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9 BEFORE THE DEPARTMENT OF CORPORATIONS
10 OF THE STATE OF CALIFORNIA
11

12 In the Matter of the Statement of Issues of THE) Case No.: 603-9238
CALIFORNIA CORPORATIONS)
13 COMMISSIONER,) STATEMENT OF ISSUES
14)
Complainant,)
15)
16 vs.)
17 TOWN BANCORP FUNDING)
CORPORATION,)
18)
Respondent.)
19

20 Complainant, the California Corporations Commissioner (“Commissioner”) is informed and
21 believes, and based upon such information and belief, alleges and charges Respondent as follows:
22

23 I
INTRODUCTION

24 The Commissioner seeks to deny the issuance of a finance lender license to Town Bancorp
25 Funding Corporation (“Town Corp.”) pursuant to Section 22109 of the California Finance Lenders
26 Law (California Financial Code § 22000 et seq.) in that the president and sole shareholder of Town
27 Corp. has (i) repeatedly violated California Financial Code section 22305 by charging excessive
28 administrative fees, (ii) repeatedly violated California Financial Code section 22307 by requiring

1 borrowers to make their first loan payment in less than 15 days from the date of the loan, and (iii)
2 failed to comply with a demand of the Commissioner to cease violating California Financial Code
3 sections 22305 and 22307 and make refunds of excessive administrative fees.

4 **II**

5 **THE APPLICATION**

6 On May 1, 2003, Town Corp., a California Corporation, filed an application for a finance
7 lender license with the Commissioner (File No. 603-9238 hereinafter "application") pursuant to
8 California Financial Code section 22101. Kwang Tae Kim ("Kim") verified the application as
9 president of Town Corp. The application identified Kim as the sole officer, director and shareholder
10 of Town Corp.

11 Kim currently holds finance lenders license number 603-6012 as an individual doing
12 business as Town Bancorp Funding ("Town").¹

13 **III**

14 **FINANCE LENDER LAW VIOLATIONS**

15 On or about November 22, 2002, the Commissioner commenced a regulatory examination of
16 the books and records of Town. The regulatory examination disclosed that Town, among other
17 things, was violating California Financial Code sections 22035 and 22307 by charging excessive
18 administrative fees and requiring borrowers to make their first loan payment in less than 15 days
19 from the date of the loan.

20 On or about June 30, 2003, Town was notified in writing of the findings of the regulatory
21 examination. In the written notification, Town was required to cease all violations and to perform an
22 audit of all open loans and all loans paid off subsequent to April 2001 to ascertain all loans involving
23 excessive administrative fees and make refunds. On or about August 4, 2003, Town responded to
24 the written notice of findings and represented that he would comply with California Financial Code
25 sections 22305 and 22307 and that refunds of administrative fee overcharges had been made.

26 On or about December 10, 2003, the Commissioner commenced a special examination of the
27 books and records of Town to determine if Town (i) had refunded the administrative fee overcharges
28

1 specifically noted in the June 30, 2003 letter, (ii) had performed the audit regarding administrative
2 fee overcharges, (iii) was still collecting the first payment prior to the passage of 15 days, and (iv)
3 whether any further refunds not found during the November 2002 regulatory examination were due
4 and owing.

5 The special examination disclosed that Town had not performed the required audit regarding
6 administrative fees nor made any refunds for administrative fee overcharges and that Town was still
7 overcharging administrative fees and collecting the first payment prior to the passage of 15 days
8 from the date of the loan.

9 The special examination revealed that administrative fee overcharges had occurred in 30 of
10 30 (100%) loans reviewed, with overcharges averaging \$496.33. The maximum administrative fee
11 allowed under California Financial Code section 22305 is \$50.00 on loans of \$2,500 or less, and
12 \$75.00 on loans over \$2,500. Of the 30 loans reviewed during the special examination, 8 had been
13 made after Town had received the June 30, 2003 written notice of findings.

14 IV

15 **FAILURE TO COMPLY WITH DEMAND OF THE COMMISSIONER**

16 California Financial Code section 22150 provides:

17 The commissioner may make general rules and regulations and specific
18 rulings, demands, and findings for the enforcement of this division, in
19 addition to, and within the general purposes of, this division.

19 California Financial Code section 22159(b) provides:

20 A licensee shall make other special reports that may be required by
21 the commissioner.

22 As previously stated, on or about June 30, 2003, Town was notified in writing to cease all
23 violations and to perform an audit of all open loans and all loans paid off subsequent to April 2001
24 to ascertain all loans involving excessive administrative fees and make refunds.

25 The December 10, 2003 special examination disclosed that Town had not performed the
26 required audit regarding administrative fees nor made any refunds for administrative fee overcharges
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¹ Concurrently herewith, the Commissioner issued his Notice of Intention to Issue Revoking Finance Lenders License.

1 and that Town was still overcharging administrative fees and collecting the first payment prior to the
2 passage of 15 days from the date of the loan.

3 **V**

4 **CONCLUSION**

5 Complainant finds, by reason of the foregoing, that:

6 (1) Kim, the sole officer, director and shareholder of Town Corp. has repeatedly violated
7 California Financial Code sections 22305 and 22307 by charging excessive administrative fees and
8 requiring borrowers to make their first loan payment in less than 15 days from the date of the loan;

9 (2) Kim has failed to comply with a demand of the Commissioner to file a special report
10 regarding refunds of administrative fees and cease violating California Financial Code sections
11 22305 and 22307 in violation of California Financial Code section 22150 and 22159(b); and

12 (3) Town Corp. is incapable of operating its finance lenders business honestly, fairly or
13 in accordance with the CFLL as demonstrated by Town’s dishonest and illegal activities described
14 herein.

15 The findings set forth above constitute grounds under California Financial Code section
16 22109 to deny the issuance of a finance lender license to Town Corp.

17 Section 22109 of the California Financial Code provides in pertinent part:

18 (a) Upon reasonable notice and opportunity to be heard, the commissioner
19 may deny the application for any of the following reasons:

20 (2) Any officer, director, general partner, or person owning or controlling,
21 directly or indirectly, 10 percent or more of the outstanding interests or equity
22 securities of the applicant has, within the last ten years, . . . (B) committed any
23 act involving dishonesty, fraud, or deceit, if the crime or act is substantially
related to the qualifications, functions, or duties of a person engaged in business
in accordance with this division.

24 (3) Any officer, director, general partner, or person owning or controlling,
25 directly or indirectly, 10 percent or more of the outstanding interests or equity
26 securities of the applicant has violated any provision of this division or the rules
thereunder

27 THEREFORE, the Commissioner asserts that he is justified under California Financial Code
28 section 22109 in denying the issuance of a finance lender license to Town Corp.

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WHEREFORE, the Commissioner prays that the application for a finance lender license filed by Town Corp. on May 1, 2003 be denied.

Dated: April 21, 2004
Los Angeles, California

WILLIAM P. WOOD
California Corporations Commissioner

By _____
Judy L. Hartley
Senior Corporations Counsel