

1 relief.

2 2. The Commissioner is authorized to administer and enforce the provisions of the CFL and
3 brings this action under California Financial Code section 22713, and California Government Code
4 section 11180 et seq., in his capacity as head of the California Department of Corporations.

5 3. Defendants, and each of them, have transacted and continue to transact business within Contra
6 Costa County, as well as other counties in California. The violations of law described herein have
7 occurred and will continue to occur within Contra Costa County and elsewhere in California unless
8 enjoined.

9 **DEFENDANTS**

10 4. Defendant Benicord LLC (hereinafter, "Benicord") is a California Limited Liability Company
11 incorporated in the State of California on June 19, 2006. Benicord's current business address is 4728
12 East 2nd Street, Suite 14, Benicia, California 94510.

13 5. Defendant Universal Consumer Marketing, Incorporated (hereinafter, "UCMI") is a
14 California Corporation incorporated in the State of California on March 1, 1994. UCMI's current
15 business address is 4728 East 2nd Street, Suite 14, Benicia, California 94510.

16 6. Jody J. Mohammed (hereinafter, "J. Mohammed") is a natural person and a resident of the
17 State of California. J. Mohammed's last known business address is 4728 East 2nd St., Suite 14,
18 Benicia, California 94510. J. Mohammed is and, at all relevant times herein, was the President
19 and/or CEO or otherwise an officer and or director or main control person of Defendant UCMI. J.
20 Mohammed is and, at all relevant times herein, was one of two partners in Benicord.

21 7. Robin Lee Mohammed (hereinafter, "R. Mohammed") is a natural person and a resident of
22 the State of California. R. Mohammed's last known business address is 4728 East 2nd St., Suite 14,
23 Benicia, California 94510. R. Mohammed is and, at all relevant times herein, was the CFO or
24 otherwise an officer and or director or main control person of Defendant UCMI. R. Mohammed is
25 and, at all relevant times herein, one of two partners in Benicord.

26 8. The defendants named as officers, directors, agents or employees acted in such capacities in
27 connection with the acts, practices and schemes of business set forth below.

28 9. Whenever any allegation is made in the Complaint to "Defendants" doing any act, the

1 allegation shall mean the act of each defendant and corporate entity defendants doing said act, or that
2 the acts done were authorized by the officers, directors, agents and employees of the business entity
3 defendant while actively engaged in the management, direction or control of the affairs of the
4 business entity defendant, and while acting within the course and scope of their employment.

5 **STATEMENT OF FACTS**

6 **CFL Violations**

7 10. In 1995, the California Finance Lenders Law, or CFL, became effective. The CFL regulates
8 lenders formerly regulated under three different laws: the Personal Property Brokers Law, the
9 Consumer Finance Lenders Law, and the Commercial Finance Lenders Law. Lenders now licensed
10 under the CFL, uniformly described and defined as Finance Lenders, are not subject to the usury
11 laws, but are subject to a thorough regulatory scheme designed to safeguard the borrowing public.

12 11. The CFL mandates that all Finance Lenders and brokers obtain licensing from the
13 Commissioner before engaging in the business of financing or brokering loans.

14 12. The Commissioner has not issued a license to any of the defendants in the instant action to act
15 as Finance Lenders or brokers.

16 13. The Commissioner is informed and believes that since July 1, 1995, the operative date of the
17 CFL, but at least since October 1, 2004, defendants UCMI, J. Mohammed, and R. Mohammed have
18 routinely, repeatedly, and willfully financed and brokered loans and otherwise engaged in the
19 business of finance lenders and brokers without licenses from the commissioner to do so. Further,
20 since June 19, 2006, defendant Benicord, an LLC set up specifically by the Mohammeds to broker
21 loans, has routinely, repeatedly, and willfully financed and brokered loans and otherwise engaged in
22 the business of a finance lender and broker without a license from the commissioner to do so.

23 14. The Commissioner is informed and believes that the defendants, and each of them, operated
24 as described in paragraphs 15 through 20.

25 15. Defendants, and each of them, were charged by an unlicensed California finance company,
26 Rome Finance Company, Inc., owned by Mr. Ronald Wilson, (hereinafter, "Rome") with placing
27 Rome's form credit application with merchants around the country.

28 16. By design, Defendants, and each of them, targeted locations near military bases, often placing

1 Rome's blank forms and applications with merchants in mall kiosks and other retail outlets, where
2 young servicemen and women would be solicited to purchase computers, electronics, videogame
3 consoles, and other high-end consumer goods. Although not the sole source of Defendants' client
4 base, military personnel are a large majority of the persons for whom the defendants made or
5 brokered consumer loans.

6 17. The merchants' potential customers would be offered instant financing and asked to fill out
7 Rome's credit application. If the customer was military personnel, the serviceman or woman would
8 sign forms at the point of sale giving Rome (or its assigns) the right to receive payments via the
9 United States Military's electronic funds transfer My Pay system, guaranteeing Rome (or its assigns)
10 payment on the loan at the point of sale. The merchants, themselves, did not extend credit and were
11 never due any money from their customers. Due to a preexisting agreement between the merchant
12 and Defendants, the merchant understood that they would receive a discounted amount from the
13 Defendants of the dollar amount the customer financed through Rome for the purchase of the goods.
14 Customers walked away from the kiosk with the goods, having already agreed to pay Rome an
15 inflated principal amount and interest charges of 19.2% interest.

