

Terms Complete
ORDER SUMMARY – Case C-11-0795

Name(s): Network Capital Funding Corporation (NCFC)
Tri Minh Nguyen

Order Number: C-11-0795-13-CO06

Effective Date: October 1, 2013

License Number: NCFC: 11712 / Nguyen: 12417
Or NMLS Identifier [U/L]

License Effect: Complied with Order. Revocation stayed. Terms Complete.

Not Apply Until: _____

Not Eligible Until: _____

Prohibition/Ban Until: _____

Investigation Costs	\$4,675.43		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 10/1/13
Fine	\$40,000		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 4/2/14
Assessment(s)	\$		Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$98,377		Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 6/17/2014
Judgment	\$		Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?	<input type="checkbox"/> Y <input type="checkbox"/> N			
No. of Victims:	36			

Comments: NCFC required to maintain in-house compliance team. Tri Nguyen is not permitted to act as a compliance officer

for NCFC.

SEP 27 2013

Enforcement Unit
Division of Consumer Services
Dept. of Financial Institutions1
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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

IN THE MATTER OF DETERMINING:
Whether there has been a violation of the
Consumer Loan Act of Washington by:

No.: C-11-0795-13-CO06

CONSENT ORDER

NETWORK CAPITAL FUNDING
CORPORATION, NMLS # 11712 and
TRI MINH NGUYEN, CEO and 100% Owner,
NMLS #12417,

Respondents.

COME NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Network Capital Funding Corporation (Respondent Network Capital) and Tri Minh Nguyen, CEO and 100% Owner (Respondent Nguyen), and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.04 of the Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-11-0795-12-SC01 (Statement of Charges), entered December 11, 2012, (copy attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree that the issues raised in the above-captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

CONSENT ORDER
C-11-0795-13-CO06
NETWORK CAPITAL FUNDING CORPORATION
AND TRI MINH NGUYEN, CEO AND 100% OWNER

1

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 Based upon the foregoing:

2 **A. Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter
3 of the activities discussed herein.

4 **B. Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a
5 hearing before an administrative law judge, and hereby waive their right to a hearing and any and all
6 administrative and judicial review of the issues raised in this matter, or of the resolution reached
7 herein. Accordingly, Respondents, by their signatures and the signatures of their representatives
8 below, withdraw their Application for Adjudicative Hearing from the Office of Administrative
9 Hearings.

10 **C. No Admission of Liability.** It is AGREED that Respondents neither admit nor deny any
11 wrongdoing by entry of this Consent Order.

12 **D. Stayed License Revocation.** It is AGREED that Respondent Network Capital's license
13 to conduct business as a consumer loan company is subject to revocation. It is further AGREED that
14 said revocation shall be stayed for a period of twelve (12) months, and that Respondent Network
15 Capital shall be subject to a compliance examination during the twelve (12) month stayed revocation
16 to be conducted by the Department at the Department's discretion and pursuant to the requirements of
17 WAC 208-660-510. It is further AGREED that the examination will cover the time period from the
18 date of entry of the Consent Order forward. Respondents AGREE to pay all costs associated with
19 this examination within 30 days of receipt of an invoice. Respondents further AGREE to promptly
20 respond to and address any and all issues, if any, identified in the compliance examination to the
21 satisfaction of the Department. It is further AGREED that if the Department does not seek to lift the
22 stay and impose the revocation within the twelve (12) month stay period, said revocation will be
23 deemed withdrawn without further action being required by either party. Subject to Paragraph E,

24 nothing in this Consent Order shall prohibit Respondent Network Capital from continuing to

1 originate loans pursuant to its Washington Consumer Loan License during the period of stayed
2 revocation imposed by this Consent Order.

