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

10	In the Matter of:)	CFL LICENSE NO.: 603-K020
11	THE COMMISSIONER OF BUSINESS)	
12	OVERSIGHT,)	
13	Complainant,)	
14	v.)	CONSENT ORDER
15)	
16	NC FINANCIAL SOLUTIONS OF)	
17	CALIFORNIA, LLC)	
18	Respondent.)	

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22 This Consent Order (Consent Order) is entered into between the Commissioner of Business
23 Oversight (Commissioner) and NC Financial Solutions of California, LLC (NC Financial) and is
24 made with respect to the following facts:
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I.

Recitals

A. The Department of Business Oversight (Department), through the Commissioner, has jurisdiction over the licensing and regulation of entities engaged in the business of lending and servicing in the State of California pursuant to the California Financing Law.¹

B. At all relevant times, NC Financial was and is a finance lender and broker licensed by the Commissioner on or about February 19, 2013, with its principal business address at 175 West Jackson Boulevard, Suite 1600, Chicago, Illinois 60604.

C. On or about December 29, 2015, the Department commenced a regulatory examination of NC Financial pursuant to Financial Code section 22701 (2016 Exam). On or about September 22, 2016, the Department demanded additional books and records regarding NC Financial’s compensation to unlicensed persons for referrals or leads (2016 Demand); NC Financial timely responded and produced documents and information. In its September 8, 2017 Report of Examination concerning the 2016 Regulatory Exam (2016 Exam Report), the Department concluded that, from 2012 through 2015, NC Financial compensated unlicensed persons or companies who were not employees regularly employed at NC Financial’s licensed place of business for soliciting or accepting applications for loans, in violation of California Code of Regulations, title 10, section 1451, subsection (c) (Section 1451 (c)).

D. In April of 2018, NC Financial stopped paying referral fees to unlicensed lead generators.

E. On or about April 16, 2019, the Department issued a supplemental demand for books and records regarding NC Financial’s compensation to unlicensed persons and the details pertaining to a Consent Order entered into between the Consumer Financial Protection Bureau and the parent company of NC Financial, Enova International, Inc. (2019 Demand). NC Financial timely responded to the 2019 Demand and produced documents and information.

¹ Effective October 4, 2017, the name of the “California Finance Lenders Law” changed to the “California Financing Law.” (Assem. Bill No. 1284 (2017-2018 Reg. Sess.) § 4.) For purposes of this document, a reference to the California Financing Law means the California Finance Lenders Law before October 4, 2017 and the California Financing Law on and after that date. (Fin. Code, § 22000.)

1 F. After reviewing NC Financial’s responses, documents, and information, the
2 Commissioner determined the following finding (Finding): From 2015 - 2018, NC Financial
3 compensated unlicensed persons or companies who were not employees regularly employed at NC
4 Financial’s licensed place of business for soliciting or accepting applications for loans, in violation of
5 Section 1451 (c).

6 G. The Commissioner finds that this action is appropriate, in the public interest, and
7 consistent with the purposes fairly intended by the policy and provisions of this law.

8 H. By this Consent Order, both NC Financial and the Commissioner intend to resolve this
9 matter amicably without the necessity of a hearing or other litigation. NC Financial, by entering into
10 this Consent Order, does not admit or deny the Commissioner’s conclusions of law.

11 NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth
12 herein, the Parties stipulate as follows:

13 **II.**

14 **Terms and Conditions**

15 1. Purpose. This Consent Order is to resolve the issues described above in a manner
16 that avoids the expense of a hearing and possible further court proceedings, is in the public interest,
17 protects consumers, and is consistent with the purposes, policies, and provisions of the CFL.

18 2. Desist and Refrain Order. Pursuant to Financial Code section 22712, NC Financial is
19 hereby ordered to desist and refrain from compensating unlicensed persons or companies who were
20 not employees regularly employed at NC Financial’s licensed place of business for soliciting or
21 accepting applications for loans in violation of California Code of Regulations, title 10, section
22 1451.

23 3. Administrative Penalty. NC Financial shall pay an administrative penalty of
24 \$135,000.00 to the Commissioner (Penalty). The Penalty shall be paid no later than fifteen calendar
25 days after the Effective Date, as defined in Paragraph 21 below (Effective Date), and should be
26 made payable in the form of a cashier’s check or Automated Clearing House deposit to the
27 “Department of Business Oversight” and if paid by cashier’s check, transmitted to the attention of:
28 Accounting – Enforcement Division, Department of Business of Oversight, 1515 K Street, Suite

1 200, Sacramento, California 95814. Notice of such payment shall be forwarded to: Johnny Vuong,
2 Senior Counsel, Department of Business Oversight, Enforcement Division, 320 West 4th Street,
3 Suite 750, Los Angeles, California 90013.

4 4. Finality. NC Financial acknowledges the Commissioner is ready, willing, and able
5 to proceed with the filing of an administrative enforcement action on the Finding. NC Financial
6 hereby waives the right to any hearings, and to any reconsideration, appeal, or other right to review
7 which may be afforded pursuant to the CFL, the California Administrative Procedure Act, the
8 California Code of Civil Procedure, or any other provision of law. NC Financial further expressly
9 waives any requirement for the filing of an Accusation or a Statement of Issues pursuant to
10 Government Code section 11415.60, subdivision (b). By waiving such rights, NC Financial
11 effectively consents to this Consent Order becoming final.

