

## Terms Completed

### ORDER SUMMARY – Case Number: C-11-0795

**Name(s):** Rhyan Ordon Mercado

**Order Number:** C-11-0795-13-CO08

**Effective Date:** February 3, 2014

**License Number:** DFI: 263793 NMLS ID:263793

**Or NMLS Identifier [U/L]** (Revoked, suspended, stayed, application denied or withdrawn)

**License Effect:** n/a  
If applicable, you must specifically note the ending dates of terms.

**Not Apply Until:** n/a

**Not Eligible Until:** n/a

**Prohibition/Ban Until:** n/a

<b>Investigation Costs</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Fine</b>	\$3,000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date 1/30/14
<b>Assessment(s)</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Restitution</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Judgment</b>	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
<b>Satisfaction of Judgment Filed?</b>		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

**Comments:** complete cooperation with C-11-0795

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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-CO08

CONSENT ORDER AS TO  
RHYAN MERCADO, NMLS #263793

TERRY ANDERSON, Unlicensed Loan  
Originator;  
ARREN BABAYANI, Loan Originator;  
JULIO BENENATI, Loan Originator;  
JORDAN BIEL, Loan Originator;  
DANIEL HANLEY, Unlicensed Loan Originator;  
CHRIS KUNGL, Unlicensed Loan Originator;  
RHYAN MERCADO, Unlicensed Loan  
Originator;  
FRANK PARRINO, Loan Originator; and  
CHAD SIMMONS, Unlicensed Loan Originator,

Respondents.

12 COME NOW the Director of the Department of Financial Institutions (Director), through  
13 his designee Deborah Bortner, Division Director, Division of Consumer Services, and Rhyan  
14 Mercado (Respondent Mercado), and finding that the issues raised in the above-captioned matter  
15 may be economically and efficiently settled as to Respondent Mercado only, agree to the entry of  
16 this Consent Order. This Consent Order is entered pursuant to chapter 31.04 of the Revised Code  
17 of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the  
18 following:

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**AGREEMENT AND ORDER**

21 The Department of Financial Institutions, Division of Consumer Services (Department) and  
22 Respondent Mercado have agreed upon a basis for resolution of the matters alleged in Statement of  
23 Charges No. C-11-0795-12-SC02 (Statement of Charges), entered December 11, 2012, (copy  
24 attached hereto), solely as related to Respondent Mercado. Pursuant to chapter 31.04 RCW, the  
Consumer Loan Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondent

1 Mercado hereby agrees to the Department's entry of this Consent Order and further agrees that the  
2 issues raised in the above-captioned matter may be economically and efficiently settled by entry of  
3 this Consent Order. The parties intend this Consent Order to fully resolve the Statement of  
4 Charges solely as related to Respondent Mercado.

5 Based upon the foregoing:

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

8 **B. Waiver of Hearing.** It is AGREED that Respondent Mercado has been informed of  
9 the right to a hearing before an administrative law judge, and hereby waives his right to a hearing  
10 and any and all administrative and judicial review of the issues raised in this matter, or of the  
11 resolution reached herein. Accordingly, Respondent Mercado, by his signature and the signature  
12 of his representative below, withdraws his appeal to the Office of Administrative Hearings.

13 **C. Fine.** It is AGREED that Respondent Mercado shall pay a fine to the Department in  
14 the amount of \$3,000 in the form of a cashier's check made payable to the "Washington State  
15 Treasurer" upon entry of this Consent Order.

16 **D. Complete Cooperation with the Department (Statements).** It is AGREED that,  
17 upon written request by the Department, Respondent Mercado shall provide the Department  
18 truthful and complete sworn statements outlining his activities with respect to Network Capital  
19 Funding Corporation and any and all persons involved or in any way associated with Network  
20 Capital Funding Corporation, including but not limited to owners, employees, independent  
21 contractors, agents, businesses and persons with whom Network Capital Funding Corporation  
22 dealt, communicated, or otherwise related. The "sworn statements" may take the form of  
23 affidavits, declarations, or deposition testimony, at the Department's discretion. A failure to  
24 cooperate fully, truthfully, and completely is a breach of this Consent Order.