3 **E. Lifting of Stay and Imposing Revocation.** It is AGREED that:

- 4 1. If as a result of the compliance examination set forth above the Department
5 determines that Respondent Network Capital has not complied with the Act to a
6 degree sufficient to warrant revocation, and the Department accordingly seeks to
7 lift the stay and impose the revocation set forth in section C above, the Department
8 will first notify Respondent Network Capital in writing of its determination.
- 9 2. The Department's notification will include:
- 10 a) A description of the alleged noncompliance;
 - 11 b) A statement that because of the noncompliance, the Department seeks
12 to lift the stay and impose the revocation;
 - 13 c) The opportunity for Respondent Network Capital to contest the
14 Department's determination of noncompliance in an administrative
15 hearing before an Administrative Law Judge (ALJ) from the Office of
16 Administrative Hearings (OAH); and
 - 17 d) A copy of this Consent Order. The notification and hearing process
18 provided in this Consent Order applies only to this Consent Order. It is
19 solely provided in the event Respondent Network Capital chooses to
20 contest the Department's determination of noncompliance.
- 21 3. Respondent Network Capital will be afforded ten (10) business days from the date
22 of receipt of the Department's notification to submit a written request to the
23 Department for an administrative hearing to be held before an ALJ of OAH.
- 24 4. Respondent Network Capital, in addition to its request for hearing, may provide a
written response to include any information pertaining to the alleged
noncompliance.
5. The administrative hearing shall be expedited and follow the timing and processes
described in this Consent Order.
6. If requested, the hearing will be held within 15 business days (or as soon as the
schedule of the ALJ permits) from the due date for Respondent Network Capital's
request for hearing or from the date of receipt of Respondent Network Capital's
timely request for hearing, whichever is sooner. The parties will accommodate the
prompt scheduling of the hearing.

1 7. The scope and issues of the hearing are limited solely to whether or not
2 Respondent Network Capital is in violation of the Act to a degree sufficient to
warrant license revocation.

3 8. At the conclusion of the hearing, the ALJ will issue an initial decision. Either
4 party may file a Petition for Review with the Director of the Department.

5 9. If Respondent Network Capital does not request the hearing within the stated time,
6 the Department will immediately revoke Respondent Network Capital's consumer
lending license and pursue whatever action it deems necessary to enforce the
revocation.

7 **F. Compliance Team.** It is AGREED that Respondents have stated that an in-house
8 compliance team is now responsible for Respondent Network Capital's compliance with state and
9 federal law. It is further AGREED that Respondents will maintain an in-house compliance team, and
10 that, under no circumstances, is Respondent Nguyen permitted to act as a compliance officer for
11 Respondent Network Capital.

12 **G. Fine.** It is AGREED that Respondents shall pay a fine to the Department in the amount of
13 \$40,000, in the form of a cashier's check made payable to the "Washington State Treasurer," within
14 six months of entry of this Consent Order. Failure to pay this fine within six months shall cause the
15 stay of revocation of Respondent Network Capital's consumer loan license to be lifted without
16 further notice to Respondents.

17 **H. Restitution.** It is AGREED that Respondents shall pay restitution to the consumers
18 identified in the attached Appendix totaling \$98,377 within six months of entry of this Consent
19 Order. It is further AGREED that Respondents shall provide documentation of payment of this
20 restitution to the Department within six months of entry of this Consent Order. Documentation of
21 restitution shall consist of a copy of each check and a copy of the cancelled check. The restitution
22 check shall be accompanied by a one-page cover letter that includes the following language: "The
23 Department of Financial Institutions of the State of Washington conducted a compliance examination
24 of Network Capital Funding Corporation. After the examination, the Department alleged violations

1 of the Consumer Loan Act. To resolve the Department's allegations, Network Capital Funding
2 Corporation has agreed to refund borrowers the amount of their origination fee and / or discount point
3 fees. If you have questions regarding your restitution, you may contact the Department's Consumer
4 Services Division at (360) 902-8703." At the end of the stay period, any funds which Respondents
5 are unable to disburse to the proper party will be escheated to the Department of Revenue in the
6 manner required by chapter 63.29 RCW, the Uniform Unclaimed Property Act. Failure to pay this
7 restitution or to provide documentation to the Department of all restitution payments within six
8 months shall cause the stay of revocation of Respondent Network Capital's consumer loan license to
9 be lifted without further notice to Respondents.

