

1 MARY ANN SMITH
Deputy Commissioner
2 DOUGLAS M. GOODING
Assistant Chief Counsel
3 JOANNE ROSS (State Bar No. 202338)
Senior Counsel
4 Department of Business Oversight
1515 K Street, Ste. 200
5 Sacramento, California 95814
Telephone: (916) 324-9687
6 Facsimile: (916) 455-6985
7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of:) CFL FILE NO. 605-1881
13)
14 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) STIPULATION TO ENTRY OF DESIST AND
15) REFRAIN ORDER, RESTITUTION, AND
Complainant,) PAYMENT OF PENALTIES
16)
17 v.)
18 AMERICAN CAPITAL STRATEGIES, LTD.,)
19 Respondent.)
20)
21)

22 In compliance with the Order Conditionally Granting Petition For Reinstatement of its license
23 under the California Finance Lenders Law (“CFL”) (Fin. Code, § 22000 et seq.), American Capital
24 Strategies, Ltd. (“Respondent”) enters this Stipulation to Entry of Desist and Refrain Order,
25 Restitution, and Payment of Penalties (“Stipulation”) with the Commissioner of Business Oversight
26 (“Commissioner”).

27 ///

28 ///

TERMS AND CONDITIONS

1
2 1. Respondent stipulates to the issuance of the Desist and Refrain Order issued pursuant
3 to section 22712, in the form attached hereto as Exhibit A, directing Respondent to desist and refrain
4 from engaging in the business of a finance lender in this state in violation of Financial Code section
5 22100. Respondent agrees that the delivery by certified mail of the executed Desist and Refrain
6 Order issued by the Commissioner to the address set forth in paragraph A above shall constitute valid
7 service of the Desist and Refrain Order.

8 2. Respondent hereby waives all rights to any hearing or appeal of the Desist and Refrain
9 Order.

10 3. Respondent agrees to provide the Commissioner with satisfactory evidence that
11 Respondent has reduced any accrued amounts owed to it that are in any way attributable to non-
12 exempt usurious amounts charged to California borrowers in excess of the ten percent (10%) interest
13 rate allowed under article 15, section 1 of the California Constitution while Respondent did not have
14 a CFLL license, then in effect.

15 4. Respondent agrees to pay the following penalties: two thousand five hundred dollars
16 (\$2,500.00) for each of twenty (20) loans made while unlicensed under the CFLL, two thousand five
17 hundred dollars (\$2,500.00) for Respondent's failure to file its Annual Report while licensed, and
18 five hundred dollars (\$500.00) for Respondent's failure to notify the Commissioner of a change in
19 business address. Total penalties of fifty-three thousand dollars (\$53,000.00) ("Penalties") are due to
20 the Commissioner within forty-five (45) calendar days.

21 Respondent shall make its payment of Penalties to the Department of Business Oversight and
22 submit its payment via traceable method to the attention of Joanne Ross, Senior Counsel,
23 Enforcement Division, at the Department of Business Oversight located at 1515 K Street, Suite 200,
24 Sacramento, California 95814.

25 5. The Commissioner shall issue a CFLL license to Respondent within thirty (30)
26 calendar days after receipt of the items in numbers 3 and 4 above.

27 6. Respondent agrees that failure to timely comply with the conditions set forth in the
28 Order Conditionally Granting Petition for Reinstatement or in paragraphs 3 and 4 above, within forty-

1 five (45) calendar days of execution of this Stipulation, as such date is set forth in paragraph 12, shall
2 result in summary denial of Respondent's petition for reinstatement of its CFLL license.

3 7. Respondent acknowledges that remedies for violations of the CFLL are not exclusive
4 and may be sought and employed in any combination to enforce the purpose and provisions of this
5 law.

6 8. Respondent agrees that nothing in this Stipulation shall preclude the Commissioner, or
7 her agents or employees, to the extent authorized by law, from assisting or cooperating in any
8 investigation and/or action brought by any other federal, state or county agency. Respondent further
9 agrees that this Stipulation shall not bind or otherwise prevent any other federal, state or county
10 agency from the performance of its duties.

11 9. Respondent has had the opportunity to obtain the advice of legal counsel, and enters
12 into this Stipulation voluntarily and without coercion and acknowledges that no promises, threats or
13 assurances have been made by the Commissioner or any officer, or agent thereof, about this
14 Stipulation.

15 10. Respondent acknowledges that this Stipulation and the Exhibit attached thereto are
16 public records.

17 11. Respondent and the Commissioner agree that this Stipulation may be executed in one
18 or more separate counterparts, each of which when so executed, shall be deemed an original. Such
19 counterparts shall together constitute and be one and the same instrument.

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 12. This Stipulation shall not become effective until signed by all parties and delivered by
2 the Commissioner’s agent via email to Respondent’s agent, Kathryn L. Ryan, at
3 kryan@BuckleySandler.com.

4 Dated: 3/30/16 JAN LYNN OWEN
5 Commissioner of Business Oversight

6 By _____
7 Mary Ann Smith
8 Deputy Commissioner

9 AMERICAN CAPITAL STRATEGIES, LTD.

10
11 Dated: 3/25/16 By _____
12 Samuel Flax
13 Executive Vice President, General Counsel and Secretary

14 Approved as to Form and Content

15 Dated: 3/25/16
16
17 By _____
18 Kathryn L. Ryan, Esq.
19 BuckleySandler LLP
20 Attorneys for American Capital Strategies, LTD.
21
22
23
24
25
26
27
28