) by subtracting the
23 Recast Administrative Fee from the actual administrative fee charged.

24 (e) For each loan in the Refund Population, the amount Speedy Cash shall
25 refund to the borrower (Refund Amount) is 30 percent of the sum of the Interest Overcharge and
26 Administrative-Fee Overcharge. If the Refund Amount for any loan is \$5.00 or less, Speedy Cash is
27 not required to make a refund for that loan.
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1 (f) Speedy Cash shall submit a report to the Commissioner detailing the Refund
2 Population, including each Recast Interest Amount, Recast Administrative Fee, Interest Overcharge,
3 Administrative-Fee Overcharge, and Refund Amount no later than 30 days after the effective date
4 of this Consent Order as defined in paragraph 29.

5 6. Refund Payments. Speedy Cash shall make the refunds described in paragraph 5 as
6 follows:

7 (a) Speedy Cash shall make the refunds no later than 60 days after the effective
8 date of this Consent Order as defined in paragraph 29.

9 (b) Speedy Cash shall apply each refund as follows:

10 i. For a current borrower whose loan has an outstanding balance that is
11 greater than the Refund Amount, Speedy Cash shall reduce the loan’s principal balance by the
12 Refund Amount.

13 ii. For a current borrower whose loan has an outstanding balance that is
14 less than the Refund Amount, Speedy Cash shall reduce the loan’s principal balance to zero dollars
15 and mail to the borrower’s last known address a check for the difference between the outstanding
16 balance and Refund Amount.

17 iii. For a former borrower whose loan was paid in full and who does not
18 have any loans from Speedy Cash with an outstanding balance, Speedy Cash shall mail to the
19 borrower’s last known address a check for the Refund Amount.

20 iv. For a borrower whose loan was charged off and retained for internal
21 collection, Speedy Cash shall reduce the charged-off balance by the Refund Amount.

22 v. For a borrower whose loan was charged off and assigned for outside
23 collection, Speedy Cash shall direct the assignee to reduce the outstanding balance by the Refund
24 Amount. Speedy Cash shall notify the borrower of the reduced outstanding balance by electronic
25 mail or U.S. mail at the borrower’s last known address.

26 (c) Speedy Cash shall submit evidence of payment of the Refund Amounts to the
27 Commissioner no later than 90 days after the effective date of this Consent Order as defined in
28 paragraph 29. Such evidence must include, at a minimum, for each loan in the Refund Population,

1 an electronic schedule extracted from Speedy Cash’s books and records of loan balances and, as
2 applicable, an affidavit of mailing of refund checks or notices of balance reductions.

3 (d) Speedy Cash shall escheat any unclaimed refunds to the California State
4 Controller’s Office within the period provided by Code of Civil Procedure section 1520,
5 subdivision (a) of the Unclaimed Property Law (Code of Civ. Proc., § 1500 et seq.).

6 7. Administrative Penalty. Speedy Cash shall pay an administrative penalty of
7 \$25,000.00 no later than 30 days after the effective date of this Consent Order as defined in
8 paragraph 29. Speedy Cash shall pay in accordance with paragraph 9.

9 8. Investigative Fee. Speedy Cash shall pay the Commissioner’s investigative fees in
10 the amount of \$10,000.00 no later than 30 days after the effective date of this Consent Order as
11 defined in paragraph 29. Speedy Cash shall pay in accordance with paragraph 9.

12 9. Payment of Fees and Penalties. Speedy Cash shall pay fees and penalties by
13 cashier’s check or Automated Clearing House deposit to the Department of Business Oversight and
14 transmitted to the attention of Accounting – Litigation, at the Department of Business Oversight,
15 1515 K Street, Suite 200, Sacramento, California 95814. Notice of payments must be sent to
16 Samuel J. Park, Counsel, 320 West 4th Street, Suite 750, Los Angeles, California 90013.

17 10. Compliance Procedures. No later than 30 days after the effective date of this Consent
18 Order as defined in paragraph 29, Speedy Cash shall implement certain programs, policies, and
19 procedures with respect to loans made under its CFL licenses, as described below. Speedy Cash
20 shall comply with the following provisions unless it receives written approval from the
21 Commissioner to do otherwise:

22 (a) Advertising. Speedy Cash shall remove from its advertising and all printed,
23 displayed, or distributed materials any statement that Speedy Cash cannot make loans of less than
24 \$2,500.00 because of California law, rule, or regulation.

25 (b) Verbal Disclosures. Speedy Cash shall require its employees to give the
26 following disclosures:

27 i. If a prospective borrower in California contacts Speedy Cash and
28 expresses an interest in or desire for a loan of less than \$2,600.00, Speedy Cash employees must

1 respond with statements substantially similar to the following: “Speedy Cash does not make
2 consumer installment loans of less than \$2,600.00 to California consumers. Licensed finance
3 lenders are permitted to make smaller loans, but Speedy Cash chooses not to do so. If you want a
4 loan of less than \$2,600.00, you may wish to seek a loan from another lender. Speedy Cash does not
5 refer borrowers to other lenders. You can find a list of licensed lenders from the California
6 Department of Business Oversight’s website at <https://docqnet.dbo.ca.gov/licensesearch>.” Speedy
7 Cash employees must not state that Speedy Cash cannot make loans of less than \$2,600.00 because
8 of California law, rule, or regulation. Except as set forth in the following sentence, the responsive
9 statements must not refer to borrowers’ ability to make advance payments of any amount at any
10 time. Speedy Cash employees may explain borrowers’ statutory right to prepay to prospective
11 borrowers so long as the explanation is not in response to an expressed interest in or desire for a
12 loan of less than \$2,600.00.

