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Deputy Commissioner  
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8  
9 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
10 OF THE STATE OF CALIFORNIA

11  
12 In the Matter of: )  
13 THE COMMISSIONER OF FINANCIAL ) CONSENT ORDER  
PROTECTION AND INNOVATION, )  
14 )  
15 Complainant, )  
16 v. )  
17 FRANKIE DUENAS, )  
18 Respondent. )  
19 )  
20 )  
21 )  
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23 The Commissioner of Financial Protection and Innovation (Commissioner) and Frankie  
24 Duenas (Duenas or Respondent) enter into this Consent Order (the Consent Order) with respect to  
25 the following facts:

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**I.**

**RECITALS**

A. The Commissioner has jurisdiction over the licensing and regulation of credit unions in this state under California Financial Code section 550 et seq.

B. At all relevant times, Cabrillo Credit Union (Credit Union) is and was a credit union, duly licensed as a credit union in this state. Credit Union’s principal place of business is 10075 Carroll Canyon Road, Suite 200, San Diego, California 92131.

C. At all relevant times Frankie Duenas was Credit Union’s Chief Technology Officer.

D. In 2017, Credit Union’s then Chief Executive Officer decided to eliminate the executive employee benefit of use of a company car and offered the particular vehicle for purchase to that employee. Thereafter, Credit Union, not Respondent, set the purchase price as the then existing book value.

E. On February 6, 2018, Respondent entered into a contract with Credit Union to purchase from the Credit Union the company car, a 2017 Land Rover Discovery Sport HSE Lux Sport Utility, Vin SALCT2BG0HH649846 (“Purchased Vehicle”). The purchase price of the Purchased Vehicle was \$30,981.12, the book value of the Purchased Vehicle The Commissioner asserts that on or about February 6, 2018, the market value of the Purchase Vehicle was \$43,040.00.

F. Respondent neither admits nor denies the Commissioner’s assertion of the Purchased Vehicle’s market value.

G. Financial Code section 14765 provides as follows, “No officer, director, or employee of a credit union shall purchase, directly or indirectly or be interested in the purchase of, any of the credit union’s assets for an amount less than the then current market value thereof. Every person violating this section shall be liable to the people of this state for each offence in the amount of twice the market value of the assets so purchased.”

H. Based on the Commissioner’s assertion of market value, the Commissioner of Financial Protection and Innovation is of the opinion that Respondent violated Financial Code section 14765 by purchasing an asset of a state-chartered credit union for less than the then-current

1 market value. Respondent neither admits nor denies the Commissioner’s assertion.

2 I. Respondent has cooperated with the Division’s investigation and has agreed to  
3 address any financial injury to the Credit Union by paying to the Credit Union the difference  
4 between the purchase price of the Purchased Vehicle and the Market Value of the Purchased  
5 Vehicle asserted by the Commissioner, plus interest and other amounts.

6 J. Now, it is the intention of Duenas and the Commissioner (the Parties) to resolve  
7 this matter without an administrative hearing or other litigation.

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

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

12 **II.**

13 **TERMS AND CONDITIONS**

14 1. Purpose. This Consent Order resolves the issues before the Commissioner in a  
15 manner that avoids the expense of a hearing and other possible court proceedings, protects  
16 consumers, is in the public interest, and is consistent with the purposes, policies, and provisions of  
17 the applicable law.

18 2. Administrative Penalty. Respondent shall pay an administrative penalty of  
19 \$24,000.00 no later than 120 days after the effective date of this Consent Order as defined in  
20 paragraph 19. The penalty must be made payable in the form of a cashier’s check or Automated  
21 Clearing House deposit to the Department of Financial Protection and Innovation and transmitted  
22 to the attention of Accounting – Litigation, at the Department of Financial Protection and  
23 Innovation, 2101 Arena Boulevard , Sacramento, California 95834. Notice of the payment must be  
24 concurrently sent to Paul Yee, Senior Counsel, Department of Financial Protection and Innovation,  
25 One Sansome Street, Suite 600, San Francisco, California 94104.