12 5. Full and Final Settlement. The Parties hereby acknowledge and agree that this
13 Consent Order is intended to constitute a full, final, and complete resolution of the 2016 Exam, the
14 2016 Demand, the 2016 Exam Report, the 2019 Demand and the Finding, and that no further
15 proceedings or actions will be brought by the Commissioner in connection with these matters under
16 the CFL or any other provision of law, excepting therefrom any proceeding to enforce compliance
17 with the terms of this Consent Order.

18 6. Failure to Comply With Consent Order. NC Financial agrees that if it fails to
19 comply with any terms of the Consent Order, following 10 business days from NC Financial's
20 receipt of notice from the Commissioner of NC Financial's failure to comply with any term of this
21 Consent Order, the Commissioner may summarily suspend the CFL license of NC Financial until
22 NC Financial provides evidence of compliance. NC Financial waives any additional notice and
23 hearing rights to contest such summary suspension which may be afforded under the CFL, the
24 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
25 provision of law in connection therewith.

26 7. Information Willfully Withheld or Misrepresented. This Consent Order may be
27 revoked, and the Commissioner may pursue any and all remedies available under the law against NC
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1 Financial if the Commissioner discovers that NC Financial knowingly or willfully withheld
2 information used for and relied upon in this Consent Order.

3 8. Future Actions by Commissioner. If NC Financial fails to comply with any terms of
4 the Consent Order, the Commissioner may institute proceedings for any and all violations otherwise
5 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions
6 against NC Financial, or any of its partners, owners, officers, shareholders, directors, employees or
7 successors for any and all unknown violations of the CFL.

8 9. Headings. The headings to the paragraphs of this Consent Order are for convenience
9 only and will not be deemed a part hereof or affect the construction or interpretation of the
10 provisions hereof.

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

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

22 12. Waiver, Amendments, and Modifications. No waiver, amendment, or modification
23 of this Consent Order will be valid or binding unless it is in writing and signed by each of the
24 Parties. The waiver of any provision of this Consent Order will not be deemed a waiver of any other
25 provision. No waiver by either party of any breach of, or of compliance with, any condition or
26 provision of this Consent Order by the other party will be considered a waiver of any other condition
27 or provision or of the same condition or provision at another time.
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1 13. Full Integration. This Consent Order is the final written expression and the complete
2 and exclusive statement of all the agreements, conditions, promises, representations, and covenants
3 between the parties with respect to the subject matter hereof, and supersedes all prior or
4 contemporaneous agreements, negotiations, representations, understandings, and discussions
5 between and among the parties, their respective representatives, and any other person or entity, with
6 respect to the subject matter covered hereby.

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

11 15. Counterparts. This Consent Order may be executed in one or more separate
12 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
13 together constitute a single document.

14 16. Voluntary Agreement. NC Financial enters into this Consent Order voluntarily and
15 without coercion and acknowledges that no promises, threats or assurances have been made by the
16 Commissioner or any officer, or agent thereof, about this Consent Order. The Parties each represent
17 and acknowledge that he, she or it is executing this Consent Order completely voluntarily and
18 without any duress or undue influence of any kind from any source.

19 17. Effect Upon Future Proceedings. If NC Financial applies for any license, permit or
20 qualification under the Commissioner's current or future jurisdiction, or is the subject of any future
21 action by the Commissioner to enforce this Consent Order, then the subject matter herof shall be
22 admitted for the purpose of such application or proceeding.

23 18. Signatures. A fax or electronic mail signature shall be deemed the same as an
24 original signature.

25 19. Public Record. NC Financial hereby acknowledges that this Consent Order is and
26 will be a matter of public record.

27 20. Notice. Any notice required under this Settlement Agreement is to be provided to
28 each party at the following addresses:

1 To NC Financial: Scott Pearson, Esq., Manatt, Phelps & Phillips, LLP, at:
2 SPearson@manatt.com.

3 NC Financial Legal, at:
4 legal@enova.com.

5 To the Commissioner: Johnny Vuong, Department of Business Oversight at:
6 Johnny.Vuong@dbo.ca.gov.

7 21. Effective Date. This Consent Order shall become final and effective when signed by
8 all parties and delivered by the Commissioner's counsel via e-mail to NC Financial's counsel at:
9 SPearson@manatt.com.

10 22. Third Party Actions. It is the intent and understanding between the Parties that this
11 Consent Order does not create any private rights or remedies against NC Financial or create any
12 liability for NC Financial or limit the defense of NC Financial against any person or entity not a party
13 to this Consent Order. Further, entering this Consent Order does not constitute an admission of
14 wrongdoing or violation of law, statute, or regulation.

15 23. Presumption from Drafting. In that the Parties have had the opportunity to draft,
16 review and edit the language of this Consent Order, no presumption for or against any party arising
17 out of drafting all or any part of this Consent Order will apply in construing this Consent Order.
18 Accordingly, the Parties waive the benefit of Civil Code section 1654 as amended or any successor
19 statute, which provides that in case of uncertainty, language of a contract should be interpreted most
20 strongly against the party that cause the uncertainty to exist.

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

24 Dated: July 13, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

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26 By _____
MARY ANN SMITH
27 Deputy Commissioner
28 Enforcement Division

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Dated: July 13, 2020

NC FINANCIAL SOLUTIONS OF CALIFORNIA, LLC

By _____
SEAN RAHILLY