10 **I. Investigation Fee.** It is AGREED that Respondents shall pay to the Department an
11 investigation fee of \$4,675.43, in the form of a cashier's check made payable to the "Washington
12 State Treasurer," upon entry of this Consent Order.

13 **J. Records Retention.** It is AGREED that Respondent Network Capital, its officers,
14 employees, and agents shall maintain records in compliance with the Act.

15 **K. Authority to Execute Order.** It is AGREED that the undersigned have represented and
16 warranted that they have the full power and right to execute this Consent Order on behalf of the
17 parties represented.

18 **L. Non-Compliance with Order.** It is AGREED that Respondents understand that failure to
19 abide by the terms and conditions of this Consent Order may result in further legal action by the
20 Director. In the event of such legal action, Respondents may be responsible to reimburse the Director
21 for the cost incurred in pursuing such action, including but not limited to, attorney fees.

22 **M. Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily
23 entered into this Consent Order, which is effective when signed by the Director's designee.

1 N. Completely Read, Understood, and Agreed. It is AGREED that Respondents have read
2 this Consent Order in its entirety and fully understand and agree to all of the same.

3 **RESPONDENTS:**

4 **Network Capital Funding Corporation**
5 By:

6 _____
7 Tri Minh Nguyen
8 CEO and 100% Owner

_____ Date

8 _____
9 Tri Minh Nguyen
10 Individually

_____ Date

11 **APPROVED AS TO FORM:**

12 _____
13 Andrew G. Yates, WSBA No. 34239
14 Attorney at Law, Lane Powell, PC
15 Attorney for Respondents

_____ 9/26/2013
Date

16 **DO NOT WRITE BELOW THIS LINE**

17 THIS ORDER ENTERED THIS _____ DAY OF _____, 2013.

18 _____
19 DEBORAH BORTNER
20 Director
21 Division of Consumer Services
22 Department of Financial Institutions

23 Presented by:

24 _____
SHANA L. OLIVER
Financial Legal Examiner

Approved by:

_____ CHARLES E. CLARK
Enforcement Chief

1 N. Completely Read, Understood, and Agreed. It is AGREED that Respondents have read
2 this Consent Order in its entirety and fully understand and agree to all of the same.

3 **RESPONDENTS:**

4 **Network Capital Funding Corporation**

5 By: [Redacted]

6 Tri Minh Nguyen
7 CEO and 100% Owner

8 9-29-13
Date

9 [Redacted]

10 Tri Minh Nguyen
11 Individually

12 9-29-13
Date

13 **APPROVED AS TO FORM:**

14 Andrew G. Yates, WSBA No. 34239
15 Attorney at Law, Lane Powell, PC
16 Attorney for Respondents

17 _____
Date

18 DO NOT WRITE BELOW THIS LINE

19 THIS ORDER ENTERED THIS 1st DAY OF October, 2013.

20 [Redacted]

21 DEBORAH BORTNER
22 Director
23 Division of Consumer Services
24 Department of Financial Institutions

Presented by:
[Redacted]

SHANA L. OLIVER
Financial Legal Examiner

Approved by:
[Redacted]

CHARLES E. CLARK
Enforcement Chief



Appendix (Restitution)

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Restitution Owed

D.A.	\$2,258
J.B.	\$2,258
G.B.	\$4,340
D.B.	\$2,258
R.B.	\$2,258
R.B.	\$2,258
Ra.C.	\$2,258
Ro.C.	\$2,258
I.C.	\$2,258
D.D.	\$2,258
S.E.	\$4,258
R.F.	\$2,258
T.G.	\$4,158
L.G.	\$2,258
E.G.	\$2,258
Da.H.	\$2,258
Do.H.	\$4,745
T.H.	\$1,500
M.K.S.	\$2,258
S.K.	\$2,258
L.L.	\$5,095
K.L.	\$2,258
C.L.	\$4,341
T.M.	\$2,258
D.O.	\$2,258
S.P.	\$2,115
S.Po.	\$2,258
D.R.	\$2,582
Y.R.	\$2,258
M.S.	\$2,258
J.S.	\$4,758
D.T.	\$2,258
D.U.	\$2,258
M.V.	\$2,835
R.V.	\$2,258
D.W.	<u>\$1,200</u>

