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

11 In the Matter of:) CFL LICENSE NO.: 603K402
12 THE COMMISSIONER OF BUSINESS) NMLS NO.: 1034679
OVERSIGHT,)
13 Complainant,) CONSENT ORDER
14 v.)
15 NGG FINANCIAL,)
16 Respondent.)
17)

18
19 This Consent Order is entered into between the Commissioner of Business Oversight
20 (Commissioner) and Respondent NGG Financial and is made with respect to the following facts:

21 **RECITALS**

22 A. The Commissioner has jurisdiction over the licensing and regulation of persons and
23 entities engaged in the business of finance lending or brokering under the California Finance
24 Lenders Law (CFL) (Fin. Code, § 22000 et seq.).

25 B. The purpose of the CFL is to ensure an adequate supply of credit to borrowers in
26 California; to simplify, clarify, and modernize the law governing loans made by finance lenders; to
27 foster competition among finance lenders; to protect borrowers against unfair practices by some
28 lenders, having due regard for the interests of legitimate and scrupulous lenders; to permit and

1 encourage the development of fair and economically sound lending practices; and to encourage and
2 foster a sound economic climate in this state. (Fin. Code, § 22001, subd. (a).)

3 C. NGG Financial is a California corporation with a principal place of business at 4015
4 Ibis Street, Suite A, San Diego, California 92103.

5 D. On August 12, 2013, NGG Financial was issued a license as a finance broker under
6 license number 603K402.

7 E. Jeffrey Nett is the president and chief executive officer of NGG Financial.

8 F. Under Financial Code section 22159, CFL licensees must file an annual report with
9 the Commissioner by March 15 of each year.

10 G. On March 6, 2017, the Commissioner reminded CFL licensees of the March 15
11 deadline for filing their annual reports by sending notice to the e-mail addresses designated by the
12 licensees for receiving communications from the Commissioner according to the Commissioner's
13 Order on Electronic Communications dated November 22, 2013.

14 H. As of March 22, 2017, NGG Financial had not filed its annual report. The
15 Commissioner sent a final notice dated March 22, 2017, to NGG Financial by certified mail,
16 informing it that if it did not file the annual report by the close of business on April 10, 2017, its
17 license would be summarily revoked under Financial Code section 22715.

18 I. On April 11, 2017, NGG Financial still had not filed its annual report. Thus, on April
19 19, 2017, the Commissioner issued an order summarily revoking NGG Financial's CFL license. The
20 order was effective that day.

21 J. Under Financial Code section 22715, NGG Financial was entitled to request a
22 hearing within 30 days of the issuance of the revocation order, but it did not request one.

23 K. On June 26, 2017, NGG Financial filed its annual report, which was due on March
24 15, 2017.

25 L. During these proceedings, NGG Financial represented to the Commissioner that it
26 took applications for nine loans after April 19, 2017, the effective date of the summary revocation.
27 In taking the applications, NGG Financial engaged in the business of a finance lender or broker
28 without a license in violation of Financial Code section 22100, subdivision (a).

1 M. The Commissioner finds that entering into this Consent Order is in the public
2 interest and consistent with the purposes fairly intended by the policy and provisions of the CFL.

3 The parties therefore agree as follows:

4 **TERMS AND CONDITIONS**

5 1. Purpose. The parties intend to resolve this matter for the purpose of judicial
6 economy and expediency and without the uncertainty and expense of a hearing or other litigation.

7 2. Desist and Refrain Order. NGG Financial stipulates that under Financial Code
8 section 22712, it is ordered to desist and refrain from failing to file an annual report in violation of
9 Financial Code section 22159 and from engaging in the business of a finance lender or broker
10 without a license in violation of Financial Code section 22100, subdivision (a).

11 3. Waiver of Hearing Rights. NGG Financial acknowledges that the Commissioner
12 is ready, willing, and able to proceed with the filing of an administrative enforcement action on
13 the charges and desist and refrain order contained in this Consent Order. NGG Financial hereby
14 waives the right to any hearings and to any reconsideration, appeal, injunction, or other review that
15 may be afforded under the Financial Code, California Administrative Procedure Act, Code of Civil
16 Procedure, or any other provision of law. NGG Financial further waives any notice or hearing rights
17 under Government Code section 11415.60, subdivision (b), the California Administrative Procedure
18 Act, Code of Civil Procedure, or any other provision of law. By waiving such rights, NGG
19 Financial effectively consents to the finality of this Consent Order and the desist and refrain
20 order contained in it.

