

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)
5 Counsel
6 Department of Financial Protection and Innovation
2101 Arena Boulevard
7 Sacramento, CA 95834
8 Telephone: (916) 764-8358

9 Attorneys for Complainant

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

12 In the Matter of:

CONSENT ORDER

13 THE COMMISSIONER OF FINANCIAL
14 PROTECTION AND INNOVATION,

15 Complainant,

16 v.

17 MASS CAPITAL ACCESS, INC., MICHAEL
18 LOIACONO,

19 Respondents.

20 The Commissioner of Financial Protection and Innovation (Commissioner) and respondent
21 Mass Capital Access, Inc. (Mass Capital) and respondent Michael Loiacono (Loiacono) (collectively,
22 the Respondents) enter into this Consent Order with respect to the following facts:

23 I.

24 **RECITALS**

25 A. The Commissioner has jurisdiction over the licensing and regulation of persons and entities
26 engaged in the business of finance lending or brokering under the California Financing Law (Cal.
27 Fin. Code § 22000 – 22780.1) (CFL).

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1 B. At all relevant times, Mass Capital Access, Inc. (Mass Capital) is and was, a Florida
2 corporation, with a stated address of 4000 Hollywood Blvd, Suite 285S, Hollywood, Florida 33021.
3 Mass Capital operates and maintains the website masscapitalaccess.com.

4 C. At all relevant times, Michael Loiacono is and was the chief executive officer, chief financial
5 officer, secretary, and owner of Mass Capital.

6 D. From December 7, 2018 through April 16, 2021, Mass Capital was licensed as a finance
7 broker under the CFL (CFL License Number 60DBO-90654). On April 16, 2021, Mass Capital's
8 license was summarily revoked due to its failure to file its Annual Report as required by Financial
9 Code section 22159.

10 E. Since April 16, 2021, the Commissioner has not issued a license to Mass Capital, authorizing
11 it to engage in the business of a finance lender and/or broker under the California Finance Lenders
12 Law. Mass Capital is not exempt from the licensing requirements of California Financial Code
13 section 22100.

14 F. During the period between February 23, 2022 and December 19, 2022, Mass Capital engaged
15 in the business of a finance lender and broker by mass soliciting California residents.

16 G. Since at least January 19, 2023, Mass Capital advertised on its website,
17 masscapitalaccess.com, that it holds a "California Finance & Lenders License 60DBO-90654."
18 However, Mass Capital has not held a finance broker or lender license under the CFL, in the State of
19 California since April 16, 2021.

20 **FINDINGS**

21 H. The Commissioner is of the opinion that Mass Capital engaged in the business of a finance
22 lender and broker by mass soliciting California residents, in violation of Financial Code section
23 22100.

24 I. The Commissioner is of the opinion that Mass Capital engaged in false and misleading
25 advertising practices, by advertising on its website, masscapitalaccess.com, that it holds a "California
26 Finance & Lenders License 60DBO-90654" when no such license is held by Mass Capital, Mass
27 Capital and Loiacono, in violation of Financial Code section 22161 (a)(3).

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1 J. Without admitting or denying the Commissioner’s findings as set forth in paragraphs F – I,
2 Respondents desire to enter into this Consent Order, which the Commissioner finds is appropriate, in
3 the public interest, and consistent with the purposes fairly intended by the CFL.

4 K. NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions set forth
5 herein, the Parties agree as follows:

6 **II.**

7 **TERMS AND CONDITIONS**

8 1. Purpose. This Consent Order resolves the issues before the Commissioner, set forth
9 above, in a manner that avoids the expense of a hearing and other possible court proceedings, protects
10 consumers, is in the public interest, and is consistent with the purposes and provisions of the CFL.

11 2. Bar Order. Michael Loiacono hereby agrees to the immediate issuance by the
12 Commissioner of an order barring Michael Loiacono from any position of employment, management,
13 or control of any finance lender or broker. A copy of the bar order is attached and incorporated as
14 Exhibit A.

15 3. Administrative Penalty. Respondent shall pay an administrative penalty of \$2,500.00
16 no later than 30 days after the Effective Date of this Consent Order as defined in paragraph 22. The
17 penalty must be made payable in the form of a cashier’s check or Automated Clearing House deposit
18 to the Department of Financial Protection and Innovation and transmitted to the attention of
19 Accounting – Litigation, Department of Financial Protection and Innovation, 2101 Arena Boulevard,
20 Sacramento, California 95834. Notice of the payment must be concurrently sent to Ryan M. Cassidy,
21 Counsel, Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento,
22 California 95834/Ryan.Cassidy@dfpi.ca.gov.

23 4. Desist and Refrain Order for Violations of Section 22100. Pursuant to Financial Code
24 section 22100, Respondents are hereby ordered to desist and refrain from engaging in the business of
25 a finance lender and/or broker, without having first obtained a license from the Commissioner in
26 violation of California Financial Code section 22100.

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1 5. Desist and Refrain Order for Violations of Section 22161. Pursuant to Financial Code
2 section 22100, Respondents are hereby ordered to desist and refrain from engaging in false and
3 deceptive advertising practices, in violation of California Financial Code section 22161.

4 6. Waiver of Hearing Rights. Respondents acknowledge that the Commissioner is ready,
5 willing, and able to proceed with the filing of an administrative enforcement action on the charges
6 contained in this Consent Order. Respondents hereby waive the right to any hearings, and to any
7 reconsideration, appeal, or other right to review which may be afforded pursuant to the CFL, the
8 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
9 provision of law. Respondents further expressly waive any requirement for the filing of an action
10 pursuant to Government Code section 11415.60 (b). By waiving such rights, Respondents effectively
11 consent to this Consent Order and all the terms becoming final.

12 7. Information Willfully Withheld or Misrepresented. This Consent Order may be
13 revoked, and the Commissioner may pursue any and all remedies available under law against
14 Respondents if the Commissioner discovers that Respondents knowingly or willfully withheld or
15 misrepresented information used for and relied upon in this Consent Order.

16 8. Future Actions by Commissioner. If Mass Capital or Loiacono fail to comply with any
17 terms of the Consent Order, the Commissioner may institute proceedings for any and all violations
18 otherwise resolved under this Consent Order. The Commissioner reserves the right to bring any future
19 actions against Respondents, for any and all unknown violations of the CFL or any other law under
20 the Commissioner's jurisdiction.

21 9. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner's
22 ability to assist any other government agency (whether city, county, state, or federal) with any
23 administrative, civil or criminal action brought by that agency against Respondents or any other
24 person based upon any of the activities alleged in this matter or otherwise.

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

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

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

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

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

24 15. Governing Law. This Consent Order will be governed by and construed in accordance
25 with California law. Each of the Parties hereto consents to the jurisdiction of such court, and hereby
26 irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the
27 maintenance of such action or proceeding in such court.

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1 23. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary
2 capacity and authority to sign and enter into this Consent Order and undertake the obligations set
3 forth herein.

4 Dated: August 18, 2023
5 Sacramento, California

CLOTHILDE V. HEWLETT
Commissioner
Department of Financial Protection and Innovation



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7 By _____
8 MARY ANN SMITH
9 Deputy Commissioner
Enforcement Division

10 Dated: August 18, 2023

11 By _____
12 MICHAEL LOIACONO, as an Individual and for
13 MASS CAPITAL ACCESS, INC.
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