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12 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
13 OF THE STATE OF CALIFORNIA

14 In the Matter of:
15
16 THE COMMISSIONER OF FINANCIAL
PROTECTION AND INNOVATION,
17
Complainant,
18
v.
19
20 LAMBDA, INC. doing business as LAMBDA
SCHOOL,
21
Respondent.

CONSENT ORDER

22
23 This Consent Order (Order) is entered into between the Commissioner of the Department of
24 Financial Protection and Innovation (Department) and Lambda, Inc., doing business as Lambda
25 School (Lambda School) and is made with respect to the following facts:

26 **I.**

27 **Recitals**

28 A. The Commissioner has jurisdiction over the regulation of persons who engage, have

1 engaged, and propose to engage in offering or providing a consumer financial product or service in
2 California and affiliated service providers under the California Consumer Financial Protection Law
3 (CCFPL) (Financial Code section 90000 et seq.).

4 B. Under the CCFPL, it is unlawful for a “covered person” to “[e]ngage, have engaged,
5 or propose to engage in any unlawful, unfair, deceptive, or abusive act or practice with respect to
6 consumer financial products or services.” (Fin. Code, § 90003, subd. (a)(1).)

7 C. A “covered person” is “[a]ny person that engages in offering or providing a consumer
8 financial product or service to a resident of this state.” (Fin. Code, § 90005, subd. (f)(1).)

9 D. A “consumer financial product or service” is generally a “financial product or service
10 that is delivered, offered, or provided for use by consumers primarily for personal, family, or
11 household purposes.” (Fin. Code, § 90005, subd. (e)(1).)

12 E. “Financial product or service” includes, among other things, “[e]xtending credit and
13 services extensions of credit, including acquiring, purchasing, selling, brokering extensions of
14 credit.” (Fin. Code, § 90005, subd. (k)(1).) “Credit” means the right granted by a person to another
15 person to defer payment of a debt, incur debt and defer its payment, or purchase property or services
16 and defer payment for those purchases. (Fin. Code, § 90005, subd. (g).)

17 F. At all relevant times, Lambda School was a Delaware corporation that maintained a
18 business address at 250 Montgomery St, 16th Floor, San Francisco, California 94104. Lambda
19 School operates an online computer coding school for consumers in California and nationwide.

20 G. Since at least January 2021, Lambda School offered prospective students, some of
21 which were California residents, the option of financing the cost of Lambda School’s online
22 computer coding school through a contract in which the student promises to repay Lambda School
23 based on a percentage of the student’s future income up to an amount specified therein (Contract).

24 H. The Contract includes a provision entitled “PROMISE TO PAY,” which states, in
25 part, that “this extension of credit is a qualified educational loan and is subject to the limitations on
26 dischargeability in bankruptcy contained in Section 523(a)(8) of the United States Bankruptcy Code”
27 (Bankruptcy Non-Dischargeability Provision).

28 I. The Bankruptcy Non-Dischargeability Provision is misleading because, contrary to the

1 Bankruptcy Non-Dischargeability Provision, the Contract is not a “qualified educational loan,” as
2 defined in section 221, subdivision (d)(1), of the Internal Revenue Code of 1986, and is not subject to
3 the limitations on dischargeability pursuant to section 523, subdivision (a)(8), of the United States
4 Bankruptcy Code.

5 J. The Contract’s Bankruptcy Non-Dischargeability Provision is material because it
6 affects a student’s understanding of their rights under the Contract.

7 K. The Contract is an extension of credit, and therefore a “consumer financial product”
8 covered by the CCFPL.

9 L. Lambda School is a “covered person” under the CCFPL because it engages in offering
10 or providing consumer financial products or services to students and prospective students.

11 M. The federal Truth in Lending Act (TILA) and Regulation Z promulgated under TILA
12 require disclosures in relation to the Contract.

13 N. The California’s Retail Installment Sales Act, referred to as the Unruh Act, requires
14 these disclosures, referenced in Paragraph M, be provided in a “single document.”

15 O. Lambda School has conducted marketing in the state of California commencing in
16 approximately 2017.

17 P. Certain Lambda School marketing has included representations implying its program
18 is “free.”

19 Q. The Contract offered by Lambda School requires no payment unless an individual
20 earns above a certain income threshold in a job related to the education offered by Lambda School.

