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7 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
8 OF THE STATE OF CALIFORNIA

9
10 In the Matter of:) CFL FILE NO.: 60DBO-74812
11 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,)
12) STIPULATION
Complainant,)
13 v.)
14 NerdWallet, Inc.,)
15 Respondent.)

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18 In consideration of the application filed by NerdWallet Compare, Inc. for a license under the
19 California Financing Law (CFL) (Fin. Code, § 22000, et seq.),¹ this Stipulation is entered into
20 between the Commissioner of Business Oversight (Commissioner) and NerdWallet, Inc., and is
21 made with respect to the following facts:

22 **RECITALS**

23 A. NerdWallet, Inc. (NWI) is a Delaware corporation organized in 2010 with its
24 principal place of business at: 875 Stevenson Street, 5th Floor, San Francisco, California 94103.
25 NWI has never been licensed under the CFL.

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28 ¹ Effective October 4, 2017, the name of the California Finance Lenders Law changed to the California
Financing Law. (Assem. Bill No. 1284 (2017-2018 Reg. Sess.) § 4.) For purposes of this document, a reference to the
California Financing Law means the California Finance Lenders Law before October 4, 2017, and the California
Financing Law on and after that date. (Fin. Code, § 22000.)

1 B. NerdWallet Compare, Inc. (NWC and, collectively with NWI, NerdWallet) is a
2 Delaware corporation organized in January 2017 with its principal place of business at: 875 Stevenson
3 Street, 5th Floor, San Francisco, California 94103. NWC is a wholly owned subsidiary of NWI.
4 NWC has never been licensed under the CFL.

5 C. The Department of Business Oversight, through the Commissioner, has jurisdiction
6 over the licensing and regulation of persons and entities engaged in the business of finance lending
7 or brokering under the CFL.

8 D. On or about March 30, 2017, NWC voluntarily submitted to the Commissioner an
9 application for licensure as a finance broker under the CFL under file number 60DBO-69642.
10 NerdWallet cooperated with the Commissioner and provided information regarding NerdWallet’s
11 lead generation and other activities. Initial responses from the Commissioner indicated that the
12 business plan submitted along with NWC’s application did not describe any broker activities.
13 Application 60DBO-69642 was subsequently withdrawn on July 20, 2017 so that NWC could file
14 another application to provide additional information to the Commissioner. On August 7, 2017,
15 NWC filed with the Commissioner another application for licensure as a finance broker under the
16 CFL under file number 60DBO-74812 (Application). NerdWallet cooperated with the
17 Commissioner during the application process and provided to the Commissioner information
18 describing services NerdWallet rendered in connection with loans made under the CFL from 2015
19 to 2017 (Information). From the Commissioner’s review of the Application and the Information,
20 the Commissioner made the following factual findings:

- 21 i. Beginning in late 2016, NWI offered a pre-qualification service to
22 participating lenders, including lenders that made loans under the CFL (Pre-Qualification Lenders).
- 23 ii. As part of this service, prospective borrowers opted to receive pre-qualified
24 offers from the Pre-Qualification Lenders by voluntarily submitting certain confidential information
25 to NWI and by authorizing the Pre-Qualification Lenders to perform soft credit pulls based upon the
26 confidential information submitted.
- 27 iii. With the prospective borrower’s consent, NWI transmitted a prospective
28 borrower’s confidential information and authorization to the Pre-Qualification Lenders in the form

1 of a pre-qualification request.

2 iv. In response to a pre-qualification request, the Pre-Qualification Lenders
3 notified NWI of the offers the Pre-Qualification Lenders determined were available to the
4 prospective borrower in accordance with the pre-qualification criteria of the Pre-Qualification
5 Lenders.

6 v. Subsequently, NWI displayed to a prospective borrower, on the NWI website,
7 offers from the Pre-Qualification Lenders for which a prospective borrower was pre-qualified.

8 vi. If a prospective borrower was interested in an offer from a Pre-Qualification
9 Lender, the prospective borrower could click on a link that directed the prospective borrower to the
10 website of the Pre-Qualification Lender. If the prospective borrower chose to complete an
11 application on the Pre-Qualification Lender’s website and ultimately received a loan, NWI received
12 a fee.

13 vii. In connection with this service, NWI represented to prospective borrowers
14 that it assisted borrowers in finding rates from the Pre-Qualification Lenders.

15 E. Based on these factual findings, the Commissioner determined that NWI engaged in
16 the business of or performing any act as a broker in connection with loans made by a finance lender
17 without a license in violation of Financial Code section 22100, subdivision (a).

18 F. NWI disagrees with the Commissioner’s factual findings and determinations;
19 however, it is the intention of NWI and the Commissioner (the Parties) to resolve this matter
20 amicably without the necessity of a hearing or other litigation.

21 G. The Commissioner finds that entering into this Stipulation is in the public interest
22 and consistent with the purposes fairly intended by the policy and provisions of the CFL.

23 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
24 contained herein, the Parties agree as follows:

25 **TERMS AND CONDITIONS**

26 1. Desist and Refrain Order. In accordance with Financial Code section 22712, NWI
27 stipulates that it is ordered to desist and refrain from engaging in the business of negotiating or
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1 performing any act as a broker in connection with loans made by a finance lender without a license
2 in violation of Financial Code section 22100, subdivision (a).