Total: \$98,377

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 DIVISION OF CONSUMER SERVICES

4 IN THE MATTER OF DETERMINING
5 whether there has been a violation of the
6 Consumer Loan Act of Washington by:

7 NETWORK CAPITAL FUNDING
8 CORPORATION and
9 TRI MINH NGUYEN, CEO and 100% Owner,

10 Respondents.

No.: C-11-0795-12-SC01

11 STATEMENT OF CHARGES and
12 NOTICE OF INTENTION TO ENTER AN
13 ORDER TO REVOKE LICENSE, PROHIBIT
14 FROM INDUSTRY, ORDER RESTITUTION,
15 IMPOSE FINES, AND COLLECT
16 INVESTIGATION FEE

17 INTRODUCTION

18 Pursuant to RCW 31.04.165 and RCW 31.04.168, the Director of the Department of
19 Financial Institutions of the State of Washington (Director) is responsible for the administration of
20 chapter 31.04 RCW, the Consumer Loan Act (Act)¹. After having conducted an investigation
21 pursuant to RCW 31.04.145, and based upon the facts available as of the date of this Statement of
22 Charges, the Director, through his designee, Division of Consumer Services Director Deborah
23 Bortner, institutes this proceeding and finds as follows:

24 I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Network Capital Funding Corporation (Respondent Network Capital) was licensed by the Department to conduct business as a consumer lender under the Act on or about January 1, 2010, and continues to be licensed to date. Respondent Network Capital conducts business at its main office, located at 5 Park Plaza, Suite 800, Irvine, California, and at its branch office, located at 2040 Main Street, Suite 420, Irvine, California.²

¹ RCW 31.04 (Amended 2009; Effective January 1, 2010)

² Respondent Network Capital is listed in the Nationwide Mortgage Licensing System & Registry (NMLS) with ID# 11712.

Borrower	Discount Charged
T.G.	\$1,900
T.H.	\$1,500
S.P.	\$2,115
D.R.	\$2,582
J.S.	\$2,500
D.W.	\$1,200

1.6. Failure to Provide State and Federal Disclosures.

A. Failure to Provide One-Page Summary Loan Disclosure Document. Respondents did not provide the one-page disclosure summary identifying certain material aspects of residential mortgage loans to at least five applicants.

B. Failure to Provide Adverse Action Notice. Respondents failed to send an Adverse Action Notice following a denial of credit to at least five applicants.

C. Failure to Provide Good Faith Estimate (GFE).

i) **Initial GFE.** Respondents failed to provide GFEs to at least two applicants.

ii) **Re-disclosure.** Following a rate lock, Respondents failed to re-disclose the terms of the loan on a GFE for at least four applicants.

D. Failure to Provide Truth-In-Lending (TIL) Disclosure. Respondents failed to provide any TILs to at least one applicant.

E. Failure to Provide Rate Lock Agreement. Respondents failed to provide Rate Lock Agreements to at least three applicants.

F. Failure to Provide Initial Servicing Disclosure. Respondents failed to provide the Initial Servicing Disclosure to at least four applicants.

G. Failure to Provide Adjustable Rate Mortgage Disclosure. Respondents failed to provide the Adjustable-Rate Mortgage Disclosure to at least one applicant.

1 **1.7 Failure to Provide Complete Documents.** Respondents failed to completely fill out
2 required documents and disclosures provided to at least eight applicants.

3 **1.8 Failure to Ensure Licensure of Third-Party Service Providers.** Respondents funded
4 loans secured by real estate located in the State of Washington using an unlicensed escrow service
5 provider in at least 13 transactions.

6 **1.9 Failure to Timely Notify the Department of Material Litigation.** On or about
7 September 28, 2011, the State of New Hampshire Banking Department issued an Order to Show
8 Cause and Cease and Desist against Respondent Network Capital, Respondent Nguyen, and
9 several MLOs working for Respondents who were not licensed as MLOs with the New Hampshire
10 Banking Department. Respondents did not notify the Department of this order until November 28,
11 2011.