21 4. Administrative Penalty. NGG Financial shall pay an administrative penalty of
22 \$14,000.00 no later than 30 days after the execution of this Consent Order. The penalty must be
23 made payable in the form of a cashier's check or Automated Clearing House deposit to the
24 Department of Business Oversight and transmitted to the attention of Accounting – Litigation, at the
25 Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814. Notice
26 of the payment must be sent to Samuel J. Park, Counsel, 320 West 4th Street, Suite 750, Los
27 Angeles, California 90013.

28 5. Rescinding of Revocation. The Commissioner hereby rescinds her April 19, 2017

1 order summarily revoking NGG Financial’s CFL license number 603K402. The license will be
2 deemed restored as of the effective date of this Consent Order.

3 6. Summary Suspension of License for Failure to Comply. If NGG Financial fails to
4 comply with paragraph 4, the Commissioner may summarily suspend it from engaging in business
5 under its license until it provides evidence of compliance to the Commissioner’s satisfaction. NGG
6 Financial hereby waives any notice and hearing rights afforded under Government Code section
7 11415.60, subdivision (b), the California Administrative Procedure Act, Code of Civil Procedure, or
8 any other provision of law to contest the summary suspension.

9 7. Full and Final Resolution. Except as stated in paragraph 6, this Consent Order is
10 intended to constitute a full and final resolution of the matter described in it. The Commissioner
11 will not bring any further action or proceeding concerning the matter unless she discovers violations
12 by NGG Financial that do not form the basis for this Consent Order, including violations knowingly
13 concealed from the Commissioner.

14 8. Commissioner’s Duties. Nothing in this Consent Order limits the Commissioner’s
15 ability to assist any other government agency with any action brought by that agency against NGG
16 Financial, including an action based on any of the acts, omissions, or events described in this
17 Consent Order.

18 9. Independent Legal Advice. Each party represents that it has received independent
19 advice from its counsel or representatives regarding the advisability of executing this Consent
20 Order.

21 10. Reliance. Each party represents that in executing this Consent Order it has relied
22 solely on the statements in the Consent Order and on the advice of its counsel or representatives.
23 Each party also represents that it has not relied on any statement or promise not contained in this
24 Consent Order from any other person or on the failure of such person to make a statement or
25 promise. The parties have included this clause to preclude any claim that a party was fraudulently
26 induced to execute this Consent Order.

27 11. Integration. This Consent Order is the final written expression and the complete and
28 exclusive statement of all the agreements, conditions, promises, representations, and covenants

1 between the parties concerning its subject matter and supersedes all discussion regarding such
2 subject matter between the parties, their representatives, and any other person. The parties have
3 included this clause to preclude the introduction of parol evidence to vary, interpret, supplement, or
4 contradict the terms of this Consent Order.

5 12. No Presumption Against Drafting Party. Each party acknowledges that it has had the
6 opportunity to draft, review, and edit the language of this Consent Order. Accordingly, the parties
7 intend that no presumption for or against the drafting party will apply in construing any part of this
8 Consent Order. The parties waive the benefit of Civil Code section 1654 as amended or
9 corresponding provisions of any successor statute, which provide that in cases of uncertainty,
10 language of a contract should be interpreted most strongly against the party that caused the
11 uncertainty to exist.

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 all parties affected
14 by it. Waiver of a provision of this Consent Order will not be deemed a waiver of any other
15 provision.

16 14. Headings. The headings in this Consent Order are for convenience only and do not
17 affect its meaning.

18 15. Governing Law. This Consent Order will be governed by and construed in
19 accordance with the laws of the State of California.

20 16. Authority to Sign. Each party represents that the person signing this Consent Order
21 on its behalf has the authority and capacity to do so.

22 17. Voluntary Agreement. NGG Financial enters into this Consent Order voluntarily and
23 without coercion and acknowledges that no promises, threats, or assurances about this Consent
24 Order have been made by the Commissioner or any of her officers or agents.

25 18. Counterparts. This Consent Order may be executed in any number of counterparts,
26 each of which will be deemed an original when executed. All counterparts together will be deemed
27 to constitute a single document.

28 19. Signatures. A signature delivered by facsimile or electronic mail will be deemed an

1 original signature.

2 20. Effective Date. This Consent Order will become effective on the date it is signed by
3 all parties and delivered to NGG Financial by the Commissioner via electronic mail.

4
5 Dated: 7/18/17

JAN LYNN OWEN
Commissioner of Business Oversight

6
7 By: _____
8 MARY ANN SMITH
 Deputy Commissioner

9 Dated: 7/18/17

NGG FINANCIAL

10
11 By: _____
12 JEFFREY NETT
 President and Chief Executive Officer