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7 Attorneys for Complainant

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

11 In the Matter of:) CDDTL LICENSE NO.: 100-0207
12)
13 THE COMMISSIONER OF BUSINESS) CONSENT ORDER
OVERSIGHT,)
14)
15 Complainant,)
16)
17 v.)
18)
19 POPULUS FINANCIAL GROUP, INC., doing)
business as ACE CASH EXPRESS,)
20 Respondent.)
_____)

21 This Consent Order (Consent Order) is entered into between the Commissioner of Business
22 Oversight (Commissioner) and Populus Financial Group, Inc., doing business as ACE Cash Express
23 (ACE) and is made with respect to the following facts:

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I.
RECITALS

A. The Commissioner has jurisdiction over the licensing and regulation of deferred deposit originators in this state under the California Deferred Deposit Transaction Law (CDDTL) (Fin. Code, § 23000 et seq.).

B. ACE is a corporation in good standing, duly formed and existing under the laws of the state of Texas and authorized to conduct business in California. ACE's principal place of business is 300 E. John Carpenter Freeway, Suite 900, Irving, Texas.

C. Richard B. Ramsey is ACE's Executive Vice President, General Counsel, and Chief Compliance Officer and, as such, authorized to enter into this Consent Order on behalf of the company.

D. The Commissioner issued ACE a deferred deposit originator license on December 31, 2004, license number 100-0207.

E. Financial Code section 23001, subdivision (a), defines a deferred deposit transaction as "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[.]" The public commonly refers to a deferred deposit transaction as a "payday loan."

F. Section 23036, subdivision (f) of the Financial Code provides that "No amount in excess of the amounts authorized by [section 23036] shall be directly or indirectly charged by a licensee pursuant to a deferred deposit transaction."

G. The CDDTL prohibits a deferred deposit originator licensee from charging a customer any amount other than a fee of up to 15 percent of the face amount of the customer's check. (Fin. Code, § 23036, subd. (a).) The face amount of a customer's check cannot exceed \$300.00. (Fin. Code, § 23035, subd. (a).) A deferred deposit originator may charge customers a fee of up to \$15 for the return of a dishonored check (NSF fee). (Fin. Code, § 23036, subd. (e).)

H. An overcollection occurs if a deferred deposit originator licensee collects from a customer an amount in excess of the fees authorized under Financial Code section 23036.

1 I. On April 5, 2010, ACE entered into a settlement agreement and stipulation to a desist
2 and refrain order with the Commissioner (2010 Order). The 2010 Order directed ACE to, among
3 other things, desist and refrain from committing any violation of Financial Code sections 23005,
4 23036, subdivision (e), and 23036, subdivision (f). The Commissioner alleged in the 2010 Order that,
5 in July 2008, the Commissioner conducted a regulatory examination that found ACE collected excess
6 amounts from customers in violation of Financial Code section 23036, subdivision (f); ACE collected
7 excessive credit card processing and finance charges; ACE collected NSF fees on ACH debits that
8 were honored by customers' banks; and engaged in unlicensed deferred deposit transactions over the
9 Internet and at a branch office located in Los Angeles, California. ACE denied and disputed these
10 findings.

11 J. The Commissioner issued ACE 2,512 citations under the 2010 Order and demanded
12 ACE pay the Commissioner \$118,400.00 in penalties for the company's violations of the CDDTL.
13 ACE stipulated to the 2010 Order and timely paid the Commissioner penalties.

14 K. On November 4, 2015, ACE again entered into a settlement agreement with the
15 Commissioner, stipulating to the Commissioner's March 24, 2015 desist and refrain order issued
16 against the company (2015 Order). The Commissioner alleged in the 2015 Order that during the
17 period covered by the Commissioner's 2012 and 2014 examinations, ACE engaged in the business of
18 deferred deposit transactions without first obtaining a "customer's personal check" in violation of
19 Financial Code section 23035, subdivision (a); collected unauthorized excess payments from
20 customers in violation of Financial Code section 23036, subdivision (f); accepted a check,
21 instrument, or other form in which blanks were left to be filled in after execution in violation of
22 Financial Code section 23037, subdivision (h); and failed to provide certain fingerprints in violation
23 of section 23024 of the CDDTL. Under the 2015 Order, the Commissioner further found ACE had
24 violated the 2010 Order by collecting excessive amounts from customers in violation of Financial
25 Code section 23036, subdivision (f).

