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

11
12 In the Matter of:) CONSENT ORDER
13 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,)
14)
15 Complainant,)
16 v.)
17 DEERPATH CAPITAL MANAGEMENT, LP,)
18 Respondent.)
19)
20)
21)

22 In consideration of the applications filed by Deerpath Capital IV, LP, and Deerpath Capital
23 Advantage IV (US), LP, for licenses under the California Financing Law (Fin. Code, § 22000, et
24 seq.) (CFL), this Consent Order is entered into by and between the Commissioner of Business
25 Oversight and Deerpath Capital Management, LP (Consent Order).

26 **RECITALS**

27 This Consent Order is made with reference to the following facts:

28 ///

1 interest, and is consistent with the purposes, policies, and provisions of the CFL.

2 2. **Desist and Refrain Order.** Pursuant to Financial Code section 22712, Deerpath
3 Capital Management, LP, is hereby ordered to desist and refrain from engaging in the business of a
4 finance lender without obtaining a license in violation of subdivision (a) of Financial Code section
5 22100.

6 3. **Penalty.** Deerpath shall pay a penalty of \$62,500.00 to the Commissioner (Penalty).
7 The Penalty is due by the Effective Date, as defined in Paragraph 22 below (Effective Date), and
8 should be made payable in the form of a cashier’s check or Automated Clearing House deposit to the
9 “Department of Business Oversight” and transmitted to the attention of: Accounting – Enforcement
10 Division, Department of Business of Oversight, 1515 K Street, Suite 200, Sacramento, California
11 95814. Notice of such payment shall be forwarded to Adam Wright, Senior Counsel, Department of
12 Business Oversight, Enforcement Division, 320 West 4th Street, Suite 750, Los Angeles, California
13 90013.

14 4. **Consideration.** In consideration of Deerpath’s agreement to the issuance of this
15 Consent Order, Deerpath’s payment of the Penalty, the Applications, and the Information, the
16 Commissioner hereby agrees to continue reviewing the Applications in accordance with Financial
17 Code section 22109, subdivision (c).

18 5. **Waiver of Hearing Rights.** Deerpath acknowledges the Commissioner is ready,
19 willing, and able to proceed with the filing of an administrative enforcement action on the Findings.
20 Deerpath hereby waives the right to any hearings, and to any reconsideration, appeal, or other right to
21 review which may be afforded pursuant to the CFL, the California Administrative Procedure Act, the
22 California Code of Civil Procedure, or any other provision of law. Deerpath further expressly waives
23 any requirement for the filing of an Accusation or a Statement of Issues pursuant to Government
24 Code section 11415.60, subdivision (b). By waiving such rights, Deerpath effectively consents to
25 this Consent Order becoming final.

26 6. **Full and Final Settlement.** The Parties hereby acknowledge and agree that this
27 Consent Order is intended to constitute a full, final, and complete resolution of the Findings, and that
28 no further proceedings or actions will be brought by the Commissioner in connection with the

1 Findings under the CFL or any other provision of law, excepting therefrom any proceeding to enforce
2 compliance with the terms of this Consent Order.

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

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

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

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

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

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

28 13. **Reliance**. Each of the Parties represents, warrants, and agrees that in executing this

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

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

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

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

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

28 18. **Effect Upon Future Proceedings.** If Deerpath applies for any license, permit or

1 qualification under the Commissioner’s current or future jurisdiction, or is the subject of any future
2 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be
3 admitted for the purpose of such application or proceeding.

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

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

11 21. **Public Record.** Deerpath hereby acknowledges that this Consent Order is and will be
12 a matter of public record.

13 22. **Effective Date.** This Consent Order shall become final and effective when signed by
14 all parties and delivered by the Commissioner’s counsel via e-mail to Deerpath’s counsel, Heidi
15 Bauer, at HBauer@buckleyfirm.com.

16 23. **Authority to Sign.** Each signatory hereto covenants that he or she possesses all
17 necessary capacity and authority to sign and enter into this Consent Order and undertake the
18 obligations set forth herein.

19
20 Dated: 4/1/20

MANUEL P. ALVAREZ
Commissioner of Business Oversight

21
22 By _____
23 Mary Ann Smith
Deputy Commissioner

24 Dated: 3/31/20

DEERPATH CAPITAL MANAGEMENT, LP

25
26
27 By _____
28 Anish Bahl
Chief Financial Officer