

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 AFSANEH EGHBALDARI (State Bar No. 250107)
4 Counsel
Department of Business Oversight
5 1350 Front Street, Room 2034
6 San Diego, California 92101
Telephone: (619) 645-3166
7 Facsimile: (619) 525-4045
8 Attorneys for Complainant

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

13 In the Matter of:) CFL License No. 60DBO-77383
14 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) CONSENT ORDER
15)
16 Complainant,)
17 v.)
18 TRANS LEASE, INC.,)
19)
20 Respondent.)
21 _____)

22 Complainant, the Commissioner of Business Oversight (Commissioner), and Respondent,
23 Trans Lease, Inc. (Trans Lease) (hereafter, the Parties), enter this Consent Order based on the
24 following facts:

25 **Recitals**

26 A. The Commissioner as the chief officer of the Department of Business Oversight
27 (Department) has jurisdiction over the licensing and regulation of persons and entities engaged in the
28 business of finance lending under the California Financing Law (CFL) (Fin. Code, § 22000 et seq.)

1 and the regulations promulgated under title 10 of the California Code of Regulations (CCR) (Cal.
2 Code Regs. tit. 10, § 1404 et seq.).

3 B. Trans Lease has its primary place of business at 1400 W. 62nd Avenue, Denver,
4 Colorado 80221.

5 C. Brian Eschmann is the President of Trans Lease and, as such, is authorized to enter
6 into this Consent Order on behalf of Trans Lease.

7 D. Trans Lease applied to the Department for a CFL license (License number 60DBO-
8 77383), on October 13, 2017.

9 E. During the application process, Trans Lease provided a loan report to the Department
10 showing that it had originated or funded 165 commercial loans in California without a CFL license
11 during the period of 2013 through 2018.

12 F. The Commissioner finds Trans Lease violated Financial Code section 22100 by
13 originating or funding these loans in California without a CFL license.

14 G. The loan report further showed advance fee charges and interest charges in excess of
15 the 10 percent interest rate allowed under article 15, section 1 of the California Constitution, in
16 connection with 10 out of the 165 loans, once the loans are paid based on their scheduled payments.
17 The 10 loans have been identified as Lease ID Numbers: 11406007001, 11603165001, 11605127001,
18 11607167001, 11608251001, 11608284001, 11612145001, 11701063002, 11702218001, and
19 11707027001.

20 H. Trans Lease admits to the jurisdiction of the Department, consents to entry of this
21 Consent Order by the Department, and agrees to comply with its terms.

22 I. The Commissioner finds that this Consent Order is necessary, in the public interest
23 and consistent with the purposes, policies, and provisions of the CFL.

24 **Terms**

25 1. **Desist and Refrain Order.** Pursuant to Financial Code section 22712, Trans Lease is
26 hereby Ordered to desist and refrain from engaging in the business of acting as a finance lender in the
27 State of California without first obtaining a CFL license from the Commissioner, or otherwise being
28 exempt. Trans Lease hereby agrees to comply with the Commissioner’s Desist and Refrain Order

1 and, further, stipulates that the Desist and Refrain Order is hereby deemed a final and enforceable
2 Order issued pursuant to the Commissioner's authority under the CFL.

3 2. Order to Discontinue Violations. Trans Lease is also Ordered to immediately
4 discontinue collecting any advance fees and usurious interest charges in excess of the 10 percent
5 interest rate allowed under article 15, section 1 of the California Constitution. Trans Lease hereby
6 agrees to comply with the Commissioner's Order to Discontinue Violations and, further, stipulates
7 that this Order is hereby deemed a final and enforceable Order issued pursuant to the Commissioner's
8 authority under the CFL.

9 3. Administrative Penalties. Pursuant to Financial Code section 22713, subdivision (c),
10 Trans Lease agrees to pay administrative penalties in the amount of \$41,250.00, due and payable to
11 the Department within 10 days of the effective date of this Consent Order, as such date is defined by
12 Paragraph 19 (Effective Date). The penalty payment shall be made in the form of a cashier's check or
13 Automated Clearing House deposit to the "Department of Business Oversight," and transmitted to the
14 attention of: Accounting - Litigation, at the Department of Business Oversight, located at 1515 K
15 Street, Suite 200, Sacramento, California 95814. Notice of payment shall be sent concurrently to
16 Afsaneh Eghbaldari, Counsel, Enforcement Division, by email at: affi.eghbaldari@dbo.ca.gov. In the
17 event the payment due date falls on a weekend or holiday, the payment shall be due the next business
18 day.