26 L. Under the 2015 Order, ACE agreed to pay administrative penalties to the
27 Commissioner totaling \$22,500.00. The Commissioner acknowledged that ACE had already made
28 full restitution or repayment in the amount of \$383.84 to all customers affected by the admitted

1 violations and who could be located and held \$0.02 for escheat to the State of California for amounts
2 owed to customers who could not be located. ACE paid restitution to the affected borrowers and
3 timely paid the Commissioner administrative penalties. ACE further agreed that it was subject to
4 disciplinary action should the Department determine ACE has violated the terms of the 2015 Order.
5 Noting that ACE had discovered and voluntarily refunded the overpayments that were part of the
6 2014 examination, the 2015 Order stated that “ACE appears to have adequate procedures in place to
7 identify when a customer has been overcharged and has refunded customers that were overcharged in
8 a timely manner.”

9 M. On or about June 6, 2016, the Commissioner commenced a regulatory examination of
10 ACE’s books and records (the 2016 Exam).

11 N. As a result of the 2016 Exam, the Commissioner determined ACE violated the terms
12 of both the 2010 and 2015 Orders and the provisions of the CDDTL as follows:

13 (i) In at least 11 transactions, ACE collected from customers \$.02 more than
14 permitted by Financial Code section 23036, subdivision (f) by collecting repayments of \$300.00 on
15 originated transaction amounts of \$299.98. The Commissioner previously cited the company for
16 overcollections during ACE’s 2014 regulatory examination.

17 (ii) In at least 13 transactions, ACE collected double payments by accepting cash
18 payments from customers at a branch location and also depositing the customer’s check through an
19 automated process. When ACE deposited the customers’ checks and the checks cleared the bank,
20 ACE received an amount in excess of the amount permitted under Financial Code section 23036,
21 subdivision (f). The Commissioner previously cited the company for accepting double payments
22 during the 2014, 2012, and 2008 regulatory examinations.

23 (iii) In at least seven transactions, ACE collected miscellaneous small
24 overpayments that could not be explained in violation of Financial Code section 23036,
25 subdivision (f). The Commissioner previously cited the company for receiving overpayments during
26 ACE’s 2014, 2012, and 2008 regulatory examinations.
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1 (iv) In at least six transactions, ACE collected amounts in excess of the amounts
2 authorized by the customer by debiting the customer's account with the full transaction amount after
3 the customer had partially repaid the transaction, in violation of Financial Code section 23036,
4 subdivision (f). The Commissioner previously cited the company for violating this same provision
5 during ACE's 2014 and 2012 regulatory examinations.

6 (v) In addition to the repeat violations of Financial Code section 23036,
7 subdivision (f), identified above at paragraphs N.(i) through N.(iv), ACE self-reported that in some
8 cases it erroneously charged customers NSF fees of \$15, when in fact the customers' checks were not
9 returned by the bank due to insufficient funds. Instead, ACE had imposed the NSF fee due to its own
10 accounting error in violation of Financial Code section 23036, subdivision (f).

11 O. As a result of the Commissioner's 2016 Exam, the Commissioner directed ACE to
12 conduct a third-party audit, which expanded the scope of the exam to identify overcharges on all
13 deferred deposit transactions ACE originated between January 1, 2015 and July 25, 2017. ACE's
14 auditor reviewed approximately 2,791,477 deferred deposit transactions under the third-party audit
15 (the Third-Party Audit). The auditor and ACE identified 2,995 overcollection transactions in which
16 ACE collected between \$.01 and \$600.00 more than permitted, which resulted in customer refunds
17 or balance credits of \$164,308.50 (this includes 1,969 transactions resulting in \$30,319.71 in
18 customer refunds related to NSF fees). The auditor and ACE identified 3,501 transactions in which
19 ACE applied a \$15 NSF fee in error and made customer refunds or balance adjustments totaling
20 \$52,515.00.

