

1 MARY ANN SMITH  
Deputy Commissioner  
2 DANIEL P. O'DONNELL  
Assistant Chief Counsel  
3 TREVOR J. CARROLL (State Bar No. 306425)  
4 Counsel  
5 Department of Business Oversight  
1515 K Street, Suite 200  
6 Sacramento, California 95814  
Telephone: (916) 322-8782  
7 Facsimile: (916) 445-6985

8 Attorneys for Complainant

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

12 In the Matter of: ) CFL License No.: 60DBO-56011  
13 THE COMMISSIONER OF BUSINESS )  
14 OVERSIGHT, ) CONSENT ORDER  
15 Complainant, )  
16 v. )  
17 BUSINESS CAPITAL LLC, )  
18 Respondent. )  
19 \_\_\_\_\_ )

21 The Commissioner of Business Oversight (Commissioner) and Business Capital LLC  
22 (Business Capital), (collectively, Parties), enter into this Consent Order with respect to the following  
23 facts:

24 RECITALS

- 25 A. The Commissioner has jurisdiction over the licensing and regulation of persons and entities  
26 engaged in the business of making consumer and commercial loans pursuant to the California  
27 Financing Law (CFL) (Fin. Code, § 22000 et seq.).  
28 B. Business Capital is a finance lender that was licensed by the Commissioner from July 27,

1 2016 to December 29, 2019 (CFL License No. 60DBO-56011). Business Capital has its principal  
2 office located at 1920 East Hallandale Beach Boulevard, Suite 505, Hallandale Beach, Florida 33009.

3 C. Business Capital has no branch locations in California.

4 D. Tzvi Pershin is the president and a control person of Business Capital and, as such, is  
5 authorized to enter into this Consent Order on Business Capital's behalf.

6 E. In accordance with Financial Code section 22107, each finance lender, broker, or program  
7 administrator licensee shall pay to the Commissioner its pro rata share of all costs and expenses,  
8 including the costs and expenses associated with the licensing of mortgage loan originators it  
9 employs, reasonably incurred in the administration of this division, as estimated by the  
10 Commissioner, for the ensuing year and any deficit actually incurred or anticipated in the  
11 administration of the program in the year in which the assessment is made. CFL licensees must pay  
12 the annual assessment on or before the 31st day of October each year.

13 F. Pursuant to Financial Code section 22153, a licensee is required to submit a change of address  
14 form 10 days prior to an address change.

15 G. On September 30, 2019, the Commissioner sent Business Capital the Assessment Notice per  
16 invoice number CF0592. The notice was mailed to the address Business Capital registered with the  
17 Department (Registered Address): 10400 Griffin Road, #301, Cooper City, Florida 33328. The notice  
18 stated that the annual assessment would become delinquent if not paid by October 31, 2019.

19 H. As of October 31, 2019, Business Capital had not paid its annual assessment. The failure to pay  
20 the annual assessment on or before October 31, 2019 represents a violation of Financial Code section  
21 22107.

22 I. As of November 6, 2019, Business Capital had not paid its annual assessment. As a result, the  
23 Commissioner sent to Business Capital's Registered Address a Notice of Unpaid Assessment on  
24 November 6, 2019. The notice warned that failure to pay the assessment would result in summary  
25 revocation of Business Capital's license. Business Capital did not respond to the Commissioner's  
26 notice.

27 J. As of December 6, 2019, Business Capital had not paid its annual assessment. As a result, on  
28 December 6, 2019, the Commissioner issued an Order Summarily Revoking California Financing

1 Law License Pursuant to Financial Code Section 22107 for CFL License Number 60DBO-56011  
2 (Revocation Order). The Department mailed the Revocation Order to Business Capital's Registered  
3 Address along with notice that it would become effective December 30, 2019 unless payment of the  
4 annual assessment was received by close of business on December 27, 2019.

5 K. As of December 27, 2019, the assessment remained unpaid. As such, the Revocation Order  
6 became effective December 30, 2019.

7 L. Business Capital stated that it did not receive the notices or the Revocation Order because it  
8 failed to properly notify the Commissioner that it had changed its place of business to a street address  
9 other than that designated on its license, as required by Financial Code section 22153.