1           **E. Complete Cooperation with the Department.** In addition to providing the sworn  
2 statements as described in Paragraph D, it is AGREED that, upon written request by the  
3 Department, Respondent Mercado shall cooperate fully, truthfully, and completely with the  
4 Department and provide any and all information known to him relating in any manner to Network  
5 Capital Funding Corporation and any and all persons involved or in any way associated with  
6 Network Capital Funding Corporation, including but not limited to owners, employees,  
7 independent contractors, agents, businesses and persons with whom Network Capital Funding  
8 Corporation dealt, communicated, or otherwise related. It is further AGREED that, upon written  
9 request by the Department, Respondent Mercado shall provide any and all documents, writings or  
10 materials, or objects or things of any kind in his possession or under his care, custody, or control  
11 that he is authorized to possess, obtain, or distribute relating directly or indirectly to all areas of  
12 inquiry and investigation. It is further AGREED that Respondent Mercado shall testify fully,  
13 truthfully, and completely at any and all proceedings related to any Department investigation or  
14 enforcement action or both related to any and all persons involved or in any way associated with  
15 Network Capital Funding Corporation, and any respondents named therein. A failure to cooperate  
16 fully, truthfully, and completely is a breach of this Consent Order.

17           **F. Application for License.** It is AGREED that, should Respondent Mercado apply to the  
18 Department for any license under any name at any time from the date of entry of this Consent  
19 Order, Respondent Mercado shall be required to meet any and all application requirements in  
20 effect at that time, and that the Department will not consider the facts and circumstances asserted  
21 in Statement of Charges C-11-0795-12-SC02 in its review of Respondent Mercado's application.

22           **G. Non-Compliance with Order.** It is AGREED that Respondent Mercado understands  
23 that failure to abide by the terms and conditions of this Consent Order may result in further legal  
24 action by the Director. In the event of such legal action, Respondent Mercado may be responsible

1 to reimburse the Director for the cost incurred in pursuing such action, including but not limited to,  
2 attorney fees.

3 **H. Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily  
4 entered into this Consent Order, which is effective when signed by the Director's designee.

5 **I. Completely Read, Understood, and Agreed.** It is AGREED that Respondent  
6 Mercado has read this Consent Order in its entirety and fully understands and agrees to all of the  
7 same.

8 **RESPONDENT.** /  
[Redacted]  
9  
10 Rhyan Ordone Mercado  
Individually

12-17-13  
\_\_\_\_\_  
Date

11 **APPROVED AS TO FORM**  
12 [Redacted]  
13 John S. Devlin, III WSBA No. 23988  
Lane Powell, P.C.  
Attorneys for Respondent Mercado

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DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 3<sup>rd</sup> DAY OF February, 2013 yob

[Redacted Signature]

DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

[Redacted Name]

SHANA L. OLIVER  
Financial Legal Examiner

Approved by:

[Redacted Signature]

CHARLES E. CLARK  
Enforcement Chief



RECEIVED

FEB 13 2013

Division of Consumer Services  
Department of Financial Institutions

CONSENT ORDER  
C-11-0795-13-C008  
RHYAN MERCADO

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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:

TERRY ANDERSON, Unlicensed Loan Originator;  
ARREN BABAYANI, Loan Originator;  
JULIO BENENATI, Loan Originator;  
JORDAN BIEL, Loan Originator;  
DANIEL HANLEY, Unlicensed Loan Originator;  
CHRIS KUNGL, Unlicensed Loan Originator;  
RHYAN MERCADO, Unlicensed Loan Originator;  
FRANK PARRINO, Loan Originator; and  
CHAD SIMMONS, Unlicensed Loan Originator,

Respondents.

No.: C-11-0795-12-SC02

STATEMENT OF CHARGES and NOTICE OF INTENTION TO ENTER AN ORDER TO SUSPEND LICENSE, PROHIBIT FROM INDUSTRY, AND IMPOSE FINE

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

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**I. FACTUAL ALLEGATIONS**

**1.1 Respondents.**

**A. Terry Anderson (Respondent Anderson)** has never been licensed with the Department in any capacity under the Act or the Mortgage Broker Practices Act (MBPA).