12 **1.10 Advertising Violations.**

13 **A. Failure to Provide Link to NMLS on Website.** As of the date of this Statement of
14 Charges, Respondents Network Capital's and Nguyen's primary website, www.networkcapital.net,
15 does not provide a link to the NMLS consumer access web site page for the company.

16 **B. Failure to Display NMLS Unique Identifiers on Advertising Website.**
17 Respondents are the registrants of the Internet website www.themortgageradio.com. This website
18 is an advertising platform for Respondent Network Capital which directs visitors to air times and
19 stations when the "radio show," hosted by Respondent Network Capital's MLO "Alex Michaels,"
20 is on the air. This website also gives a toll-free number which connects the callers to Respondent
21 Network Capital. This website does not contain the license name and NMLS unique identifier for
22 Respondent Network Capital.

23 **C. Failure to Conduct Business Using Name on License.** Respondents' secondary
24 website, www.themortgageradio.com, features "Alex Michaels" with NMLS number 282971.

1 This NMLS number is registered to "Alejandro Migel Ramirez," a mortgage loan originator
2 sponsored by Respondent Network Capital. Alejandro Migel Ramirez appears to be the true name
3 of "Alex Michaels."

4 **1.11 Failure to Maintain Records.** Respondents failed to maintain records of disclosures,
5 applications, communications with applicants, and advertising material. In at least 20 loan files,
6 various required disclosures, rate lock agreements, and e-mail exchanges with the applicants were
7 not present in the files. The loan file for one applicant, R.F., was missing entirely. Respondents
8 also failed to maintain radio advertisements that had been run in Washington markets.

9 **1.12 Complaints.**

10 **A. Complaint 037970.** In or around March, 2011, Respondents ran radio advertisements in
11 Washington State offering a 3.375% interest rate without disclosing that the borrower would need
12 to pay over \$11,000 in discount points to obtain that rate. On or around July 20, 2011, the
13 Department issued a Resolution and Request for Action, which cited Respondent Network Capital
14 for violating RCW 31.04.027(1), RCW 31.04.027(2), and RCW 31.04.027(10). The Resolution
15 and Request for Action requested that Respondent Network Capital take remedial actions to
16 prevent further violations of the Act and requested Respondent Network Capital to "submit
17 evidence of compliance to the Department" by August 4, 2011. To date, the Department has
18 received no response from Respondents in this matter.

19 **B. Complaint 038127.** On or about April 18, 2011, the Department sent a Directive to
20 Respondent Network Capital, requesting the production of information related to Respondent
21 Network Capital's job descriptions on or before May 3, 2011. On or about May 3, 2011, the
22 Department received a partial response from Respondent Network Capital. The Department issued
23 a subpoena on or about May 16, 2011, compelling Respondent Network Capital to provide a full
24 response to the Directive by May 31, 2011. On or about July 27, 2011, Respondent Network

1 Capital provided another partial response to the Directive. To date, Respondents have never
2 provided a full response to the Department.

3 **1.13 On-Going Investigation.** The Department's investigation into the alleged violations of the
4 Act by Respondents continues to date.

5 **II. GROUNDS FOR ENTRY OF ORDER**

6 **2.1 Definition of Loan Originator.** Pursuant to RCW 31.04.015(15)(a), "Mortgage Loan
7 Originator" means an individual who (a) takes a residential mortgage loan application for a
8 mortgage broker, or (b) offers or negotiates terms of a mortgage loan, for direct or indirect
9 compensation or gain, or in the expectation of direct or indirect compensation or gain. "Mortgage
10 Loan Originator" also includes a person who holds themselves out to the public as able to perform
11 any of these activities.

12 **2.2 Licensees are Liable for the Actions of Employees.** Pursuant to WAC 208-620-372,
13 licensees are responsible for any conduct violating the Act or its rules by any person they employ
14 to work in the business covered by their license.

15 **2.3 Requirement to Ensure that Loan Originators are Licensed.** Based on the Factual
16 Allegations set forth in Section I above, Respondents are in apparent violation of RCW
17 31.04.027(2) and (3), RCW 31.04.035, RCW 31.04.221, and WAC 208-620-372 for using
18 unlicensed MLOs to assist borrowers with applying for or obtaining residential mortgage loans.