10 M. Business Capital admits to the jurisdiction of the Commissioner and it is the intention of the  
11 parties to resolve this matter without the necessity of a hearing and/or other litigation.

12 N. The Commissioner finds that entering into this Consent Order is in the public interest and  
13 consistent with the purposes fairly intended by the CFL.

14 NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set  
15 forth herein, the Parties agree as follows:

16 TERMS

17 1. Purpose. This Consent Order resolves the issues before the Commissioner described  
18 above in a manner that avoids the expense of a hearing and other possible court proceedings,  
19 protects consumers, is in the public interest, and is consistent with the purposes, policies, and  
20 provisions of the CFL.

21 2. Desist and Refrain Order. Pursuant to Financial Code section 22712, Business Capital is  
22 hereby ordered to desist and refrain from failing to timely pay the annual assessment in violation of  
23 Financial Code section 22107.

24 3. Order Rescinding Revocation Order(s). The Commissioner hereby rescinds the  
25 Revocation Order, which was issued on December 6, 2019, and became effective on December 30,  
26 2019, as of the effective date of revocation.

27 4. Order to Pay Annual Assessment. Pursuant to Financial Code section 22107, the  
28 Commissioner hereby orders Business Capital to pay \$250.00 to the Department of Business

1 Oversight for the 2019 – 2020 annual assessment. The annual assessment shall be paid to the  
2 Commissioner within 30 days of the Effective Date of this Consent Order as defined in paragraph  
3 23. The annual assessment shall be labeled “2019 – 2020 annual assessment” and made payable in  
4 the form of a cashier’s check or Automated Clearing House deposit to the “Department of Business  
5 Oversight,” and transmitted to the attention of:

6       ATTN: Accounting  
7       Department of Business Oversight  
8       1515 K Street, Suite 200  
9       Sacramento, California 95814

10       Notice of payment shall be made via email to Trevor Carroll, Counsel at Department of  
11       Business Oversight, at trevor.carroll@dbo.ca.gov.

12       5. Administrative Penalties and Fines. Business Capital shall pay administrative fines and  
13       penalties in the amount of \$3,000.00 for the violation of the CFL enumerated herein. All fines and  
14       penalties shall be labeled “fines and penalties” and made payable in the form of a cashier’s check or  
15       Automated Clearing House deposit to the “Department of Business Oversight,” and transmitted to  
16       the attention of:

17       ATTN: Accounting – Litigation  
18       Department of Business Oversight  
19       1515 K Street, Suite 200  
20       Sacramento, California 95814

21       Notice of payment shall be made via email to Trevor Carroll, Counsel at Department of  
22       Business Oversight, at trevor.carroll@dbo.ca.gov.

23       6. Waiver of Hearing Rights. Business Capital acknowledges that the Commissioner is  
24       ready, willing, and able to proceed with the filing of an administrative enforcement action on the  
25       charges contained in this Consent Order. Business Capital hereby waives the right to any hearings,  
26       and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the  
27       CFL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any  
28       other provision of law. Business Capital further expressly waives any requirement for the filing of an  
29       Accusation pursuant to Government Code section 11415.60, subdivision (b). By waiving such rights,  
30       Business Capital effectively consents to this Consent Order and Desist and Refrain Order becoming

1 final.

2 7. Failure to Comply with Consent Order. Business Capital agrees that if it fails to comply  
3 with the terms of this Consent Order, the Commissioner may, in addition to all other available  
4 remedies it may invoke under the CFL, summarily suspend or revoke the CFL license of Business  
5 Capital until Business Capital is in compliance. Business Capital waives any notice and hearing  
6 rights to contest such summary suspension which may be afforded under the CFL, the California  
7 Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law  
8 in connection therewith.

9 8. Information Willfully Withheld or Misrepresented. This Consent Order may be revoked  
10 and the Commissioner may pursue any and all remedies available under law against Business  
11 Capital if the Commissioner discovers that Business Capital knowingly or willfully withheld or  
12 misrepresented information used for and relied upon in this Consent Order.

