

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 SOPHIA C. KIM (State Bar No. 265649)
Senior Counsel
4 Department of Business Oversight
320 West 4th Street, Suite 750
5 Los Angeles, California 90013
Telephone: (213) 576-7594
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

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

10
11 In the Matter of:) CFL LICENSE NO.: 60DBO-81314
)
12 THE COMMISSIONER OF BUSINESS) STATEMENT OF ISSUES
13 OVERSIGHT,)
)
14 Complainant,)
)
15 v.)
)
16 DBA ASSURANCE PARTNERS LLC a.k.a.)
17 TRUST CAPITAL LLC,)
)
18 Respondent.)
19)

20
21 The Complainant, the Commissioner of Business Oversight (Commissioner) of the
22 Department of Business Oversight (Department), is informed and believes, and based upon such
23 information and belief, alleges and charges DBA Assurance Partners LLC a.k.a. Trust Capital LLC
24 (DBA Assurance) as follows:

25 **I.**
26 **Introduction**

27 1. The proposed order seeks to deny the application of DBA Assurance for a finance
28 lender and broker license pursuant to Section 22109, subdivision (a)(1) and (a)(2) of the California

1 Financing Law, commencing at Fin. Code § 22000 *et seq.* (CFL) in that: (1) a false statement of a
2 material fact was made in DBA Assurance’s application; and (2) DBA Assurance’s President/CEO,
3 Secretary, Director, and 100% owner has, within the last 10 years, been convicted of a crime or
4 committed an act involving dishonesty, fraud, or deceit, and that crime or act is substantially related
5 to the qualifications, functions, or duties of a person engaged in business in accordance with this
6 division.

7 **II.**
8 **Application**

9 2. At all relevant times, DBA Assurance is a Wyoming limited liability company
10 formed on November 21, 2013 and initially registered to do business in California on October 30,
11 2015. As of August 27, 2018, the California Secretary of State’s website reflects DBA Assurance’s
12 status as being “SOS Forfeited.”

13 3. At all relevant times, DBA Assurance’s principal place of business is located at 2036
14 Hornblend Street, Suite B, San Diego, California 92109.

15 4. At all relevant times, Paul Daniel Kendall (Kendall) is the President / CEO,
16 Secretary, Director, and 100% owner of DBA Assurance, with a principal place of business located
17 at 2036 Hornblend Street, Suite B, San Diego, California 92109.

18 5. On or around October 6, 2017, DBA Assurance filed its initial application to the
19 Commissioner for a finance lender and broker license (file number 60DBO-77077) (Initial
20 Application). Kendall, as CEO and Director of the applicant, signed the declaration section of the
21 Initial Application and also submitted Exhibit C, “Statement of Identity Questionnaire,” (SIQ) as
22 required pursuant to California Code of Regulations, title 10, section 1422, declaring under penalty
23 of perjury that the statements made in the Initial Application and SIQ were true and correct.

24 6. Item #5 of the SIQ stated, in pertinent part:

25 Have you ever been convicted of or pleaded nolo contendere to a
26 misdemeanor or felony other than minor traffic citations that do not
27 constitute a misdemeanor or felony offense?
28 “Convicted” includes a verdict of guilty by judge or jury, a plea of guilty
or of nolo contendere or a forfeiture of bail. All convictions must be
disclosed even if the plea or verdict was thereafter set aside and the
charges against you dismissed or expunged or if you have been pardoned .

1 . . . If the answer is ‘Yes’, give details . . . Attach a copy of any order,
2 judgment or decree

3 7. Kendall answered “Yes” to Item #5 and provided the following details: “DUI in
4 2007.” He provided a printed “Case Summary” for Case Number 08HM04596 from Orange
5 County Superior Court, Harbor – Newport Beach, disclosing that on May 1, 2008, he was charged
6 with three criminal misdemeanor offenses: Count 1, “Driving Under the influence of Drugs,” Count
7 2, “Drive while blood alcohol level is 0.08% or more,” and Count 3, “False report of criminal
8 offense.” On June 22, 2009, Counts 1 and 2 were dismissed, and Kendall pleaded guilty to Count 3,
9 “False report of criminal offense,” in violation of Penal Code section 148.5(a). The Case Summary
10 provided dates from the date of the alleged violation on May 1, 2008 through the end date of his
11 informal three year-probation on June 21, 2012.