21 R. Marketing implying Lambda School’s online computer coding school is free may be
22 misleading because, even though the Contract only requires payment in certain circumstances, for
23 students who attend Lambda School under the Contract, payments would be required should the
24 student earn above such income threshold.

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

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28 ///

1 II.

2 **Terms and Conditions**

3 1. **Purpose.** This Consent Order resolves the findings of facts set forth in paragraphs H,
4 N, and P, above, in a manner that avoids the expense of a hearing and other possible court
5 proceedings, protects consumers, is in the public interest, and is consistent with the purposes,
6 policies, and provisions of the CCFPL.

7 2. **Finality of Consent Order.** Lambda School agrees to comply with this Order and
8 stipulates this Order is hereby deemed final.

9 3. **Desist and Refrain Order.** Pursuant to Financial Code section 90015, subdivision
10 (d)(1), Lambda School is hereby ordered to desist and refrain, from violating Financial Code section
11 90003, subdivision (a)(1), by engaging, having engaged, or proposing to engage in deceptive acts and
12 practices, including representing to prospective students that the Contract is a qualified educational
13 loan and subject to the limitations on dischargeability in bankruptcy contained in section 523,
14 subdivision (a)(8), of the United States Bankruptcy Code.

15 4. **Notice to Students.** Lambda School agrees to provide students, who entered into a
16 Contract, with notice of this Order and that the Contract's Bankruptcy Non-Dischargeability
17 Provision is not accurate. Lambda School agrees to provide this notice to students within 60 days of
18 the Effective Date of this Order, as defined in Paragraph 25.

19 5. **Regulatory Compliance Review.** Lambda School agrees to retain a third-party to
20 undertake and complete a review of the terms of the Contract to ensure that the Contract complies
21 with all applicable laws, including the California Retail Installment Sales Act (or Unruh Act),
22 California Education Code, California Consumer Financial Protection Law, the federal Truth in
23 Lending Act, and all regulations promulgated thereunder (Regulatory Compliance Review). Lambda
24 School agrees to provide a written certification to the Department, within 60 days of the Effective
25 Date of this Order, as defined in Paragraph 25, that the Regulatory Compliance Review was
26 completed.

27 6. **Marketing Compliance Review.** Lambda School agrees to undertake and complete a
28 review of its marketing materials, including past and current social media content, Internet websites,

1 and print materials, to ensure that the marketing materials are accurate and not likely to mislead
2 consumers (Marketing Compliance Review). Lambda School agrees to provide a written certification
3 to the Department, within 90 days of the Effective Date of this Order, as defined in Paragraph 25, that
4 the Marketing Compliance Review was completed.

5 7. Waiver of Hearing Rights. Lambda School acknowledges the Commissioner is ready,
6 willing, and able to proceed with the filing of an administrative enforcement action on the charges
7 contained in this Order. Lambda School hereby waives the right to any hearings, and to any
8 reconsideration, appeal, or other right to review which may be afforded pursuant to the CCFPL, the
9 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
10 provision of law, including those rights under Financial Code section 90015, and to judicial review of
11 this matter pursuant to Code of Civil Procedure section 1094.5 with respect to the issuance of this
12 Order and the Desist and Refrain Order contained herein. Lambda School further expressly waives
13 any requirement for the filing of an Accusation pursuant to Government Code section 11415.60,
14 subdivision (b). By waiving such rights, Lambda School effectively consents to this Order and Desist
15 and Refrain Order becoming final.

16 8. Full and Final Settlement. Lambda School hereby acknowledges and agrees that this
17 Order is intended to constitute a full, final, and complete resolution of the conduct described in
18 paragraphs H, N, and P, above, and that no further proceedings or actions will be brought by the
19 Commissioner in connection with these matters except under the CCFPL, or any other provision of
20 law, to enforce compliance with the terms of this Order.

21 9. Information Willfully Withheld or Misrepresented. This Order may be revoked, and
22 the Commissioner may pursue any and all remedies available under the law against Lambda School,
23 if the Commissioner discovers that Lambda School knowingly or willfully withheld or
24 misrepresented information used for and relied upon in this Order.