19 4. Payment Report. Trans Lease acknowledges that it has submitted to the Department
20 copies of the payment histories, refund reconciliation schedules and related information (Report) for
21 the 10 loans identified in Paragraph G. The Commissioner has reviewed the Report.

22 5. Refunds to Borrowers. Trans Lease shall provide refunds or credits to the 10
23 California borrowers identified in Paragraph G (Borrowers) as follows:

24 a. Within 30 days of the Effective Date of this Consent Order, Trans Lease shall refund
25 or provide reductions in any future payments still due to the Borrowers for any advance fees and
26 usurious interest charged in excess of the 10 percent interest rate allowed under article 15, section 1
27 of the California Constitution, in the amount of at least \$12,944.10.

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1 b. Trans Lease shall submit evidence of the refunds or credits pursuant to this paragraph
2 to the Commissioner within 45 days of the Effective Date of this Consent Order. The evidence of the
3 refunds or credits shall be sent to the attention of Afsaneh Eghbaldari, Counsel, Enforcement
4 Division, by email at: affi.eghbaldari@dbo.ca.gov. Satisfactory evidence of the refunds or credits
5 required pursuant to this paragraph shall include, at a minimum, the following for each and
6 every loan: (i) the borrower's loan number, name, last known address, loan amount, loan date,
7 interest charged; (ii) date of issuance of refund check or credit; and, (iii) evidence of refund in the
8 form of a copy of the refund check or Automated Clearing House deposit and accompanying
9 correspondence sent to the borrower.

10 c. Refunds, or credits made pursuant to this paragraph shall be subject to final
11 examination review by the Commissioner, and sent by Trans Lease to each Borrower with the
12 accompanying notice: "Pursuant to an agreement entered with the Department of Business Oversight,
13 a refund or credit in the amount of \$xxx.xx is being made for your benefit. If you have any questions
14 concerning this refund or credit, please contact [Trans Lease at (877) 600-6423]."

15 6. Outstanding Refunds. Trans Lease shall be responsible for ensuring that any
16 outstanding unclaimed refund payment required by Paragraph 5 is escheated to the State of
17 California pursuant to the provisions of the California Unclaimed Property Law (Code Civ. Proc., §
18 1500 et seq.).

19 7. Effect of Consent Order. The Commissioner hereby agrees to issue a license under the
20 CFL to Trans Lease subject to the following conditions:

21 a. Trans Lease has timely paid the administrative penalties in the amount of \$41,250.00,
22 required pursuant to Paragraph 3; and

23 b. Trans Lease has provided refunds or credits for all advance fees collected and any
24 usurious interest charged to Borrowers, and provided to the Commissioner satisfactory evidence of
25 the refunds and credits required pursuant to Paragraph 5.

26 8. Remedy for Breach. Trans Lease agrees that its failure to timely comply with the
27 conditions set forth in Paragraphs 2 through 6 above, shall result in summary denial of Trans Lease's
28 CFL license application (License number 60DBO-77383). Trans Lease hereby authorizes the

1 Commissioner to immediately seek to enforce the terms of this Consent Order as to administrative
2 penalties and refunds or credits to Borrowers against Trans Lease as a final Consent Order.

3 9. Waiver of Hearing Rights. Trans Lease acknowledges its right to an administrative
4 hearing under the CFL in connection with the Consent Orders and remedies specified herein and
5 hereby waives its right to a hearing, and to any reconsideration, appeal, or other right which may be
6 afforded under the CFL, and to judicial review of this matter pursuant to Code of Civil Procedure
7 section 1094.5 with respect to the issuance of this Consent Order.

8 10. Future Actions by the Commissioner. The Commissioner reserves the right to bring
9 any future action(s) against Trans Lease or any of its partners, owners, officers, directors,
10 shareholders, employees, or successors for all unknown or future violations of the CFL. This Consent
11 Order shall not serve to exculpate Trans Lease or any of its partners, owners, officers, directors,
12 shareholders, employees, or successors from liability for all unknown or future violations of the CFL.

13 11. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in
14 interest.