21 P. On April 5, 2010, under Financial Code section 23050, and again on March 24, 2015,
22 under Financial Code section 23058, subdivision (a), the Commissioner ordered ACE to desist and
23 refrain from violating the CDDTL, including Financial Code section 23036, subdivision (f). Under
24 both the 2010 and 2015 Orders, ACE agreed not to violate the CDDTL by charging customers more
25 than permitted under Financial Code section 23036, subdivision (f). Notwithstanding the 2010 and
26 2015 Orders, and as identified in the 2016 Exam and the Third-Party Audit, the Commissioner finds
27 ACE continues to collect excess amounts from customers in its deferred deposit transaction business
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1 in violation of Financial Code section 23036, subdivision (f). On August 31, 2017, the Commissioner
2 issued its findings regarding the 2016 Exam. ACE responded in writing on November 30, 2017.

3 Q. ACE admits certain of the 2016 Exam Findings and preliminary findings of the current
4 biannual regulatory exam of ACE that commenced on April 23, 2018 and covered the time period
5 November 1, 2017 to April 16, 2018 (Current Exam).

6 R. Except as to the specific violations noted above, in entering this Consent Order, ACE
7 neither admits nor denies any of the findings contained in this Consent Order.

8 S. The Commissioner finds that entering into this Consent Order is in the public interest
9 and consistent with the purposes and fairly intended by the policies and provisions of the CDDTL.

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

12 **II.**

13 **TERMS AND CONDITIONS**

14 1. Purpose. This Consent Order is entered into for the purpose of judicial economy, to
15 avoid the expense and uncertainty of a hearing or other litigation, and to resolve the 2016 Exam
16 Findings and the Current Exam.

17 2. Finality of the Consent Order. ACE agrees to comply with the Consent Order and
18 stipulates that this Consent Order is hereby deemed final.

19 3. Desist and Refrain Order. Under Financial Code section 23050, ACE stipulates that
20 it is ordered to desist and refrain from violating Financial Code section 23036, subdivision (f).

21 4. Waiver of Hearing Rights. ACE acknowledges that the Commissioner is ready,
22 willing, and able to proceed with the filing of an administrative enforcement action on the charges
23 contained in this Consent Order and the Desist and Refrain Order. ACE hereby waives such right to
24 a hearing and to any reconsideration, appeal, or other rights which may be afforded it under the
25 CDDTL, the Administrative Procedure Act (APA) (Gov. Code, § 11340 et seq.), the Code of Civil
26 Procedure (CCP) (Code Civ. Proc., § 1 et seq.), or any provision of law in connection with this
27 matter. ACE further expressly waives any requirement for the filing of an accusation under
28 Government Code section 11415.60, subdivision (b), the APA, the CCP, or any other provision of

1 law. By waiving such rights, ACE effectively consents to this Consent Order and Desist and Refrain
2 Order becoming final.

3 5. Administrative Penalty. ACE shall pay the Commissioner an administrative penalty
4 of \$595,000.00 (the Penalty) no later than 15 days after the Effective Date of this Consent Order.

5 (a) ACE shall pay the Penalty by wire, cashier's check, or Automated Clearing
6 House (ACH) deposit to the Department of Business Oversight and transmitted to the attention of
7 Accounting-Litigation at the Department of Business Oversight, 1515 K Street, Suite 200,
8 Sacramento, California 95814. Notice of the payment must be sent to Blaine A. Noblett, Senior
9 Counsel, 320 W. 4th Street, Suite 750, Los Angeles, California 90013 or by e-mail at
10 blaine.noblett@dbo.ca.gov.

11 6. Investigative Costs. ACE shall pay the Commissioner investigative costs of
12 \$10,000.00 (Investigative Costs) no later than 15 days after the Effective Date of this Consent
13 Order.

14 (a) ACE shall pay Investigative Costs by cashier's check or ACH deposit to the
15 Department of Business Oversight and transmitted to the attention of Accounting-Litigation at the
16 Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814. Notice
17 of the payment must be sent to Blaine A. Noblett, Senior Counsel, 320 W. 4th Street, Suite 750, Los
18 Angeles, California 90013 or by e-mail at blaine.noblett@dbo.ca.gov.

19 7. Policies and Procedures. ACE provided the Commissioner with its updated policies
20 and procedures designed to ensure compliance with the CDDTL and to correct and prevent the
21 violations set forth in this Consent Order and Desist and Refrain Order. The Commissioner finds
22 these policies and procedures to be acceptable if followed.