<sup>1</sup> RCW 31.04 (Amended 2009; Effective January 1, 2010)

1           **B. Arren Babayani (Respondent Babayani)** was licensed by the Department as an  
2 MLO on or about February 7, 2011, and continues to be licensed to date.<sup>2</sup>

3           **C. Julio Benenati (Respondent Benenati)** was licensed by the Department as an  
4 MLO on or about January 26, 2011, and continues to be licensed to date.<sup>3</sup>

5           **D. Jordan Biel (Respondent Biel)** was licensed by the Department as an MLO on or  
6 about June 7, 2011, and continues to be licensed to date.<sup>4</sup>

7           **E. Daniel Hanley (Respondent Hanley)** applied for licensure as an MLO with the  
8 Department on or about July 20, 2011. Respondent Hanley withdrew his application on or about  
9 September 9, 2011.<sup>5</sup> Respondent Hanley has never been licensed by the Department in any  
10 capacity under the Act or the MBPA.

11           **F. Chris Kungl (Respondent Kungl)** has never been licensed with the Department in  
12 any capacity under the Act or the MBPA.<sup>6</sup>

13           **G. Rhyan Mercado (Respondent Mercado)** applied for licensure as an MLO with the  
14 Department on or about June 16, 2010. Respondent Mercado withdrew his application on or about  
15 December 16, 2010. Respondent Mercado has never been licensed by the Department in any  
16 capacity under the Act or the MBPA.<sup>7</sup>

17           **H. Frank Parrino (Respondent Parrino)** was licensed by the Department as an MLO  
18 on or about August 19, 2011, and continues to be licensed to date.<sup>8</sup>

19           **I. Chad Simmons (Respondent Simmons)** has never been licensed by the  
20 Department in any capacity under the Act or the MBPA.<sup>9</sup>

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22 <sup>2</sup> Respondent Babayani is listed in the NMLS with ID# 189519.

<sup>3</sup> Respondent Benenati is listed in the NMLS with ID# 241007.

<sup>4</sup> Respondent Biel is listed in the NMLS with ID# 349006.

<sup>5</sup> Respondent Hanley is listed in the NMLS with ID # 369189.

<sup>6</sup> Respondent Kungl is listed in the NMLS with ID #394383.

<sup>7</sup> Respondent Mercado is listed in the NMLS with ID #263793

<sup>8</sup> Respondent Parrino is listed in the NMLS with ID #478710.

<sup>9</sup> Respondent Simmons is not to be confused with Chad Lyle Simmons, NMLS ID# 67627.

1 **1.2 Examination.** The Department conducted an on-site examination of Network Capital  
2 Funding Corporation (Network Capital), a consumer lender licensed under the Act, from August  
3 15, 2011, through August 19, 2011. The scope of this examination included a review of Network  
4 Capital's business practices from January 1, 2010, through June 30, 2011, and included a review of  
5 loan files originated on behalf of 77 Washington consumers.

6 **1.3 Unlicensed Activity.** Between at least June 24, 2010, and March 31, 2011, Respondents  
7 Anderson, Babayani, Benenati, Biel, Hanley, Kungl, Mercado, Parrino, and Simmons (collectively,  
8 Respondents) assisted at least 21 borrowers in applying to obtain residential mortgage loans on  
9 property located in the State of Washington without being licensed by the Department as a loan  
10 originator. Respondent Anderson originated 2 loans, Respondent Babayani originated 2 loans,  
11 Respondent Benenati originated 2 loans, Respondent Biel originated 3 loans, Respondent Hanley  
12 originated 2 loans, Respondent Kungl originated 3 loans, Respondent Mercado originated 3 loans,  
13 Respondent Parrino originated 2 loans, and Respondent Simmons originated 2 loans.<sup>10</sup>

14 **1.4 On-Going Investigation.** The Department's investigation into the alleged violations of the  
15 Act by Respondents continues to date.