15 12. Full and Final Settlement. The Parties hereby acknowledge and agree that this
16 Consent Order is intended to constitute a full, final, and complete resolution of the violations of the
17 CFL, occurring from 2013 to 2018, identified in Paragraphs E, F and G above (hereafter, Released
18 Matters). Notwithstanding this paragraph, the Commissioner may commence a proceeding or action
19 based upon any violation which Trans Lease knowingly concealed from the Commissioner. The
20 Parties further acknowledge and agree that nothing contained in this Consent Order shall operate to
21 limit the Commissioner's ability to assist any other agency (city, county, state or federal) with any
22 prosecution; administrative, civil or criminal, brought by any such agency against Trans Lease, based
23 on any of the activities alleged in these matters or otherwise.

24 13. Independent Legal Advice. Each of the Parties represents and warrants that they have
25 received independent advice from their attorneys and/or other representatives with respect to the
26 advisability of executing this Consent Order.

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1 14. Reliance. Each of the Parties represents, warrants, and agrees that in executing this
2 Consent Order, they have placed no reliance on any statement, representation, or promise of any
3 other party, or any person or entity not expressly set forth herein, or upon the failure of any party or
4 any other person or entity to make any statement, representation, or disclosure of anything
5 whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in any
6 way fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of parol
7 evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

8 15. Full Integration. This Consent Order is the final written expression and the complete
9 and exclusive statement of all stipulations, agreements, conditions, promises, representations, and
10 covenants between the Parties with respect to the matter hereof, and supersedes all prior or
11 contemporaneous agreements, discussions, negotiations, representations, and understandings between
12 and among the Parties, their respective representatives, and any other person or entity, with respect to
13 the subject matter covered in this Consent Order.

14 16. No Presumption from Drafting. In that the Parties have had the opportunity to draft,
15 review and edit the language of this Consent Order, no presumption for or against any party arising
16 out of drafting all or any part of this Consent Order will be applied in any action relating to,
17 connected to, or involving this Consent Order. Accordingly, the Parties waive the benefit of Civil
18 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,
19 language of a contract should be interpreted most strongly against the party who caused the
20 uncertainty to exist.

21 17. Waiver or Modification. The waiver of any provision of this Consent Order shall not
22 operate to waive any other provision set forth herein, and any waiver, amendment and/or change to
23 the terms of this Consent Order must be in writing and signed by the Parties. No amendment, change
24 or modification of this Consent Order shall be valid or binding to any extent unless it is in writing and
25 signed by all the Parties affected by it.

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1 18. Headings and Governing Law. The headings of the paragraphs of this Consent Order
2 are inserted for conveniences only and will not be deemed a part hereof or affect the construction or
3 interpretation of the provisions hereof. This Consent Order shall be construed and enforced in
4 accordance with and governed by California law.

5 19. Effective Date. This Consent Order shall not become effective until signed by all
6 parties and delivered by the Commissioner’s counsel by email to Trans Lease’s president, Brian
7 Eschmann at brian.eschmann@transleaseinc.com, or Trans Lease’s vice president, Robert Heilman at
8 robert.heilman@transleaseinc.com.

9 20. Counterparts. This Consent Order may be executed in any number of counterparts by
10 the Parties, and when each party has signed and delivered at least one such counterpart to the other
11 party, each counterpart shall be deemed an original, and taken together shall constitute one and the
12 same Consent Order.

13 21. Public Record. Trans Lease acknowledges that this Consent Order is a public record.

14 22. Information Willfully Withheld. This Consent Order may be revoked, and the
15 Commissioner may pursue all remedies available under the law against Trans Lease if the
16 Commissioner later finds out that Trans Lease knowingly or willfully withheld information used and
17 relied upon in this Consent Order.

18 23. Settlement Authority. Each signatory hereto covenants that he/she possesses all
19 necessary capacity and authority to sign and enter into this Consent Order.

20 24. Voluntary Agreement. Trans Lease enters into this Consent Order voluntarily and
21 without coercion and acknowledges that no promises, threats, or assurances have been made by the
22 Commissioner or any officer, or agent thereof, about this Consent Order.

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1 25. Signatures. This Consent Order may be executed by facsimile or scanned signature,
2 and any such facsimile or scanned signature by any party hereto shall be deemed to be an original
3 signature and shall be binding on such party to the same extent as if such facsimile or scanned
4 signature was an original signature.

5 Dated: September 27, 2018

JAN LYNN OWEN
Commissioner of Business Oversight

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By _____

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Mary Ann Smith
Deputy Commissioner
Enforcement Division

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11 Dated: September 27, 2018

TRANS LEASE, INC.

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By _____

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Brian Eschmann, President
Trans Lease, Inc.

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