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STATE OF CALIFORNIA
BUSINESS, CONSUMER SERVICES AND HOUSING AGENCY
DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

TO: Native Capital Inc
7923 Warner Avenue, Suite J
Huntington Beach, California 92647

DESIST AND REFRAIN ORDER

(For violations of Financial Code section 22100, subdivision (a))

The Commissioner of Financial Protection and Innovation finds that:

1. Native Capital Inc (Native Capital) is a California corporation with its principal place of business at 7923 Warner Avenue, Suite J, Huntington Beach, California 92647.
2. The Commissioner has jurisdiction over the licensing and regulation of persons and entities engaged in the business of finance lending or brokering under the California Financing Law (CFL) (Fin. Code, § 22000 et seq.).
3. “No person shall engage in the business of a finance lender or broker without obtaining a license” from the Commissioner. (Fin. Code, § 22100, subd. (a).)
4. “‘Broker’ includes any person who is engaged in the business of negotiating or performing any act as broker in connection with loans made by a finance lender.” (Fin. Code, § 22004.)
5. Collecting a loan application or application data and transmitting it to a finance lender licensed under the CFL for the purpose of making a CFL loan is an act of a broker. (See Fin. Code, § 22602, subd. (c) [in commercial-loan context, inferentially listing acts that require broker license, including counseling or advising borrower about loan, participating in preparation of loan documents, including credit applications, gathering loan documentation from borrower or delivering it to lender, and obtaining borrower’s signature on document]; Cal. Code Regs., tit. 10, §§ 1422, subd. (c) [CFL-licensed lenders “may not pay compensation for brokerage services (i.e., brokerage commission, finder’s fee, referral fees, etc.) to anyone not licensed as a broker” under CFL], 1451, subd. (c) [providing that CFL-licensed lender may compensate certain exempted persons for

1 “performing services as a broker” but “shall [not] pay any compensation to an unlicensed person or
2 company for soliciting or accepting applications for loans”]; Sen. Com. on Banking & Fin. Insts.,
3 Analysis of Sen. Bill No. 197 (2015-2016 Reg. Sess.) as amended Aug. 31, 2015, p. 4 [“Existing
4 [CFL] regulations prohibit [CFL] licensees from paying any compensation to any person or
5 company that is unlicensed, in exchange for the referral of business.”].)

6 6. On January 26, 2018, Native Capital filed an application for a finance lender and
7 broker license under the CFL.

8 7. During review of the application, the Commissioner found the following:

9 a. Native Capital is an independent sales organization (ISO) that refers small-
10 business borrowers to CFL-licensed commercial lenders in exchange for commissions.

11 b. In May 2018, Native Capital represented to the Commissioner that it had
12 made referrals to Partners Capital Group, Inc. (Partners Capital), a CFL-licensed lender, and
13 received a commission from Partners Capital for “every approved and funded applicant.”

14 c. As part of the referral process, Native Capital ensured that borrowers met
15 lenders’ underwriting criteria, including by having them complete a commercial credit application
16 provided by the lender and rebranded (or “white-labelled”) with Native Capital’s name and logo.
17 The application collected information about the business and an owner, officer, or shareholder of the
18 business, including the legal business name, fictitious business name, mailing address, phone
19 number, business description, date of birth, Social Security number, requested loan terms, and
20 borrower’s signature.

21 d. From October 1, 2015, to June 30, 2018, Native Capital made 50 approved or
22 funded referrals to Partners Capital and received a commission for each.

23 8. On August 2, 2018, Native Capital requested to withdraw its application.

24 9. On June 10, 2020, the Commissioner accepted Native Capital’s request to withdraw
25 its application.

26 10. Native Capital has never been issued a license authorizing it to engage in business as
27 a finance lender or broker in California. At all relevant times, Native Capital was not exempt from
28 the licensing requirement of Financial Code section 22100, subdivision (a).

1 11. Under Financial Code section 22172, subdivision (a), whenever, in the opinion of the
2 Commissioner, any person is engaged in business as a finance lender or broker without a license
3 from the Commissioner or violates any provision of the CFL or of an order or any regulation adopted
4 under the CFL, the Commissioner “may order that person or licensee to desist and to refrain from
5 engaging in the business or further continuing that violation.”

6 Based on the foregoing, the Commissioner is of the opinion that Native Capital Inc has
7 engaged in the business of a finance broker without first obtaining a license in violation of Financial
8 Code section 22100, subdivision (a).

9 Accordingly, under Financial Code section 22172, subdivision (a), Native Capital Inc is
10 hereby ordered to desist and refrain from engaging in the business of a finance broker in California
11 without first obtaining a license from the Commissioner.

12 This Order is necessary, in the public interest, for the protection of consumers, and consistent
13 with the purposes, policies, and provisions of the California Financing Law. This Order shall remain
14 in full force and effect until further order of the Commissioner.

15 Dated: April 21, 2021
16 Los Angeles, California

MANUEL P. ALVAREZ
Commissioner of Financial Protection and Innovation



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19 By _____
20 MARY ANN SMITH
21 Deputy Commissioner
22 Enforcement Division
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