

1 STATE OF CALIFORNIA
2 BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
3 DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

4 TO: Donut, Inc., doing business in California as Donut App, Inc.
5 6121 Sunset Boulevard
6 Los Angeles, California 90028

7 Neel Popat
8 CEO, Secretary, Chief Financial Officer of Donut, Inc.
9 7152 Willoughby Avenue
10 Los Angeles, California 90046

11 **DESIST AND REFRAIN ORDER**
12 **(For violation of section 25110 of the Corporations Code)**

13 The Complainant, the Commissioner of Financial Protection and Innovation (Commissioner) of the
14 Department of Financial Protection and Innovation (Department), is informed and believes, and based
15 on such information and belief, finds as follows:

16 **I. Introduction**

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18 1. At all relevant times, Donut, Inc., doing business in California as Donut App, Inc.
19 (hereafter, Donut), is and was a Delaware corporation formed on April 15, 2019.

20 2. On or about June 25, 2019, Donut registered a principal executive office address at
21 Erkelenzdamm 59-61, Portal 1b, 4th Floor, Berlin, Germany 10999; and a principal California office
22 address at 1321 North Hayworth Avenue, West Hollywood, California 90046. On October 23, 2022,
23 Donut changed its principal address with the California Secretary of State to 6121 Sunset Boulevard,
24 Los Angeles, California 90028.

25 3. At all relevant times, Neel Popat is and was Chief Executive Officer, Secretary and
26 Chief Financial Officer of Donut, with an address registered with the California Secretary of State at
27 7152 Willoughby Avenue, Los Angeles, California 90046.
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1 4. At all relevant times, Donut’s online Terms of Service contained a provision requiring
2 customer arbitrations to take place in Los Angeles County, California.

3 5. At all relevant times, Donut’s “Help” webpage listed the company’s address as 6121
4 Sunset Boulevard, Los Angeles, California 90028.

5 6. At all relevant times, Donut’s Twitter feed listed its location as Los Angeles,
6 California.

7 7. Since at least 2020, Donut offered and sold unqualified, nonexempt securities in issuer
8 transactions in California by operating an online platform offering interest-bearing accounts in which
9 a consumer deposited fiat funds (U.S. dollars) and Donut promised a fixed annual percentage interest
10 yield (APY). Donut offered these interest-bearing accounts under names including Save, Build and
11 Grow, each promising an incrementally higher APY. Donut represented in marketing that the
12 consumers’ deposited funds were converted to crypto assets, then lent out to third-party entities for
13 investment purposes, stating: “[Donut] convert[s] your USD to digital dollars (USDC stablecoins)
14 and puts those dollars to work in lending markets seeking to provide you a protected base APY of
15 5%. These funds are lent to a diversified pool of trusted institutional borrowers and protected by
16 overcollateralization.”

17 8. Donut advertised one of its interest-bearing products, the Save account, as a “secure
18 savings strategy with a fixed based APY of 5% best for savings, college funds, and debt paydown.”
19 Portraying the interest-bearing accounts as “conservative,” Donut promised that the consumers’ funds
20 were “always” protected by overcollateralization of 125% of the consumers’ principal, and that if the
21 value of the collateral fell, third-party borrowers would be “margin called and required to top up or
22 repay part of their loan.” Donut reassured consumers that “this [collateral] protects your principal and
23 interest earned in case of borrower default or when crypto prices crash.”

24 9. Donut promoted its technology as superior to traditional investing methods and
25 promised that Donut “has the power to generate returns up to 20x the national average” and that it
26 had “built the easiest, safest way for you to earn.”
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1 10. California consumers investing with Donut were not required to have any business
2 expertise or experience or to contribute any management efforts in order to benefit from the high
3 interest rate yields of Donut’s products.

4 11. Donut’s Terms of Service specified that consumer funds were deposited with Donut
5 via Automated Clearing House (ACH) transfers and that the accounts were charged a “2% annual
6 fee.” As an additional marketing incentive, Donut offered a “referral program,” described as “[an]
7 additional interest rate incentive for a given time period for each friend that signs up using your
8 invitation, connects a bank account, and completes a single transfer.”

9 12. Donut’s interest-bearing products pooled consumers’ assets together and put them at
10 risk with the stated purpose of generating passive returns for the consumers. Consumers did not
11 engage in substantive platform-related activities beyond depositing their fiat assets with Donut; they
12 depended on Donut’s significant business efforts to receive their expected interest payments.
13 Although these products functioned similarly to banks or pooled investment vehicles, Donut was and
14 is not registered in this capacity with any relevant authority and was not protected by organizations
15 such as the Federal Deposit Insurance Corporation or the Securities Investor Protection Corporation.
16 As a result, the consumers’ expectation and ability to receive a profit in the form of interest payments
17 through the fixed-interest yield products were dependent on the success of Donut’s and other third-
18 parties’ business efforts.

19 13. California consumers deposited money into the Donut interest-bearing accounts
20 seeking to earn the promised APY interest growth. At least one California consumer (Consumer A)
21 reported that by November 2022, they had invested over \$200,000.00 into the Save product with a
22 promised annual percentage yield of six percent. Consumer A relied on Donut’s representations
23 regarding “over-collateralization” in believing that there was a low risk of losing their funds.

24 14. On November 17, 2022, Donut abruptly ceased all consumer withdrawals from their
25 accounts. Donut subsequently posted updates stating that Donut had deposited most of the
26 consumers’ assets with a third-party company that declared bankruptcy in January 2023. Donut
27 continues to prohibit consumers from withdrawing their funds.
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1 15. As of March 2023, the Donut website (www.donut.app) states, “We are taking off our
2 apron for now[.] The Donut app and its services have been discontinued.”

3 16. Based on the foregoing findings, the Commissioner finds and is of the opinion that
4 Donut’s interest bearing account products are securities, in the form of investment contracts, as
5 defined in Corporations Code section 25019, and subject to qualification under the Corporate
6 Securities Law of 1968 (CSL) (Cal. Corp. Code §§ 25000-25707). These unqualified, nonexempt
7 securities were offered or sold in this state in issuer transactions in violation of Corporations Code
8 section 25110.

9 17. Further, any person who with knowledge directly or indirectly controls and induces
10 another person to violate any provision of the CSL, or knowingly provides substantial assistance to
11 another person to violate the CSL, is deemed to be in violation of that provision to the same extent as
12 the other person. Cal. Corp. Code § 25403(a)&(b). Neel Popat, as the Chief Executive Officer of
13 Donut, is a person who with knowledge directly or indirectly controlled and induced Donut to violate
14 Corporations Code section 25110. Further, Neel Popat knowingly provided substantial assistance to
15 Donut in violating Corporations Code section 25110, as a person who promoted the sale of the
16 interest-bearing investment contracts to the general public.

17 Under Corporations Code section 25532, Donut, Inc., doing business in California as Donut
18 App, Inc. and Neel Popat, Chief Executive Officer of Donut Inc., are hereby ordered to desist and
19 refrain from the further offer and sale of securities in the State of California, including but not limited
20 to the interest-bearing accounts known as Save, Build, and Grow, or any other similar interest-
21 bearing asset account that functions as a security, unless such offer or sale has been qualified under
22 Corporations Code sections 25111, 25112, or 25113, or unless such security or transaction is
23 exempted or not subject to qualification.

24 This order is necessary, in the public interest, for the protection of consumers, and is
25 consistent with the purposes, policies, and provisions of the Corporate Securities Law of 1968.

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This Desist and Refrain Order shall remain in full force and effect until further order of the Commissioner.

DATED: March 23, 2023
Sacramento, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



By: _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division