12 8. On or around January 17, 2018, DBA Assurance withdrew its Initial Application and
13 submitted a new application (file no. 60DBO-81314) (New Application). Kendall again signed the
14 declaration section of the New Application and the SIQ under penalty of perjury, making no
15 changes to his answer to Item #5.

16 **III.**
17 **Conviction**

18 9. During the application review process a criminal history background check
19 confirmed that on June 22, 2009, Kendall pleaded guilty to a misdemeanor count of filing a false
20 police report of a criminal offense, in violation of Penal Code section 148.5(a). This contradicted
21 his statements in his SIQ’s submitted in connection with both his Initial Application and his New
22 Application, wherein he stated that he had been convicted of a “DUI in 2007.”

23 10. Pen. Code section 148.5(a) provides:

24 Every person who reports to any peace officer listed in Section 830.1 or
25 830.2, or subdivision (a) of Section 830.33, the Attorney General, or a
26 deputy attorney general, or a district attorney, or a deputy district attorney
27 that a felony or misdemeanor has been committed, knowing the report to
28 be false, is guilty of a misdemeanor.

///

1 11. On or around March 2, 2018, the Department received further information from
2 Kendall dated February 22, 2018 regarding the circumstances of his arrest on May 1, 2008,
3 contradicting his statement of having been convicted of a “DUI in 2007.” He did not provide any
4 supporting documentation to justify stating in his Initial Application and New Application that he
5 had been convicted of a “DUI in 2007” rather than the fact that he had pleaded guilty to Penal Code
6 section 148.5(a) on June 22, 2009.

7 **IV.**
8 **Applicable Law**

9 12. Financial Code section 22109, subdivision (a) provides, in relevant part:

10 (a) Upon reasonable notice and opportunity to be heard, the commissioner
11 may deny the application for a finance lender or broker license for any of
12 the following reasons:

13 (1) A false statement of a material fact has been made in the application.

14 (2) The applicant or an officer, director, general partner, person
15 responsible for the applicant’s lending activities in this state, or person
16 owning or controlling, directly or indirectly, 10 percent or more of the
17 outstanding interests or equity securities of the applicant has, within the
18 last 10 years, been **convicted** of or pleaded nolo contendere to a crime, **or**
19 **committed an act involving dishonesty**, fraud, or deceit, if the **crime or**
20 **act** is substantially related to the qualifications, functions, or duties of a
21 person engaged in business in accordance with this division
(Emphasis added.)

22 **V.**
23 **Conclusion**

24 The Commissioner finds, by reason of the foregoing, that DBA Assurance’s New
25 Application contains a false statement of a material fact made by Paul Daniel Kendall, its President
26 / CEO, Secretary, Director, and 100% owner, which is grounds under Financial Code section
27 22109, subdivision (a)(1) to deny the application of DBA Assurance for a finance lender and broker
28 license.

Furthermore, pursuant to Financial Code section 22109, subdivision (a)(2), DBA
Assurance’s President / CEO, Secretary, Director, and 100% owner has, within the last 10 years, i.e.

1 approximately eight years and six months prior to filing the New Application,¹ been convicted of a
2 crime involving dishonesty, specifically filing a false police report, which is an act involving
3 dishonesty toward a law enforcement officer and is inconsistent with the qualifications, functions,
4 and duties of a mortgage loan originator regulated under the CFL. Also, misrepresenting the nature
5 of the misdemeanor conviction and the date of occurrence under penalty of perjury in both his
6 Initial Application and his New Application, as recently as October 6, 2017 and January 7, 2018,
7 respectively, each constitutes a recent act that is within the ten year-period referenced in Financial
8 Code section 22109.

9 Therefore, Kendall’s false statements made under penalty of perjury in his Initial
10 Application and New Application and guilty conviction on June 22, 2009 each constitute grounds
11 under Financial Code section 22109, subdivisions (a)(1) and (a)(2) to deny the application of DBA
12 Assurance for a finance lender and broker license.

13 WHEREFORE, the Commissioner prays that the application of DBA Assurance Partners
14 LLC a.k.a. Trust Capital LLC, file number 60DBO-81314 be denied.

15
16 Dated: August 29, 2018
17 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

18
19
20 By _____
21 SOPHIA C. KIM
22 Senior Counsel
23 Enforcement Division
24
25
26
27

28 ¹ Kendall pleaded guilty on June 22, 2009. Approximately eight years and three months later, on October 6, 2017, DBA Assurance filed its Initial Application. Approximately three months thereafter, on January 17, 2018, DBA Assurance filed its New Application.