26 3. Waiver of Hearing Rights. Respondent acknowledges the Commissioner is ready,  
27 willing, and able to proceed with the filing of an administrative enforcement action on the charges  
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1 contained in this Consent Order. Respondent hereby waives the right to any hearings, and to any  
2 reconsideration, appeal, or other right to review which may be afforded pursuant to the Financial  
3 Code, the California Administrative Procedure Act, the California Code of Civil Procedure, or any  
4 other provision of law. By waiving such rights, Respondent effectively consents to this Consent  
5 Order becoming final.

6 4. Full and Final Settlement. Respondent hereby acknowledges and agrees that the  
7 Consent Order is intended to constitute a full, final, and complete resolution of Respondent’s  
8 alleged violation set forth in the Recitals (Alleged Violation), and that no further proceedings or  
9 actions will be brought by the Commissioner against Respondent based on the Alleged Violation or  
10 any other provision of law, excepting any proceeding to enforce compliance with the terms of this  
11 Consent Order or action if such proceeding is based upon discovery of new and further alleged  
12 violations of the Financial Code that do not form the basis for the Consent Order or which  
13 Respondent knowingly concealed from the Commissioner.

14 5. Information Willfully Withheld. The Consent Order may be revoked if the  
15 Commissioner later finds out that Respondent knowingly or willfully withheld information used and  
16 relied upon in the Consent Order.

17 6. Assisting Other Agencies. The Parties further acknowledge and agree that nothing in  
18 the Consent Order shall limit the Commissioner’s ability to assist any other agency (city, county,  
19 state, or federal) with any prosecution, administrative, civil, or criminal, brought by any such agency  
20 against Respondent or any other person based upon any of the activities alleged in this matter or  
21 otherwise.

22 7. 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 8. Binding. The Consent Order is binding on all heirs, assigns, or successors in interest.

26 9. Reliance. Each of the Parties represents, warrants, and agrees that in executing this  
27 Consent Order, he/she/it has relied solely on the statements set forth herein and the advice of their  
28 own counsel. Each of the Parties further represents, warrants, and agrees that in executing this

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

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8 10. 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 11. Full Integration. This Consent Order is the final written expression and the complete  
15 and 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 12. Governing Law. This Consent Order will be governed by and construed in  
21 accordance with California law. Each of the Parties hereto consents to the jurisdiction of such court,  
22 and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient  
23 forum to the maintenance of such action or proceeding in such court.

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

27 14. Effect Upon Future Proceedings. If Respondent is the subject of any future action by  
28 the Commissioner to enforce this Consent Order, then the subject matter hereof shall be admitted for

1 the purpose of such enforcement proceedings(s).

2 15. Voluntary Agreement. Respondent enters into the Consent Order voluntarily and  
3 without coercion and acknowledges that no promises, threats, or assurances have been made by the  
4 Commissioner, or any officer or agent thereof, about the Consent Order.

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6 16. Notice. Any notices required under the Consent Order shall be provided to  
7 each Party at the following addresses:

8 If to Respondent to: Frankie Duenas  
9 c/o Bradford Hardin, Esq.  
10 Davis, Wright & Tremaine  
11 1301 K Street, NW, Suite 500  
12 Washington, D.C. 20005  
13 Email: [bradfordhardin@dwt.com](mailto:bradfordhardin@dwt.com)

14 If to the Commissioner to: Paul Yee, Senior Counsel  
15 Department of Financial Protection and Innovation  
16 One Sansome Street, Suite 600  
17 San Francisco, California 94104-4448  
18 Email: [Paul.Yee@dfpi.ca.gov](mailto:Paul.Yee@dfpi.ca.gov)

19 17. Signatures. An electronic signature, or a faxed, photocopied, or scanned copy of an  
20 original signature, shall be deemed the same as an original signature.

21 18. Public Record. Respondent acknowledges that this Consent Order shall be matters of  
22 public record.

23 19. Effective Date. The Consent Order shall become final and effective when signed by  
24 all Parties and delivered by the Commissioner’s agent to Respondent’s counsel Bradford Hardin via  
25 e-mail at [bradfordhardin@dwt.com](mailto:bradfordhardin@dwt.com).

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

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IN WITNESS WHEREOF, the Parties hereto have approved and executed the Consent Order on the dates set forth opposite their respective signatures.

Dated: January 4, 2021

MANUEL P. ALVAREZ  
Commissioner of Financial Protection and Innovation

By \_\_\_\_\_

MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division

Dated: December 21, 2020

By \_\_\_\_\_

FRANKIE DUENAS  
Respondent