19 **2.4 Requirement to Disclose the True Identity of the Mortgage Loan Originator.** Based
20 on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of
21 RCW 31.04.027(1) and (2) for concealing the true name of the individual who originated the loan
for the applicants.

22 **2.5 Prohibition from Charging and Collecting Unearned Fees.** Based on the Factual
23 Allegations set forth in Section I above, Respondents are in apparent violation of RCW
24

1 31.04.027(1), (2), and (7) and WAC 208-620-560 for charging and collecting discount fees from
2 Washington borrowers without a corresponding decrease in the interest rate.

3 **2.6 Requirement to Make Full and Accurate Disclosures to Applicants.** Based on the
4 Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW
5 31.04.027(6), RCW 31.04.102(4), WAC 208-620-505, and WAC 208-600-200(3) and (4) for
6 failing to make disclosures in compliance with applicable state and federal law.

7 **2.7 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above,
8 Respondents are in apparent violation of RCW 31.04.027(2) for using a third-party settlement
9 service provider that was not licensed with the Department or the Office of the Insurance
10 Commissioner to engage in settlement service activities for Washington properties or consumers.

11 **2.8 Requirement to Timely Notify the Department of the Filing of Material Litigation.**
12 Based on the Factual Allegations set forth in Section I above, Respondents are in apparent
13 violation of WAC 208-620-490(3)(d) for failing to notify the Department, within 20 days, of the
14 filing of material litigation.

15 **2.9 Advertising.** Based on the Factual Allegations set forth in Section I above, Respondents
16 are in apparent violation of WAC 208-620-620 and WAC 208-620-622 for failing to provide the
17 NMLS unique identifier and a link to the NMLS consumer access web site page for Respondent
18 Network Capital on its internet advertising, and for failing to use the true name of “Alex Michaels”
19 on its internet and radio advertising.

20 **2.10 Record Keeping.** Based on the Factual Allegations set forth in Section I above,
21 Respondents are in apparent violation of RCW 31.04.155 and WAC 208-620-520 for failing to
22 maintain certain records for a minimum of 25 months to enable the Director to determine whether
23 the licensee is complying with the Act.

24 **2.11 Requirement to Comply with Department Directives.** Based on the Factual Allegations
set forth in Section I above, Respondents are in apparent violation of RCW 31.04.145 for failure to

1 comply with the Director's investigatory authority by failing to timely, fully, and completely
2 comply with Department Directives.

3 **III. AUTHORITY TO IMPOSE SANCTIONS**

4 **3.1 Authority to Revoke.** Pursuant to RCW 31.04.093(3)(b), the Director may revoke a license
5 for violating any provision of the Act or the rules adopted thereunder.

6 **3.2 Authority to Prohibit from Industry.** Pursuant to RCW 31.04.093(6)(e), the Director may
7 issue orders removing from office or prohibiting from participation in the affairs of any licensee, or
8 both, any officer, principal, employee, or loan originator, or any person subject to this Act, for a
9 violation of RCW 31.04.027.

10 **3.3 Authority to Order Restitution.** Pursuant to RCW 31.04.093(5)(c), the Director may issue an
11 order directing a licensee, its employee, or any other person subject to the Act to make restitution to a
12 borrower or other person damaged as a result of a violation of the Act.

13 **3.4 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4)(a), the Director may impose fines
14 of up to \$100 per day upon the licensee, its employee, or any other person subject to the Act for any
15 violation of the Act.

16 **3.5 Authority to Collect Investigation Fee.** Pursuant to RCW 31.04.145(3) and WAC 208-620-
17 590, every licensee investigated by the Director or the Director's designee shall pay for the cost of
18 the investigation, calculated at the rate of \$69.01 per staff hour devoted to the investigation.