16 18. The merchant would then sell/transfer or otherwise negotiate the paper to Defendants, and
17 each of them, who would then broker the loans by selling them to Rome (or its assigns). Rome (or its
18 assigns) essentially bought a loan for which Rome had already agreed to fund and for which it had
19 already set-up EFTs (electronic fund transfers) to receive payments from the borrower.

20 19. This arrangement put Defendants, herein, in the position of brokering the loans on behalf of
21 Rome (or its assigns). Defendants, herein, made a percentage of money for each loan they brokered.
22 None of the Defendants in the instant action were ever licensed by the Commissioner to broker these
23 loans in violation of California Financial Code section 22100.

24 20. Defendants brokered thousands of loans via this business model.

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FIRST CAUSE OF ACTION
(Financial Code section 22100)
(All Defendants)

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21. The Commissioner refers to and re-alleges by reference paragraphs 1 through 20 of this complaint as though fully set fourth herein.

22. The California Financial Code provides in relevant part as follows:

No person shall engage in the business of a finance lender or broker without obtaining a license from the commissioner. (Section 22100.)

"Finance lender" includes any person who is engaged in the business of making consumer loans or making commercial loans. The business of making consumer loans or commercial loans may include lending money and taking, in the name of the lender, or in any other name, in whole or in part, as security for a loan, any contract or obligation involving the forfeiture of rights in or to personal property, the use and possession of which property is retained by other than the mortgagee or lender, or any lien on, assignment of, or power of attorney relative to wages, salary, earnings, income, or commission.

It is the intent of the Legislature that the definition of finance lender shall be interpreted to include a personal property broker as referenced in Section 1 of Article XV of the California Constitution. (Section 22009.)

"Broker" includes any person who is engaged in the business of negotiating or performing any act as broker in connection with loans made by a finance lender. (Section 22004.)

23. Commencing on or about July 1, 1995, and continuing until at least September 10, 2009, defendants, and each of them, have engaged in the business of a finance lender or broker without first obtaining a license from the commissioner in violation of the CFL.

24. Each of the Defendants named in this complaint has engaged, or participated, assisted, aided or abetted in a material way, or directed the business of a finance lender or broker without first obtaining a license from the commissioner in violation of the CFL.

25. California Financial Code section 22713, subsection (c) provides:

Any person who willfully violates any provisions of this division, or who willfully violates any rule or order adopted pursuant to this division, shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the commissioner in any court of competent jurisdiction.

1 By engaging in the business of finance lenders and brokers, Defendants, and each of them
2 have repeatedly, willfully and systematically violated the CFL.

3 26. California Financial Code section 22713, subsection (b) provides:

4 If the commissioner determines that it is in the public interest, the commissioner may
5 include in any action authorized by subdivision (a) a claim for ancillary relief, including, but
6 not limited to, a claim for restitution, disgorgement, or damages on behalf of the persons
injured by the act or practice constituting the subject matter of the action. The court shall
have jurisdiction to award additional relief.

7 27. California Financial Codes section 22713, subsection (a), in part, provides:

8 Whenever the commissioner believes from evidence satisfactory to the commissioner that any
9 person has violated or is about to violate a provision of this division, . . . the commissioner
may, in the commissioner's discretion, bring an action . . . in the name of the people of the
10 State of California, against that person to enjoin that person from continuing that violation or
doing any act in furtherance of the violation. Upon a proper showing, a permanent or
11 preliminary injunction, restraining order, or writ of mandate shall be granted and other
12 ancillary relief may be granted as appropriate.

13 28. Defendants, and each of them, are currently engaged in the business of a finance lender or
14 broker without obtaining a license from the commissioner. Unless enjoined by this court, Defendants
15 will continue to violate CFL section 22100.

16 **PRAYER FOR RELIEF**

17 WHEREFORE, plaintiff prays for judgment against all Defendants, as follows:

18 I. INJUNCTIVE RELIEF FOR THE VIOLATIONS:

19 1. For an order of permanent injunction enjoining all of the Defendants and their officers,
20 directors, successors in interest, agents, employees, attorneys in fact, and all persons acting in concert
21 or participating with them, or any of them, from directly or indirectly:

22 A. Violating California Financial Code section 22100 by engaging in the business of a
23 finance lender or broker without a license from the commissioner as to all defendants; and,

24 B. Removing, destroying, mutilating, concealing, altering, transferring, or otherwise
25 disposing of, in any manner, any books, records, computer programs, computer files, computer
26 printouts, correspondence, brochures, manuals, or any other “writings” or “documents” of any kind as
27 defined under Evidence Code section 250, relating to the transactions and course of conduct as
28 alleged in the complaint in this action, unless authorized by this Court, as to all defendants.

1 II. CIVIL PENALTIES

2 1. For a Final Judgment requiring all Defendants and such Does as may be subsequently
3 named, to pay to the Department of Corporations \$2,500.00 as a civil penalty for each act in violation
4 of the Finance Lenders Law, as authorized by Financial Code section 22713, in an amount of at least
5 \$25,000.00 or according to proof.

6 IV. FURTHER RELIEF

- 7 1. That Plaintiff recover its costs of suit herein.
8 2. For such other and further relief as the court may deem just and proper.

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10 DATED: September 10, 2009

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By: _____
ERIK BRUNKAL
Attorney for the Plaintiff

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