23 8. Self-Audit. ACE agrees to conduct a series of self-audits of customer overcollections
24 for all California deferred deposit transactions between April 17, 2018 and March 31, 2021 (the
25 Self-Audit). The Self-Audit must cover all California deferred deposit transactions during this time
26 period and must identify any borrower from whom ACE collected an amount in excess of the
27 amount authorized under Financial Code section 23036 in connection with deferred deposit
28 transactions originated during this period.

1 (a) Self-Audit Reports. ACE will submit to the Department the results of the
2 self-audits in a series of reports (the Self-Audit Report or Reports) under the schedule provided for
3 at paragraph 9, below, and shall cover all California deferred deposit transactions originated by
4 ACE from April 17, 2018 through March 31, 2021 (the Self-Audit Period). The Self-Audit Reports
5 shall include, at a minimum, the total number of deferred deposit transactions originated during the
6 period, the number of loans with customer overcollections, and for each deferred deposit transaction
7 with a customer overcollection, the reports shall list the customer's transaction number (loan
8 identification number), customer's user identification number, customer's name (first and last), last
9 known address, date of transaction (origination date), overcollection amount, refund amount,
10 method of payment (for example, credit to balance if charges not collected), date of issuance of
11 check (if applicable), check number (if applicable), and proof of refund.

12 (b) Payment of Refunds for Overcollections. ACE agrees to refund, within 30
13 days of collection for transactions after the Effective Date any amount collected in excess of the
14 amount authorized under Financial Code section 23036 in connection with deferred deposit
15 transactions originated during the Self-Audit Period as follows:

16 i. for current customers with an open deferred deposit transaction that
17 has an outstanding balance of more than the overcollection amount, by reducing the outstanding
18 transaction balance by the overcollection amount;

19 ii. for current customers whose transaction has an outstanding balance of
20 less than the overcollection amount, by reducing the transaction balance to zero dollars and mailing
21 a check, issuing an ACH credit, or issuing a cash refund to the customer for the remaining
22 overcollection amount;

23 iii. for former customers who repaid their deferred deposit transaction in
24 full and do not have any transaction with ACE with an outstanding balance, by mailing a check,
25 issuing an ACH credit, or issuing a cash refund to the customer for the overcollection amount;

26 iv. for customers whose transactions were charged off, by reducing the
27 charged-off balance by the overcollection amount. As to charged-off transactions, ACE shall apply
28 the reduction directly to any transaction if it was retained for collection. For transactions assigned to

1 collection or sold to third parties, ACE shall advise the assignee or buyer of the balance reduction.
2 ACE shall also advise each customer of a charged-off transaction of the reduction in outstanding
3 balance by sending notice electronically to the customer's last known e-mail address in ACE's
4 records or, if the customer has opted out of receiving electronic communications from ACE, by
5 sending notice by U.S. mail to the customer's last known mailing address in ACE's records. If the
6 assignee or buyer advises ACE that the transaction has been paid in full, then ACE will issue a
7 refund directly to the customer using one of the methods in section (b)(i)-(iii) above.

8 (c) Proof of Refund. ACE agrees to provide the Department with proof of
9 refunds of customer overcollections made as follows:

10 i. If the overcollection refund is made by check, ACE will provide the
11 Department with a copy of the front and back of the cashed check endorsed by the customer or, if
12 applicable, the customer's bank;

13 ii. If the overcollection refund is made by money order, ACE will
14 provide the Department with records evidencing issuance of the money order and, if the money
15 order was cashed by ACE, the back of the money order endorsed by the customer;

16 iii. If the overcollection refund is made by ACH credit, ACE will provide
17 the Department with supporting documents from the bank or third-party ACH vendor showing the
18 ACH credit was sent to the customer's account and not returned;

19 iv. If the overcollection refund is made in cash, ACE will provide the
20 Department with supporting documentation proving the customer received the cash refund,
21 typically an acknowledgement of receipt of refund signed by the customer.

22 (d) Escheatment. ACE shall escheat all unclaimed refunds to the California State
23 Controller's Office within the period provided by and in accordance with Code of Civil Procedure
24 section 1519.5 of the Unclaimed Property Law (Code of Civ. Proc., § 1500 et seq.).

