

1 CLOTHILDE V. HEWLETT
Commissioner
2 MARY ANN SMITH
Deputy Commissioner
3 DANIEL P. O’DONNELL
Assistant Chief Counsel
4 RYAN CASSIDY (State Bar No. 340274)
Counsel
5
6 Department of Financial Protection and Innovation
2101 Arena Boulevard
7 Sacramento, CA 95834
Telephone: (916) 764-8358
8 Fax: (916) 928-7929

9 Attorneys for Complainant

10
11 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
OF THE STATE OF CALIFORNIA

12 In the Matter of:)
13)
14 THE COMMISSIONER OF FINANCIAL) CFL LICENSE No: 603G917
PROTECTION AND INNOVATION,)
15) **CONSENT ORDER**
16 Complainant.)
17)
18 v.)
19 NORTHMARQ FINANCE, LLC,)
20 Respondent.)

21 This Consent Order is entered into between the Commissioner of Financial Protection and
22 Innovation (Complainant or Commissioner) and Respondent Licensee Legal Name (Respondent)
23 and is made with respect to the following facts:

24 **I.**
25 **RECITALS**

26 A. The Commissioner has jurisdiction over the licensing and regulation of persons and
27 entities engaged in the business of finance lending or brokering under the California Financing Law

28 ///

1 (CFL) (Fin. Code, § 22000 et seq.).¹

2 B. NORTHMARQ FINANCE, LLC (Respondent) is a Nebraska limited liability
3 company.

4 C. Respondent has a principal place of business at 1125 S. 103rd Street, Suite 130
5 Omaha, Nebraska 68124.

6 D. Respondent is licensed as a finance lender and broker under the California Financing
7 Law (CFL) (Fin. Code, § 22000, et seq.) with license number 603G917.

8 E. Under Financial Code section 22150, Complainant may make general rules and
9 regulations and specific rulings, demands, and findings for the enforcement of, and within the
10 general purposes of, the CFL.

11 F. Pursuant to a Commissioner’s Order on Electronic Communications, dated November
12 22, 2013, each CFL licensee must establish an email address for communications from the
13 Commissioner (Designated Email Address).

14 G. Under California Code of Regulations, Title 10, Section 1422.4 (Regulation 1422.4),
15 which went into effect on October 1, 2021, all CFL licensees were required to transition to the
16 Nationwide Multistate Licensing System and Registry (NMLS) by December 31, 2021. On
17 December 16, 2021, Complainant extended the deadline to transition to NMLS to March 15, 2022.
18 On March 7, 2022, Complainant again extended the deadline to transition to NMLS to March 31,
19 2022.

20 H. Complainant provided notice of this requirement to Respondent – via email to the
21 Designated Email Address of each CFL licensee on July 20, 2021, September 16, 2021, October 14,
22 2021, November 8, 2021, and December 16, 2021. Complainant also provided notice via email to
23 each CFL licensee that had not yet transitioned to NMLS, including Respondent, on March 7, 2022,
24 and again via email and mail on March 28, 2022. Complainant provided further notice of this
25 requirement over the telephone – Complainant made at least two calls to the designated telephone
26 number provided by each CFL licensee, including Respondent – between February 1 and March 15,
27 _____

28 ¹ Cal. Fin. Code § 22000, *et seq.* All subsequent statutory references are to the California Financial Code unless otherwise specified.

1 2022.

2 I. Complainant determined that Respondent was in violation of Regulation 1422.4 and
3 had not transitioned management of its CFL license to NMLS as of August 5, 2022. Accordingly,
4 Complainant issued a Citation on that date pursuant to Financial Code section 22707.5, subdivision
5 (a). The Citation included an order to correct the violation and an order to pay an administrative fine
6 in the amount of \$2,500.00 to the Commissioner by October 4, 2022.

7 J. Complainant served the Citation on Respondent via certified mail on August 5, 2022
8 and by electronic mail at Respondent’s Designated Email Address on August 5, 2022.

9 K. To date, Respondent has neither complied with the order to correct the violation by
10 transitioning its license to NMLS nor paid the administrative fine.

11 L. The Commissioner finds that entering into this Consent Order is in the public interest
12 and consistent with the purposes fairly intended by the policies and provisions of the CFL.

13 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set
14 forth herein, the parties agree as follows:

15 **II.**

16 **TERMS AND CONDITIONS**

17 1. Purpose. The parties intend to resolve this matter for the purpose of judicial economy
18 and expediency and without the uncertainty and expense of a hearing or other litigation.

19 2. Transition to NMLS. Respondent shall complete the transition of its license to NMLS
20 as required by Regulation 1422.4 within 30 days of the effective date of this Consent Order as
21 defined in paragraph 24.

22 3. Administrative Penalty. Respondent shall pay an administrative penalty of \$2,500.00
23 no later than 30 days after the effective date of this Consent Order as defined in paragraph 24. The
24 penalty must be made payable in the form of a cashier’s check or Automated Clearing House deposit
25 to the Department of Financial Protection and Innovation and transmitted to the attention of
26 Accounting – Litigation, Department of Financial Protection and Innovation, 2101 Arena Boulevard,
27 Sacramento, California 95834. Notice of the payment must be concurrently sent to Ryan M. Cassidy,
28 ///

1 Counsel, Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento,
2 California 95834/Ryan.Cassidy@dfpi.ca.gov.

3 4. Failure to Transition License to NMLS or Pay Administrative Penalty. If Respondent
4 fails to comply with paragraphs 2 or 3, the Commissioner may summarily revoke Respondent’s
5 license.