3 2. Finality. NWI acknowledges that the Commissioner is ready, willing, and able to
4 proceed with the filing of an administrative enforcement action on the allegations contained in this
5 Stipulation. NWI hereby waives the right to any hearings, and to any reconsideration, appeal,
6 injunction, or other rights to review which may be afforded pursuant to the Financial Code, the
7 California Administrative Procedure Act, the Code of Civil Procedure, or any other provision of
8 law. NWI further expressly waives any requirement for the filing of an Accusation that may be
9 afforded by Government Code section 11415.60, subdivision (b), the California Administrative
10 Procedure Act, the Code of Civil Procedure, or any other provision of law. By waiving such rights,
11 NWI effectively consents to this Stipulation herein becoming final.

12 3. Fee. NWI shall pay an administrative fee of \$50,000.00 to the Commissioner no
13 later than the effective date of this Stipulation as defined below in paragraph 20. The payment must
14 be made payable in the form of a cashier's check or Automated Clearing House deposit to the
15 Department of Business Oversight and transmitted to the attention of: Accounting – Litigation, at
16 the Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814.
17 Notice of payment must be sent to: Sean M. Rooney, Assistant Chief Counsel, 320 West 4th Street,
18 Suite 750, Los Angeles, California 90013.

19 4. Consideration. In consideration of NWI's agreement to the issuance of this
20 Stipulation, the payment of the administrative fee, the Application, and the Information, the
21 Commissioner hereby agrees to issue a finance broker license to NWC no later than five business
22 days after the effective date of this Stipulation as defined below in paragraph 20.

23 5. Full and Final Agreement. This Stipulation is intended to constitute a full and final
24 resolution of the findings described in paragraph E and any other claims based on Financial Code
25 section 22100 arising out of the Information relating to services rendered before the effective date
26 of this Stipulation (22100 Claims), and that no further action or proceeding will be brought by the
27 Commissioner in connection with the 22100 Claims, under the CFL or any other provision of law,
28 unless the action or proceeding is based upon discovery of new and further violations of the CFL

1 that do not form the basis for this Stipulation or which were knowingly or willfully concealed from
2 the Commissioner.

3 6. Commissioner's Duties. Nothing in this Stipulation limits the Commissioner's
4 ability to assist any other government agency with any action brought by that agency against NWI
5 or NWC, including an action based on any of the acts, omissions, or events described in this
6 Stipulation.

7 7. Third-Party Actions. The Parties intend that this Stipulation does not create any
8 private rights or remedies against NWI, create any liability for NWI, or limit NWI's defenses
9 against any person or entity not a party to this Stipulation. Further, entering this Stipulation by
10 NWI does not constitute an admission of wrongdoing or violation of law, statute, or regulations.

11 8. Independent Legal Advice. Each party represents that it has received independent
12 advice from its counsel or representatives regarding the advisability of executing this Stipulation.

13 9. No Further Representations. Each party represents that in executing this Stipulation
14 it has relied solely on the statements in this Stipulation and on the advice of its counsel or
15 representatives. Each party also represents that in executing this Stipulation, it has not relied on any
16 statement, representation, or promise not contained in this Stipulation from any other person or on
17 the failure of such person to make a statement, representation, or disclosure. The Parties have
18 included this clause to preclude any claim that a party was fraudulently induced to execute this
19 Stipulation.

20 10. Integration. This Stipulation is the final written expression and the complete and
21 exclusive statement of all the agreements, conditions, promises, representations, and covenants
22 between the Parties concerning its subject matter and supersedes all discussion regarding such
23 subject matter between the parties, their representatives, and any other person or entity. The Parties
24 have included this clause to preclude the introduction of parol evidence to vary, interpret,
25 supplement, or contradict the terms of this Stipulation.

26 11. No Presumption Against Drafting Party. Each party acknowledges that it has had the
27 opportunity to draft, review, and edit the language of this Stipulation. Accordingly, the Parties
28 intend that no presumption for or against the drafting party will apply in construing any part of this

1 Stipulation. The Parties waive the benefit of Civil Code section 1654 and corresponding provisions
2 of any successor statute, which provide that in cases of uncertainty, language of a contract should be
3 interpreted most strongly against the party that caused the uncertainty to exist.

4 12. Waiver, Amendments, and Modifications. No waiver, amendment, or modification
5 of this Stipulation will be valid or binding unless it is in writing and signed by all Parties affected
6 by it. Waiver of a provision of this Stipulation will not be deemed a waiver of any other provision.

7 13. Headings. The headings in this Stipulation are for convenience only and do not
8 affect its meaning.

9 14. Governing Law. This Stipulation will be governed by and construed in accordance
10 with California law.

11 15. Authority to Execute. Each party represents that the person signing this Stipulation
12 on its behalf has the authority and capacity to do so.

13 16. Voluntary Agreement. NWI enters into this Stipulation voluntarily and without
14 coercion and acknowledges that no promises, threats, or assurances about this Stipulation have been
15 made by the Commissioner or any of the Commissioner’s officers or agents.

16 17. Public Record. NWI acknowledges that this Stipulation is a public record.

17 18. Counterparts. This Stipulation may be executed in any number of counterparts, each
18 of which will be deemed an original when executed. All counterparts together will be deemed to
19 constitute a single document.

20 19. Signatures. A signature delivered by facsimile or electronic mail will be deemed an
21 original signature.

22 20. Effective Date. This Stipulation will become effective on the date it is signed by all
23 Parties and delivered by the Commissioner’s counsel to R. Andrew Arculin, outside counsel for
24 NerdWallet, by electronic mail at raarculin@venable.com.

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Dated: 12/13/18

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
MARY ANN SMITH
Deputy Commissioner

Dated: 12/12/18

NERDWALLET, INC.

By: _____
TRACY MAHNKEN
Vice President, Product