25 (e) Enhanced Refunds for Certain Overcollections. If an overcollection occurs
26 during the Self-Audit Period and after the Effective Date, and the overcollection is refunded to the
27 customer 11 to 30 days after the date of the overcollection, the refund amount shall be the greater of
28 \$5 and the amount of the overcollection multiplied by 1.5. If an overcollection occurs during the

1 Self-Audit Period and after the Effective Date, and the overcollection is refunded to the customer
2 more than 30 days after the date of the overcollection, the refund amount shall be the greater of \$10
3 and the amount of the overcollection multiplied by 2. If an overcollection occurred from April 17,
4 2018 up to and including the Effective Date, and the overcollection was or is refunded to the
5 customer 11 to 30 days after the date of the overcollection, ACE shall make an additional payment
6 to the customer equal to 50 percent of the refund amount in the manner set forth in paragraph 8(b)
7 above. If an overcollection occurred from April 17, 2018 up to and including the Effective Date,
8 and the overcollection was or is refunded to the customer more than 30 days after the date of the
9 overcollection, ACE shall make an additional payment to the customer equal to 100 percent of the
10 refund amount in the manner set forth in paragraph 8(b) above.

11 9. Timing and Scope of Self-Audit Reports. The Self-Audit Reports shall cover all
12 deferred deposit transactions originated by ACE from April 17, 2018 through March 31, 2021. The
13 first Self-Audit Report shall cover all California deferred deposit transactions originated by ACE
14 from April 17, 2018 through September 30, 2019, and shall be submitted to the Commissioner no
15 later than 60 days after September 30, 2019. Subsequent Self-Audit Reports shall each cover all
16 California deferred deposit transactions originated by ACE from the day following the time period
17 covered by the previous Self-Audit Report through the end of the next calendar quarter (i.e.,
18 December 31, March 31, June 30, and September 30, as applicable), and shall be submitted to the
19 Commissioner no later than 60 days after the end of the time period covered by the Self-Audit
20 Report. In the event that the due date of a Self-Audit Report falls on a weekend or holiday, the due
21 date shall be extended to the next business day.

22 10. Failure to Comply. The parties agree that, during the Self-Audit Period, any
23 overcollection in which ACE makes a refund within 30 days shall not be considered a violation of
24 this Consent Order, Desist and Refrain Order, or the terms of any prior settlement agreement with
25 the Commissioner. ACE agrees that, following 10 business days from the receipt of notice from the
26 Commissioner of ACE's failure to comply with any term of this Consent Order, ACE may be
27 suspended from engaging in business under its CDDTL license upon the issuance of an order from
28 the Commissioner until it provides evidence satisfactory to the Commissioner that the terms are met.

1 ACE further acknowledges that its failure to comply with any term of this Consent Order shall
2 constitute a failure to comply with the Consent Order and be subject to this paragraph.

3 11. Full and Final Agreement. The Parties hereby acknowledge and agree that this
4 Consent Order is intended to constitute a full, final, and complete resolution of the matters
5 described herein including the Self-Audit, the 2016 Exam Findings and the Current Exam and that
6 no further proceedings or actions will be brought by the Commissioner in connection with these
7 matters except any proceeding to enforce compliance with the terms of this Consent Order.

8 12. Exceptions to Full and Final Agreement. Nothing in paragraph 11, above, or
9 anything else in this Consent Order shall be construed to prohibit or restrict or preclude the
10 Commissioner from taking any of the following actions:

11 (a) Bringing a proceeding to enforce compliance with the terms of this Consent
12 Order;

13 (b) Bringing a proceeding based upon the discovery of violations of the CDDTL
14 occurring after the Effective Date of this Consent Order;

15 (c) Bringing a proceeding based upon discovery of violations of the CDDTL that
16 do not form the basis for this Consent Order;

17 (d) Bringing a proceeding based upon the discovery of violations of the CDDTL
18 that ACE knowingly concealed from the Commissioner.

19 13. Commissioner's Duties. The parties further acknowledge and agree that nothing in
20 this Consent Order shall limit the Commissioner's ability to assist any other agency (city, county,
21 state, or federal) with any prosecution, administrative, civil, or criminal, brought by any such
22 agency against ACE or any other person based upon any of the activities alleged in this matter or
23 otherwise.

