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

10
11 In the Matter of:) CFL LICENSE NO.: 60DBO-45503
) NMLS NO.: 1373315
12 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,)
13) CONSENT ORDER
Complainant,)
14)
v.)
15)
16 SPICER FINANCIAL GROUP, LLC,)
Respondent.)
17)
18)

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20 This Consent Order (Consent Order) is entered into between the Commissioner of Business
21 Oversight (Commissioner) and Spicer Financial Group, LLC (Respondent) (collectively the Parties)
22 and is made with respect to the following facts:

23 **RECITALS**

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

27 B. The purpose of the CFLL is to ensure an adequate supply of credit to borrowers in
28 California; to simplify, clarify, and modernize the law governing loans made by finance lenders; to
foster competition among finance lenders; to protect borrowers against unfair practices by some

1 lenders, having due regard for the interests of legitimate and scrupulous lenders; to permit and
2 encourage the development of fair and economically sound lending practices; and to encourage and
3 foster a sound economic climate in this state. (Fin. Code, § 22001, subd. (a).)

4 C. Respondent is a limited liability company organized in the state of California with a
5 principal place of business at 5000 Birch Street, Suite 3000, Newport Beach, California 92660.

6 D. Deborah E. Spicer is the President of Respondent.

7 E. On September 4, 2015, Respondent was issued a license as a finance broker under
8 license number 60DBO-45503.

9 F. Under Financial Code section 22159, CFLL licensees must file an annual report with
10 the Commissioner by March 15 of each year (Annual Report).

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

15 H. As of March 22, 2017, Respondent had not filed its Annual Report. The
16 Commissioner sent a final notice dated March 22, 2017, to Respondent by certified mail, informing
17 Respondent that if it did not file the Annual Report by April 11, 2017, its license would be
18 summarily revoked under Financial Code section 22715.

19 I. On April 11, 2017, Respondent still had not filed its Annual Report. As a result, on
20 April 19, 2017, the Commissioner issued an order summarily immediately revoking Respondent’s
21 CFLL license (Revocation Order).

22 J. Under Financial Code section 22715, Respondent was entitled to request a hearing
23 within 30 days of the issuance of the Revocation Order. Respondent did not timely request a
24 hearing.

25 K. On August 18, 2017, Respondent filed its Annual Report, which was due on March
26 15, 2017.

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1 L. In connection with these proceedings, Respondent represented to the Commissioner
2 that it had not engaged in the business of a finance lending or brokering following issuance of the
3 Revocation Order.

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

6 The Parties therefore agree as follows:

7 **TERMS AND CONDITIONS**

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

10 2. Desist and Refrain Order. Respondent stipulates that under Financial Code section
11 22712, it is ordered to desist and refrain from failing to file an annual report in violation of
12 Financial Code section 22159.

13 3. Administrative Penalty. Respondent shall pay an administrative penalty of
14 \$2,500.00 no later than 30 days after the execution of this Consent Order. The penalty must be
15 made payable in the form of a cashier’s check or Automated Clearing House deposit to the
16 Department of Business Oversight and transmitted to the attention of Accounting – Litigation, at the
17 Department of Business Oversight, 1515 K Street, Suite 200, Sacramento, California 95814. Notice
18 of the payment shall concurrently be sent to Kelly Suk, Counsel, 320 West 4th Street, Suite 750,
19 Los Angeles, California 90013.

20 4. Waiver of Hearing Rights. Respondent acknowledges that the Commissioner is
21 ready, willing, and able to proceed with the filing of an administrative enforcement action on
22 the charges and desist and refrain order contained in this Consent Order. Respondent hereby
23 waives the right to any hearings and to any reconsideration, appeal, injunction, or other review that
24 may be afforded under the Financial Code, California Administrative Procedure Act, Code of Civil
25 Procedure, or any other provision of law. Respondent further waives any notice or hearing rights
26 under Government Code section 11415.60, subdivision (b), the California Administrative Procedure
27 Act, Code of Civil Procedure, or any other provision of law. By waiving such rights, Respondent
28 effectively consents to the finality of this Consent Order and the desist and refrain order

1 contained in it.

2 5. Rescission of Revocation Order. The Commissioner hereby rescinds the April 19,
3 2017, Revocation Order, which summarily revoked Respondent’s CFLL license number 60DBO-
4 45503. CFLL license number 60DBO-45503 will be deemed restored as of the effective date of this
5 Consent Order.

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

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

17 8. Commissioner’s Duties. Nothing in this Consent Order shall limit the
18 Commissioner’s ability to assist any other government agency with any action brought by that
19 agency against Respondent, including an action based on any of the acts, omission or events
20 described in this Consent Order.

21 9. Independent Legal Advice. Each party represents that it has had the opportunity to
22 seek independent legal advice or has received independent advice from its counsel or
23 representatives regarding the advisability of executing this Consent Order.

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

1 induced to execute this Consent Order.

2 11. Integration. This Consent Order is the final written expression and the complete and
3 exclusive statement of all the agreements, conditions, promises, representations, and covenants
4 between the Parties concerning its subject matter and supersedes all discussion regarding such
5 subject matter between the Parties, their representatives, and any other person. The Parties have
6 included this clause to preclude the introduction of parol evidence to vary, interpret, supplement, or
7 contradict the terms of this Consent Order.

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

15 13. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
16 this Consent Order will be valid or binding unless it is in writing and signed by all parties affected
17 by it. Waiver of a provision of this Consent Order will not be deemed a waiver of any other
18 provision.

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

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

23 16. Public Record. Respondent acknowledges that this Consent Order will be a matter of
24 public record.

25 17. Voluntary Agreement. Respondent enters into this Consent Order voluntarily and
26 without coercion and acknowledges that no promises, threats, or assurances about this Consent
27 Order have been made by the Commissioner or any of her officers or agents.

28 18. Counterparts. This Consent Order may be executed in any number of counterparts,

1 each of which will be deemed an original when executed. All counterparts together will be deemed
2 to constitute a single document.

3 19. Signature. A signature delivered by facsimile or electronic mail will be deemed an
4 original signature.

5 20. Authority and Capacity to Sign. The Parties represents that the person signing this
6 Consent Order on its behalf has the authority and capacity to do so.

7 21. Effective Date. This Consent Order will become effective on the date it is signed by
8 the Parties and delivered to Respondent by the Commissioner via electronic mail.

11 JAN LYNN OWEN
12 Commissioner Business Oversight

13 Dated: 8/18/17

14 By: _____
15 Mary Ann Smith
16 Deputy Commissioner, Enforcement Division

17 SPICER FINANCIAL GROUP, LLC

18
19 Dated: 8/18/17

20 By: _____
21 Deborah E. Spicer
22 President