## 16 **II. GROUNDS FOR ENTRY OF ORDER**

17 **2.1 Definition of Mortgage Loan Originator.** Pursuant to RCW 31.04.015(15)(a), "Mortgage  
18 Loan Originator" means an individual who (a) takes a residential mortgage loan application for a  
19 mortgage broker, or (b) offers or negotiates terms of a mortgage loan, for direct or indirect  
20 compensation or gain, or in the expectation of direct or indirect compensation or gain. "Mortgage  
21 Loan Originator" also includes a person who holds themselves out to the public as able to perform  
22 any of these activities.

23 <sup>10</sup> Respondents Babayani, Benenati, Biel, and Parrino each obtained an MLO license after the loans were originated.

1 **2.2 Requirement to Obtain and Maintain License.** Based on the Factual Allegations set  
2 forth in Section I above, Respondents are in apparent violation of RCW 31.04.027(2) and RCW  
3 31.04.035 for engaging in the business of a mortgage loan originator without first obtaining and  
4 maintaining a license under the Act.

5 **III. AUTHORITY TO IMPOSE SANCTIONS**

6 **3.1 Authority to Suspend License.** Pursuant to RCW 31.04.093(3)(b), the Director may suspend  
7 a license if the Director finds that a licensee, either knowingly or without the exercise of due care, has  
8 violated any provision of this Act or any rule adopted under this Act.

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

13 **3.3 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.

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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** Respondents Arren Babayani, Julio Benenati, Jordan Biel, and Frank Parrino's  
7 licenses to conduct business as a Mortgage Loan Originator be suspended for a  
period of one year;<sup>11</sup>

8 **4.2** Respondents Terry Anderson, Arren Babayani, Julio Benenati, Jordan Biel, Daniel  
9 Hanley, Chris Kungl, Rhyan Mercado, Frank Parrino, and Chad Simmons be  
prohibited from acting as a mortgage loan originator with any company subject to  
10 licensure under the Consumer Loan Act, RCW 31.04 for a period for one year;

11 **4.3** Respondents Jordan Biel, Chris Kungl, Rhyan Mercado each pay a fine of \$1,500.

12 **4.4** Respondents Terry Anderson, Arren Babayani, Julio Benenati, Daniel Hanley,  
Frank Parrino, and Chad Simmons each pay a fine of \$1,000.

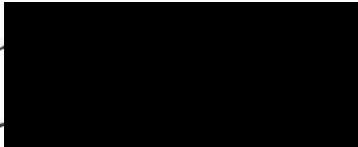
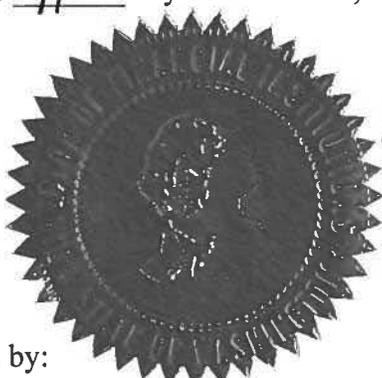
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23 <sup>11</sup> At time of renewal, the Department will renew each Respondent's license, provided that each Respondent meets the  
Act's requirements for renewal. However, each Respondent's license will remain suspended until the suspension period  
has run.

1 **V. AUTHORITY AND PROCEDURE**

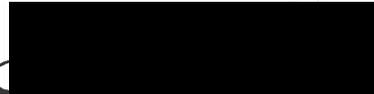
2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke Licenses,  
3 Prohibit from Industry, Impose Fines, Order Restitution, and Collect Investigation Fee (Statement of  
4 Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.168,  
5 and 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 11<sup>th</sup> day of December, 2012.



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12  
13 DEBORAH BORTNER  
14 Director, Division of Consumer Services  
Department of Financial Institutions

15 Presented by:



16  
17 SHANA L. OLIVER  
18 Financial Legal Examiner

19 Approved by:



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21 CHARLES E. CLARK  
22 Enforcement Chief