24 14. Binding. This Consent Order is binding on all heirs, assigns, or successors in interest.

25 15. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it
26 has received independent advice from its attorney(s) or representative(s) with respect to the
27 advisability of executing this Consent Order.

28 16. Counterparts. The parties agree that this Consent Order may be executed in one or

1 more separate counterparts, each of which shall be deemed an original when so executed. Such
2 counterparts shall together constitute and be one and the same instrument.

3 17. Waiver, Modification, and Qualified Integration. The waiver of any provision of this
4 Consent Order shall not operate to waive any other provision set forth herein. No waiver,
5 amendment, or modification of this Consent Order shall be valid or binding to any extent unless it is
6 in writing and signed by all the parties affected by it.

7 18. Third-Party Actions. This Consent Order does not create any private rights or
8 remedies against ACE, create any liability for ACE, or limit defenses of ACE with respect to any
9 person or entity not a party to this Consent Order.

10 19. Headings and Governing Law. The headings to the paragraphs of this Consent Order
11 are inserted for convenience only and will not be deemed a part hereof or affect the construction or
12 interpretation of the provisions hereof. This Consent Order shall be construed and enforced in
13 accordance with and governed by California law.

14 20. Full Integration. Each of the parties represents, warrants, and agrees that in executing
15 this Consent Order it has relied solely on the statements set forth herein and the advice of its own
16 counsel. Each of the parties further represents, warrants, and agrees that in executing this Consent
17 Order it has placed no reliance on any statement, representation, or promise of any other party, or
18 any other person or entity not expressly set forth herein, or upon the failure of any party or any
19 other person or entity to make any statement, representation, or disclosure of anything whatsoever.
20 The parties have included this clause: (1) to preclude any claim that any party was in any way
21 fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol
22 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

23 21. Presumption from Drafting. In that the parties have had the opportunity to draft,
24 review, and edit the language of this Consent Order, no presumption for or against any party arising
25 out of drafting all or any part of this Consent Order will be applied in any action relating to,
26 connected to, or involving this Consent Order. Accordingly, the parties waive the benefit of Civil
27 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,
28 language of a contract should be interpreted most strongly against the party that caused the

1 uncertainty to exist.

2 22. Voluntary Agreement. ACE enters into this Consent Order voluntarily and without
3 coercion and acknowledges that no promises or assurances have been made by the Commissioner,
4 or any officer or agent thereof, about this Consent Order.

5 23. Effective Date. This Consent Order shall become final and effective when signed by
6 all parties and delivered by the Commissioner's agent via e-mail and to ACE's counsel at
7 spearson@manatt.com (the Effective Date).

8 24. Notice. Any notices required under this Consent Order shall be provided to each party
9 at the following addresses:

10 If to Respondent to:
11 Jay B. Shipowitz, Chief Executive Officer
12 Populus Financial Group, Inc.
13 300 E. John Carpenter Freeway, Suite 900
Irving, Texas 75062

14 with copy to: Scott M. Pearson, Esq.
15 Manatt, Phelps & Phillips, LLP
16 11355 W. Olympic Blvd.
Los Angeles, California 90064

17 If to the Commissioner to: Blaine A. Noblett, Senior Counsel
18 Department of Business Oversight
19 320 West 4th Street, Suite 750
Los Angeles, California 90013-2344

20 25. Authority to Execute. Each signatory hereto covenants that he/she possesses all
21 necessary capacity and authority to sign and enter into this Consent Order.

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23 [signature page follows]
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IN WITNESS WHEREOF, the parties hereto have approved and executed this Consent Order on the dates set forth opposite their respective signatures.

Dated: 8/6/19

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____

MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: 8/6/19

POPULUS FINANCIAL GROUP, INC.

By _____

RICHARD B. RAMSEY, Executive Vice President, General Counsel, and Chief Compliance Officer, on behalf of POPULUS FINANCIAL GROUP, INC.

Approved as to Form

By _____

Scott M. Pearson
Manatt, Phelps & Phillips, LLP
Attorneys on behalf of Populus Financial Group, Inc.