6 5. Waiver of Notice and Hearing Rights. Respondent acknowledges the Commissioner
7 is ready, willing, and able to file an accusation to revoke Respondent’s license pursuant to Financial
8 Code section 22714 and proceed with a hearing on the accusation. Respondent hereby waives the
9 right to any notice or hearings, and to any reconsideration, appeal, or other right to review which
10 may be afforded pursuant to the CFL, the California Administrative Procedure Act, the California
11 Code of Civil Procedure, or any other provision of law. By waiving such rights, Respondent
12 effectively consents to this Consent Order becoming final.

13 6. Full and Final Resolution. The parties hereby acknowledge and agree that this
14 Consent Order is intended to constitute a full and final resolution of the violations described herein,
15 and that no further proceedings or actions will be brought by the Commissioner in connection with
16 these matters except under the CFL or any other provision of law, excepting therefrom any
17 proceeding to enforce compliance with the terms of this Consent Order.

18 7. Information Willfully Withheld or Misrepresented. This Consent Order may be
19 revoked, and the Commissioner may pursue any and all remedies available under law against
20 Respondent if the Commissioner discovers that Respondent knowingly or willfully withheld or
21 misrepresented information used for and relied upon in this Consent Order.

22 8. Future Actions by Commissioner. If Respondent fails to comply with the terms of the
23 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise
24 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions
25 against Respondent, or any of its partners, owners, officers, shareholders, directors, employees, or
26 successors for any and all unknown violations of this CFL.

27 9. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner’s
28 ability to assist any other government agency (city, county, state or federal) with any prosecution,

1 administrative, civil or criminal action brought by that agency against Respondent or any other
2 person based on any of the activities alleged in this matter or otherwise.

3 10. No Presumption Against Drafter. Each party acknowledges that it has had the
4 opportunity to draft, review, and edit the language of this Consent Order. Accordingly, the parties
5 intend no presumption for or against the drafting party will apply in construing any part of this
6 Consent Order. The parties waive the benefit of Civil Code section 1654 as amended or
7 corresponding provisions of any successor statute, which provide that in cases of uncertainty,
8 language of a contract should be interpreted most strongly against the party who caused the
9 uncertainty to exist.

10 11. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it
11 has had the opportunity to receive independent advice from an attorney(s) and/or representatives
12 with respect to the advisability of executing this Consent Order.

13 12. Headings. The headings to the paragraphs of this Consent Order are inserted for
14 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
15 the provisions hereof.

16 13. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in
17 interest.

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

27 15. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
28 ///

1 this Consent Order will be valid or binding unless it is in writing and signed by each of the parties.
2 The waiver of any provision of this Consent Order will not be deemed a waiver of any other
3 provision. No waiver by either party of any breach of, or of compliance with, any condition or
4 provision of this Consent Order by the other party will be considered a waiver of any other condition
5 or provision or of the same condition or provision at another time.

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

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

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

19 19. Effect Upon Future Proceedings. If Respondent applies for any license, permit or
20 qualification under the Commissioner’s current jurisdiction, or are the subject of any future action by
21 the Commissioner to enforce this Consent Order, then the subject matter hereof shall be admitted for
22 the purpose of such application(s) or enforcement proceeding(s).

23 20. Voluntary Agreement. Respondent hereby enters into this Consent Order voluntarily
24 and without coercion and acknowledges that no promises, threats, or assurances have been made by
25 the Commissioner or any officer, or agent thereof, about this Consent Order. The parties each
26 represent and acknowledge that he, she or it is executing this Consent Order completely voluntarily
27 and without any duress or undue influence of any kind from any source.

28 ///

1 21. Notice. Any notice required under this Consent Order shall be provided to each party
2 at the following addresses:

3 To Respondent: Northmarq Finance, LLC
4 Jan Ehresman
5 1125 S. 103rd Street, Suite 130
6 Omaha, NE 68124
7 Jehresman@northmarq.com

8 To the Commissioner: Ryan M. Cassidy, Counsel
9 Department of Financial Protection and Innovation
10 2101 Arena Blvd
11 Sacramento, California 95691
12 Ryan.Cassidy@dfpi.ca.gov

13 22. Signatures. A fax or electronic mail signature shall be deemed the same as an original
14 signature.

15 23. Public Record. Respondent hereby acknowledges that the Consent Order is and will
16 be a matter of public record.

17 24. Effective Date. This Consent Order shall become final and effective when signed by
18 all parties and delivered by the Commissioner’s agent via e-mail to Respondent at the following
19 email address: Jehresman@northmarq.com.

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

23 Dated: February 7, 2023
24 Sacramento, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



25 By _____
26 Mary Ann Smith
27 Deputy Commissioner
28 Enforcement Division

Dated: February 7, 2023

NORTHMARQ FINANCE, LLC

By _____
Jan Ehresman, SVP and Controller