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1 **IV. NOTICE OF INTENTION TO ENTER ORDER**

2 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620
3 WAC, as set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to
4 Impose Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW
5 31.04.165, and RCW 31.04.168. Therefore, it is the Director's intention to ORDER that:

6 **4.1** Respondent Network Capital Funding Corporation's license to conduct business as
7 a consumer lender be revoked;

8 **4.2** Respondents Network Capital Funding Corporation and Tri Minh Nguyen be
9 prohibited from participation in the conduct of the affairs of any company subject to
10 licensure under the Consumer Loan Act, RCW 31.04, or under the Mortgage Broker
11 Practices Act, RCW 19.146, for a period for three years;

12 **4.3** Respondents Network Capital Funding Corporation and Tri Minh Nguyen jointly
13 and severally pay a fine of \$75,000;

14 **4.4** Respondents Network Capital Funding Corporation and Tri Minh Nguyen jointly
15 and severally pay restitution in the amount of \$98,377 to the borrowers set forth in
16 Appendix A;

17 **4.5** Respondents Network Capital Funding Corporation and Tri Minh Nguyen jointly
18 and severally pay an investigation fee, which as of the date of this Statement of
19 Charges totals \$4,675.43, calculated at \$69.01 per hour for the 67.75 staff hours
20 devoted to the investigation;

21 **4.6** Respondents Network Capital Funding Corporation and Tri Minh Nguyen maintain
22 records in compliance with the Act and provide the Director with the location of the
23 books, records, and other information relating to Respondents Network Capital
24 Funding and Tri Minh Nguyen's consumer loan business, and the name, address,
and telephone number of the individual responsible for maintenance of such records
in compliance with the Act.

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1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses,
3 Prohibit from Industry, Impose Fines, Order Restitution, and Collect Investigation Fee (Statement of
4 Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.168,
5 and RCW 31.04.202, and is subject to the provisions of chapter 34.05 RCW (The Administrative
6 Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE
7 OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
8 Statement of Charges.

9
10 Dated this 11th day of December, 2012.



[Redacted signature area]

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13 DEBORAH BORTNER
14 Director, Division of Consumer Services
Department of Financial Institutions

15 Presented by:

16 [Redacted name]

17 SHANA L. OLIVER
18 Financial Legal Examiner

19 Approved by:

20 [Redacted signature]

21 CHARLES E. CLARK
22 Enforcement Chief

Restitution

2	Unlicensed Activity	Discount Points	Total
1			
2			
3	D.A.	\$2,258	\$2,258
3	J.B.	\$2,258	\$2,258
4	G.B.	\$4,340	\$4,340
4	D.B.	\$2,258	\$2,258
5	R.B.	\$2,258	\$2,258
5	R.B.	\$2,258	\$2,258
6	Ra.C.	\$2,258	\$2,258
6	Ro.C.	\$2,258	\$2,258
7	I.C.	\$2,258	\$2,258
7	D.D.	\$2,258	\$2,258
8	S.E.	\$4,258	\$4,258
8	R.F.	\$2,258	\$2,258
9	T.G.	\$2,258	\$1,900
9	L.G.	\$2,258	\$2,258
10	E.G.	\$2,258	\$2,258
10	Da.H.	\$2,258	\$2,258
11	Do.H.	\$4,745	\$4,745
11	T.H.	\$1,500	\$1,500
12	M.K.S.	\$2,258	\$2,258
12	S.K.	\$2,258	\$2,258
13	L.L.	\$5,095	\$5,095
13	K.L.	\$2,258	\$2,258
14	C.L.	\$4,341	\$4,341
14	T.M.	\$2,258	\$2,258
15	D.O.	\$2,258	\$2,258
15	S.P.	\$2,115	\$2,115
16	S.Po.	\$2,258	\$2,258
16	D.R.	\$2,582	\$2,582
17	Y.R.	\$2,258	\$2,258
17	M.S.	\$2,258	\$2,258
18	J.S.	\$2,258	\$2,500
18	D.T.	\$2,258	\$2,258
19	D.U.	\$2,258	\$2,258
19	M.V.	\$2,835	\$2,835
20	R.V.	\$2,258	\$2,258
20	D.W.	\$1,200	\$1,200
	Total: \$86,580	Total: \$11,797	Grand total: \$98,377

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