13 9. Future Actions by the Commissioner. If Business Capital fails to comply with any terms  
14 of the Consent Order, the Commissioner may institute proceedings for any and all violations  
15 otherwise resolved under this Consent Order. The Commissioner reserves the right to bring any  
16 future actions against Business Capital, or any of its partners, owners, officers, shareholders,  
17 directors, employees or successors for any and all unknown violations of the CFL.

18 10. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner's  
19 ability to assist any other government agency (city, county, state, or federal) with any prosecution,  
20 administrative, civil or criminal brought by that agency against Business Capital or any other person  
21 based upon any of the activities alleged in this matter or otherwise.

22 11. Headings. The headings to the paragraphs of this Consent Order are inserted for  
23 convenience only and will not be deemed a part hereof or affect the construction or interpretation of  
24 the provisions hereof.

25 12. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in  
26 interest.

27 13. Reliance. Each of the parties represents, warrants, and agrees that in executing this  
28 Agreement it has relied solely on the statements set forth herein and the advice of its own counsel.

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

8       14. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of  
9 this Consent Order will be valid or binding unless it is in writing and signed by each of the parties.  
10 The waiver of any provision of this Consent Order will not be deemed a waiver of any other  
11 provision. No waiver by either party of any breach of, or of compliance with, any condition or  
12 provision of this Consent Order by the other party will be considered a waiver of any other condition  
13 or provision or of the same condition or provision at another time.

14       15. Full Integration. This Consent Order is the final written expression and the complete and  
15 exclusive statement of all the agreements, conditions, promises, representations, and covenant  
16 between the parties with respect to the subject matter hereof, and supersedes all prior or  
17 contemporaneous agreements, negotiations, representations, understandings, and discussions  
18 between and among the parties, their respective representatives, and any other person or entity, with  
19 respect to the subject matter covered hereby.

20       16. Governing Law. This Consent Order will be governed by and construed in accordance  
21 with California law. Each of the parties hereto consents to the jurisdiction of such court, and hereby  
22 irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to  
23 the maintenance of such action or proceeding in such court.

24       17. Counterparts. This Consent Order may be executed in one or more separate counterparts,  
25 each of which when so executed, shall be deemed an original. Such counterparts shall together  
26 constitute a single document.

27       18. Effect Upon Future Proceedings. If Business Capital applies for any license, permit, or  
28 qualification under the Commissioner's current or future jurisdiction, or is the subject of any future

1 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be  
2 admitted for the purpose of such application(s) or enforcement proceedings(s).

3 19. Voluntary Agreement. Business Capital enters this Consent Order voluntarily and  
4 without coercion and acknowledges that no promises, threats or assurances have been made by the  
5 Commissioner or any officer, or agent thereof, about this Consent Order. The parties each represent  
6 and acknowledge that he, she or it is executing this Consent Order completely voluntarily and  
7 without any duress or undue influence of any kind from any source.

8 20. Notice. Any notice required under this Consent Order be provided to each party at the  
9 following addresses:

10 To Business Capital LLC:

11 Tzvi Pershin, President  
12 1920 East Hallandale Beach Boulevard, Suite 505  
13 Hallandale Beach, Florida 33009  
henry@businesscapitalllc.com

14 To the Commissioner:

15 Trevor J. Carroll, Counsel  
16 Department of Business Oversight  
17 Enforcement Division  
18 1515 K Street, Suite 200  
19 Sacramento, California 95814  
trevor.carroll@dbo.ca.gov

20 21. Signatures. A fax or electronic mail signature shall be deemed the same as an original  
21 signature.

22 22. Public Record. Business Capital hereby acknowledges that this Consent Order is and  
23 will be a matter of public record.

24 23. Effective Date. This Consent Order shall become final and effective when signed by all  
25 parties and delivered by the Commissioner's agent via email to Business Capital's representative, at  
26 henry@businesscapitalllc.com.

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24. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Consent Order and undertake the obligations set forth herein.

Dated: February 13, 2020

MANUEL P. ALVAREZ  
Commissioner of Business Oversight

By \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division

Dated: February 12, 2020

By \_\_\_\_\_  
BUSINESS CAPITAL LLC

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