25 10. Future Actions by Commissioner. If Lambda School fails to comply with any term of
26 the Order, the Commissioner may institute proceedings for any and all violations otherwise resolved
27 under this Order. The Commissioner reserves the right to bring any future actions against Lambda
28 School for any and all unknown violations of the CCFPL.

1 11. Assisting Other Agencies. Nothing in this Order limits the Commissioner’s ability to
2 assist any other government agency (city, county, state, or federal) with any prosecution,
3 administrative, civil, or criminal brought by that agency against Lambda School or any other person
4 based upon any of the activities alleged in this matter or otherwise.

5 12. Disclaimer. Nothing in this Order shall prevent the Commissioner from asserting at
6 any time in the future that the Contract offered by Lambda School requires licensure or registration
7 with the Department under any law under the Department’s jurisdiction. Nothing in this Order shall
8 be interpreted as the Commissioner’s approval of Lambda School’s business model or conclusion that
9 the model complies with state or federal law or regulations.

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

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

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

23 16. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
24 this Order will be valid or binding unless it is in writing and signed by each of the parties. The waiver
25 of any provision of this Order will not be deemed a waiver of any other provision. No waiver by
26 either party of any breach of, or of compliance with, any condition or provision of this Order by the
27 other party will be considered a waiver of any other condition or provision or of the same condition
28 or provision at another time.

1 17. Full Integration. This Order is the final written expression and the complete and
2 exclusive statement of all the agreements, conditions, promises, representations, and covenants
3 between the parties with respect to the subject matter hereof, and supersedes all prior or
4 contemporaneous agreements, negotiations, representations, understandings, and discussions between
5 and among the parties, their respective representatives, and any other person or entity, with respect to
6 the subject matter covered hereby.

7 18. Governing Law. This Order will be governed by and construed in accordance with
8 California law. Each of the parties hereto consents to the jurisdiction of such court, and hereby
9 irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the
10 maintenance of such action or proceeding in such court.

11 19. Counterparts. This Order may be executed in one or more separate counterparts, each
12 of which when so executed, shall be deemed an original. Such counterparts shall together constitute a
13 single document.

14 20. Effect Upon Future Proceedings. If Lambda School applies for any license, permit,
15 qualification, or registration under the Commissioner's current or future jurisdiction, or is the subject
16 of any future action by the Commissioner to enforce this Order, then the subject matter hereof shall
17 be admitted for the purpose of such application(s) or enforcement proceeding(s).

18 21. Voluntary Agreement. Lambda School enters into this Order voluntarily and without
19 coercion and acknowledges that no promises, threats or assurances have been made by the
20 Commissioner or any officer, or agent thereof, about this Order. The parties each represent and
21 acknowledge that he, she or it is executing this Order completely voluntarily and without any duress
22 or undue influence of any kind from any source.

23 22. Notice. Any notice required under this Order shall be provided to each party at the
24 following addresses:

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26 To the Commissioner: Department of Financial Protection and Innovation
27 Attn: Alexander M. Calero
28 1455 Frazee Road, Suite 315
 San Diego, CA 92108
 alex.calero@dfpi.ca.gov

To Lambda School: Lambda, Inc.
Attn: General Counsel
548 Market Street, #69148
San Francisco, CA 94104
legal@lambdaschool.com

23. Signatures. A fax or electronic mail signature shall be deemed the same as an original signature.
24. Public Record. Lambda School acknowledges that this Order is and will be a matter of public record.
25. Effective Date. This Order shall become final and effective when signed by all parties and delivered by the Commissioner’s agent via e-mail to Lambda School at legal@lambdaschool.com.
26. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Order and undertake the obligations set forth herein.
27. Independent Legal Advice. Lambda School represents, warrants, and agrees that it received independent advice from its attorney(s) and/or representatives with respect to the advisability of executing this Order.

MANUEL P. ALVAREZ
Commissioner
Department of Financial Protection and Innovation

Dated: April 26, 2021

By _____
Mary Ann Smith
Deputy Commissioner

LAMBDA, INC.

Dated: April 22, 2021

By _____
Cecilia Ziniti
General Counsel
Lambda, Inc., doing business as Lambda School