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

TO: NETWORK CAPITAL FUNDING CORPORATION  
5 Park Plaza, Suite 800  
Irvine, California 92614  
  
2040 Main Street, Suite 420  
Irvine, California 92614  
  
FILE NO.: 603-D787 & 603-J384

**DESIST AND REFRAIN ORDER**  
**(For violations of the California Finance Lenders Law)**

The California Corporations Commissioner finds that:

1. The Department of Corporations, through the California Corporations Commissioner (“Commissioner”), is vested with the authority to license and regulate finance lenders and brokers in the State of California pursuant to the California Finance Lenders Law (California Financial Code §§ 22000 et. seq., hereinafter “CFL”).

2. Network Capital Funding Corporation (“Network Capital”) has been licensed by the Commissioner, since on or about October 30, 2006, to engage in the business of a finance lender and broker. Network Capital has its principal place of business located at 5 Park Plaza, Suite 800, Irvine, California 92614. Network Capital also has a branch location at 2040 Main Street, Suite 420, Irvine, California 92614.

3. Commencing in at least August 2012 and continuing through at least November 2012, Network Capital has engaged in misleading advertising in violation of Financial Code sections 22161, 22164 and 22346 by sending a loan solicitation to consumers<sup>1</sup>, which (i) failed to disclose in close proximity to the reference of the name of the consumer’s lender that Network Capital was not sponsored by or affiliated with and the solicitation was not authorized by the consumer’s lender as

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<sup>1</sup> The loan solicitation also directed the consumer to an individually tailored webpage that included further solicitations.

1 required by Business and Professions Code section 14701, (ii) failed to disclose in close proximity to  
2 the reference to the amount of the existing loan that Network Capital was not sponsored by or  
3 affiliated with the consumer's lender, the solicitation was not authorized by the consumer's lender,  
4 and the consumer's information was not provided by the consumer's lender as required by Business  
5 and Professions Code section 14702, (iii) failed to fully and clearly describe the terms of the loan  
6 programs offered as required by Financial Code section 22164, (iv) failed to disclose the rates that  
7 would apply over the course of the loan, which rates were to be determined by adding an index and  
8 margin, and the time period during which each such rate would apply, in advertising an adjustable  
9 rate mortgage as required by 12 Code of Federal Regulations, section 1026.24(f)(2)(i) (hereinafter  
10 Reg. Z, Rule 1026.24); (v) failed to clearly and conspicuously disclose the rates discussed in (iv)  
11 above in close proximity and in equal prominence to the advertised rate as required by Reg. Z, Rule  
12 1026.24(f)(2)(ii); (vi) failed to disclose the amount of each payment that will apply over the course  
13 of the loan, which payment is to be determined by adding an index and margin, and the time period  
14 during which each such payment would apply, in advertising an adjustable rate mortgage as required  
15 by Reg. Rule 1026.24(f)(3)(i); (vii) failed to clearly and conspicuously disclose the payments  
16 discussed in (vi) above in close proximity and in equal prominence to the advertised payment as  
17 required by Reg. Z, Rule 1026.24(f)(3)(ii ); (viii) failed to clearly and conspicuously state when  
18 advertising fixed rate loans that the interest on the portion of credit extended beyond the fair market  
19 value is not tax deductible for federal income tax purposes and that the consumer should consult a  
20 tax adviser for further information regarding the deductibility of interest and charges as required by  
21 Reg. Z, Rule 1026.24(h); (ix) in certain solicitations, disclosed closing costs charges in the fine print  
22 when the solicitation stated "no closing costs" in violation of Financial Code section 22161; and (x)  
23 the mailer and the individually tailored webpage taken together suggested the solicitation was from a  
24 government agency or government sponsored or affiliated agency and failed to make the disclosures  
25 required under Business and Professions Code section 17533.6.

26 NOW, BASED UPON THE FOREGOING, IT IS HEREBY ORDERED, under the  
27 provisions of California Financial Code section 22712 that Network Capital Funding Corporation  
28 and any and all officers, directors, employees, independent contractors, or agents operating on behalf

1 of Network Capital Funding Corporation and their successors or assigns immediately desist and  
2 refrain from engaging in any deceptive and/or misleading advertising, including the advertising  
3 described herein. This Order is necessary, in the public interest, for the protection of consumers and  
4 is consistent with the purposes, policies and provisions of the California Finance Lenders Law. This  
5 Order shall remain in full force and effect until further order of the Commissioner.

6 California Financial Code section 22712 provides in pertinent part:

7 Whenever, in the opinion of the commissioner, . . . any licensee is  
8 violating any provision of this division, the commissioner may  
9 order that . . . licensee to desist and to refrain from . . . further  
10 violating this division. 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.

11 Dated: January 18, 2013  
12 Los Angeles, CA

JAN LYNN OWEN  
California Corporations Commissioner

13  
14 By \_\_\_\_\_  
15 Mary Ann Smith  
16 Deputy Commissioner  
17 Enforcement Division  
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