13 ii. If a prospective borrower in California contacts Speedy Cash and
14 expresses an interest in or desire for a loan of less than \$2,600.00, Speedy Cash employees must not
15 refer to any alleged interest-saving from taking a loan of \$2,600.00 or more and making an advance
16 payment, unless they also concurrently explain that any interest-saving would be many times
17 greater if the prospective borrower instead took a loan of less than \$2,500.00.

18 (c) Written Disclosures. Speedy Cash shall provide to applicants a written
19 statement that discloses in a clear and conspicuous manner the following: (i) Speedy Cash’s
20 minimum loan amount; (ii) that California law limits the interest rate that can be charged for loans
21 of less than \$2,500.00 to about 30 percent; and (iii) that California law does not limit the interest
22 rate that can be charged for loans of \$2,500.00 or more.

23 (d) Quality-Control Procedures. Speedy Cash shall conduct appropriate quality-
24 control procedures, including periodic retraining and telephone and in-person testing, to assure
25 compliance with sub-paragraphs (a), (b), and (c). Speedy Cash shall conduct such quality-control
26 procedures at reasonably frequent intervals and promptly take corrective action to address any
27 deficiencies in compliance.
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1 11. Proof of Compliance. The Commissioner may periodically review Speedy Cash’s
2 compliance with paragraphs 5 through 10 and may request proof of such compliance. In response to
3 any such request, Speedy Cash shall promptly provide evidence of compliance to the
4 Commissioner’s satisfaction.

5 12. 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 suspend Speedy Cash from
9 engaging in business under its CFL licenses 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 13. Consideration. In consideration of Speedy Cash’s stipulation to the issuance of this
14 Consent Order, the Commissioner agrees not to initiate disciplinary proceedings against Speedy
15 Cash because of this action, except as provided in paragraph 12.

16 14. Full and Final Resolution. This Consent Order is entered into in settlement of
17 disputed claims and shall not constitute an admission by Speedy Cash of any wrongdoing or of
18 consumer harm. Except as provided in paragraph 12, this Consent Order is intended to constitute a
19 full and final resolution of the findings described in paragraph F of the recitals. The Commissioner
20 will not bring any further action or proceeding concerning those findings unless she discovers new
21 and further violations by Speedy Cash that do not form the basis for this Consent Order, including
22 violations knowingly or willfully concealed from the Commissioner. If the Commissioner discovers
23 that Speedy Cash knowingly or willfully withheld information used and relied on in this Consent
24 Order, the Commissioner may rescind this Consent Order and pursue all remedies available under
25 law against Speedy Cash. Without limiting the generality of the foregoing, if Speedy Cash complies
26 with the provisions of this Consent Order, the Commissioner will not initiate any action or
27 proceeding against Speedy Cash based on alleged acts or omissions by Speedy Cash of the kinds
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1 described in paragraph F that occurred between September 7, 2016, and 30 days after the effective
2 date of this Consent Order as defined in paragraph 29.

3 15. Commissioner’s Duties. Nothing in this Consent Order limits the Commissioner’s
4 ability to assist any other government agency with any action brought by that agency against
5 Speedy Cash, including an action based on any of the acts, omissions, or events described in this
6 Consent Order.

7 16. Third-Party Liability. The parties intend that this Consent Order does not create any
8 private rights or remedies against Speedy Cash, create any liability for Speedy Cash, or limit
9 Speedy Cash’s defenses against any person or entity not a party to this Consent Order.

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

13 18. Reliance. Each party represents that in executing this Consent Order it has relied
14 solely on the statements in the Consent Order and on the advice of its counsel or representatives.
15 Each party also represents that it has not relied on any statement or promise not contained in this
16 Consent Order from any other person or on the failure of such person to make a statement or
17 promise. The parties have included this clause to preclude any claim that a party was fraudulently
18 induced to execute this Consent Order.

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

25 20. No Presumption Against Drafting Party. Each party acknowledges that it has had the
26 opportunity to draft, review, and edit the language of this Consent Order. Accordingly, the parties
27 intend that no presumption for or against the drafting party will apply in construing any part of this
28 Consent Order. The parties waive the benefit of Civil Code section 1654 and corresponding

1 provisions of any successor statute, which provide that in cases of uncertainty, language of a
2 contract should be interpreted most strongly against the party that caused the uncertainty to exist.

3 21. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
4 this Consent Order will be valid or binding unless it is in writing and signed by all parties affected
5 by it. Waiver of a provision of this Consent Order will not be deemed a waiver of any other
6 provision.

7 22. Headings. The headings in this Consent Order are for convenience only and do not
8 affect its meaning.

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

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

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

16 26. Public Record. Speedy Cash acknowledges that this Consent Order is a public
17 record.

18 27. Counterparts. This Consent Order may be executed in any number of counterparts,
19 each of which will be deemed an original when executed. All counterparts together will be deemed
20 to constitute a single document.

21 28. Signatures. A signature delivered by facsimile (including any electronic signature) or
22 electronic mail will be deemed an original signature.

23 29. Effective Date. This Consent Order will become effective on the date it is signed by
24 all parties and delivered by the Commissioner to Speedy Cash’s counsel by electronic mail at
25 hilary@miller.net.

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

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Dated: 10/5/18

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
MARY ANN SMITH
Deputy Commissioner

Dated: 10/5/18

SPEEDY CASH

By: _____
DONALD F. GAYHARDT
President and Chief Executive Officer