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

TO: ProFounder Financial, Inc.  
7906 Santa Monica Blvd., Suite 203  
West Hollywood, California 90046

**CONSENT ORDER TO DESIST AND REFRAIN**  
**(For violations of section 25210 of the Corporations Code)**

Without admitting or denying the findings herein, except as to the jurisdiction of the Department of Corporations over them and the subject matter of these proceedings for the times in question, which are admitted, Respondent ProFounder Financial, Inc. (“ProFounder”) consents to the entry of this Consent Order To Desist and Refrain made pursuant to California Corporations Code Section 25210 and 25532.

**Findings**

1. ProFounder is a Delaware corporation first incorporated on February 25, 2010 with a registered business address of 7906 Santa Monica Blvd., Suite 203, West Hollywood, California 90046 and a previous registered address of 555 Bryant St. # 132, Palo Alto, California 94301. ProFounder’s chief executive officer is Jessica Jackley.

2. In or about 2010, ProFounder began operating a website with the web address www.profounder.com (the “Website”) to assist start up and small businesses (“Issuers”) to raise money for their businesses using “crowdfunding” or “community funding” techniques. Through the Website, Issuers were able to enter into investment contracts with investors. For a flat fee, ProFounder provided services to Issuers, which included web page templates Issuers used to construct private, password protected web pages describing Issuers’ business plan and the investment offering terms and conditions (“Offering”). The Issuer’s Offering web page would then be hosted on ProFounder’s domain. Potential investors were allowed to view the Issuer’s private web page only after the Issuer invited the investor to do so. To invite a potential investor to view the Offering, the

1 Issuer provided to the investor a nontransferable password allowing access to the Issuer's Offering  
2 web page. Profounder informed the Issuers that passwords should be sent by Issuers only to persons  
3 with whom the Issuer had a substantial, preexisting personal or business relationship. ProFounder  
4 represented to Issuers that such persons might include an Issuer's friends, family, customers and  
5 community members, depending on the circumstances of the individual Issuer. By having the Issuer  
6 check a box beside a statement that read: "I confirm I have a substantial, pre-existing relationship  
7 with the invitee," ProFounder's website required that every Issuer confirm that it had a substantial,  
8 pre-existing relationship with each potential investor before such investor could be invited to view  
9 the Offering. ProFounder also required all potential investors who received an invitation to confirm  
10 the existence of the required relationship before viewing the Offering. Prior to viewing the Offering,  
11 potential investors were required to check a box next to a statement that was pre-populated with the  
12 name of the Issuer and that read: "I confirm I have a substantial, pre-existing relationship with [Name  
13 of Issuer]." ProFounder claimed that restricting offers and sales of securities to persons with whom  
14 the Issuer had a substantial, pre-existing relationship made the investment offerings exempt from the  
15 need for qualification or registration under state and federal securities laws. However, other than  
16 requiring the checking of the boxes by the issuer and potential investor to view the Offerings,  
17 Profounder did not attempt to verify independently that the substantial pre-existing relationships in  
18 fact existed or that the issuers were complying with the terms of any exemptions to qualification or  
19 registration specified by state and federal securities laws. Profounder also contended it did not  
20 provide legal advice as to compliance with securities laws to issuers and that Profounder was not  
21 legally responsible for any violations of securities laws by issuers using its services or website.

22 3. ProFounder also provided to Issuers standardized investment contract templates that  
23 Issuers could customize and use in their Offering. ProFounder provided templates for both revenue  
24 sharing investment agreements and equity investment agreements. Under the latter, investors would  
25 purchase restricted, private company stock. Under the former, investors would purchase a non equity  
26 interest in the business, which interest entitled the investor to a pre-agreed percentage of the gross  
27 revenues generated by the business over a specified period. Revenue sharing investors would have  
28 no ownership or control of the Issuer's business and would receive no return if revenues did not

1 materialize or the revenues earned were insufficient to fully repay the investment during the term of  
2 the contract. Language in the standardized investment contract templates contained arbitration  
3 clauses that placed limits on or barred investors' ability to pursue legal claims in court against the  
4 Issuer or ProFounder for any losses.

5         4. Some of the services offered on ProFounder's website changed after it began operations.  
6 Though some services were discontinued, at one time the website indicated the services provided by  
7 ProFounder included: 1) collecting money from investors on behalf of Issuers; 2) obtaining "e-  
8 signatures" on the investment contracts from investors and Issuers; 3) distributing investor money to  
9 Issuers; and 4) electronically transferring any funds from Issuers to investors that were due under the  
10 terms of the parties' investment contract.

11         5. The investment contracts offered and sold by Issuers on ProFounder's website constitute  
12 securities. ProFounder has neither applied for nor secured from the California Corporations  
13 Commissioner a license to operate in the capacity of a securities broker-dealer in the State of  
14 California.

15         Based upon the foregoing findings, the California Corporations Commissioner is of the  
16 opinion that ProFounder, in operating the website in the manner described above, has induced the  
17 sale of securities in this state without having first applied for and secured a license authorizing it to  
18 act in the capacity of a securities broker-dealer, in violation of section 25210 of the Corporate  
19 Securities Law of 1968. Pursuant to Corporations Code section 25532, ProFounder is hereby ordered  
20 and ProFounder agrees to desist and refrain from effecting any transaction in, or attempting to induce  
21 the purchase or sale of, any security in this state, unless and until it has applied for and secured from  
22 the Commissioner a certificate authorizing it to act in that capacity or unless exempt. ProFounder  
23 also specifically agrees to desist and refrain from operating any website that induces securities to be  
24 sold over the Internet without first obtaining a certificate authorizing it to act as a securities broker-  
25 dealer in the State of California, unless exempt. This Order is necessary, in the public interest, for the  
26 protection of investors and is consistent with the purposes, policies, and provisions of the Corporate  
27 Securities Law of 1968.

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1 ProFounder consents to entry of this Order by the Department of Corporations as settlement  
2 of the issues contained in this Order.

3 This Order is entered into solely for the purpose of resolving the investigation of the activities  
4 and services described herein and is not intended to be used for any other purpose. This Consent  
5 Order concludes the investigation by the California Department of Corporations and any other action  
6 that the California Department of Corporations could commence under applicable California law on  
7 behalf of California as it relates to ProFounder's activities and services, with regard to violations of  
8 Corporations Code section 25210 occurring prior to the effective date of this order. The California  
9 Department of Corporations shall refrain from initiating any action against, and will not seek  
10 monetary or other penalties from ProFounder for any violations of Corporations Code section 25210  
11 occurring before the effective date of this order.

12 For any person or entity not a party to this Consent Order, this Consent Order does not create  
13 any private rights or remedies against ProFounder, create liability of ProFounder, or limit defenses of  
14 ProFounder to any claims.

15 In consideration of this Consent Order, ProFounder waives its right to a hearing on this matter  
16 and to judicial review of this matter pursuant to California Code of Civil Procedure Section 1094.5.  
17 This Consent Order is a public document and will be posted on the website of the Department of  
18 Corporations.

19 Dated: August 24, 2011

PROFOUNDER FINANCIAL, INC.

21 By \_\_\_\_\_  
JESSICA JACKLEY  
22 Chief Executive Officer

23 Dated: August 31, 2011  
24 Los Angeles, California

PRESTON DuFAUCHARD  
California Corporations Commissioner

25 By \_\_\_\_\_  
26 ALAN S. WEINGER  
27 Deputy Commissioner  
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