



STATE OF CALIFORNIA
Department of Business Oversight

GOVERNOR **Gavin Newsom** ▪ COMMISSIONER **Jan Lynn Owen**

IN REPLY REFER TO:
FILE NO: 605 4078

January 23, 2019

WESTERN BANCORP
5671 SANTA TERESA BOULEVARD, SUITE 100
SAN JOSE, CALIFORNIA 95123

Dear Licensee:

Attached are the following:

1. Notice of Intention to Issue Order Revoking California Finance Lenders License;
2. Accusation;
3. Statement to Respondent;
4. Government Code sections 11507.5, 11507.6, and 11507.7, relating to discovery and section 11522, relating to reinstatement; and
5. Notice of Defense.

Pursuant to Government Code section 11522, a person whose license was revoked will have to wait a period of not less than one (1) year from the date of revocation before they can petition the Commissioner for reinstatement of this license.

If you have any questions, please contact the Bond Desk at (213) 576-7588.

Jan Lynn Owen
Commissioner
Department of Business Oversight

By

CHARLES AGBONKPOLOR
Special Administrator, CFL
320 West 4th Street, Suite 750
Los Angeles, CA 90013

1 MARY ANN SMITH
Deputy Commissioner
2 DEPARTMENT OF BUSINESS OVERSIGHT
320 W. 4th St., Suite 750
3 Los Angeles, California 90013
Telephone: (213) 576-7690
4 Fax: (213) 576-7574
Attorneys for the People of the State of California
5

6 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
7 OF THE STATE OF CALIFORNIA
8

9	In the Matter of Accusation of THE)	FILE NO.: 605 4078
10	COMMISSIONER OF BUSINESS)	
11	OVERSIGHT,)	
12	Complainant,)	
13	vs.)	NOTICE OF INTENTION TO ISSUE ORDER
14	WESTERN BANCORP,)	REVOKING CALIFORNIA FINANCE
15	Respondent.)	LENDERS LICENSE
16)	
17	<hr/>		

18 Pursuant to section 22714 of the California Financing Law (California Financial Code
19 section 22000 et seq.), notice is hereby given of the intention of the Commissioner of Business
20 Oversight to enter her Order pursuant to section 22714 of the California Financing Law to
21 revoke Respondent, Western Bancorp's, finance lenders license.
22

23 The attached Accusation, which is incorporated by this reference, states the reasons for
24 the intended Order.

25 Unless a request for hearing, as evidenced by the mailing or delivery of the Notice of
26 Defense, is received within 15 days after the Accusation was personally served upon you or
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

mailed to you, such Order may be entered at any time thereafter without a hearing.

Dated: January 23, 2019
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
CHARLES AGBONKPOLOR
Special Administrator
California Financing Law

1 MARY ANN SMITH
Deputy Commissioner
2 DEPARTMENT OF BUSINESS OVERSIGHT
320 W. 4th St., Suite 750
3 Los Angeles, California 90013
Telephone: (213) 576-7690
4 Fax: (213) 576-7574
Attorneys for the People of the State of California
5

6 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
7 OF THE STATE OF CALIFORNIA
8

9 In the Matter of Accusation of THE) FILE NO.: 605 4078
10 COMMISSIONER OF BUSINESS)
OVERSIGHT,)
11)
12 Complainant,)
13 vs.)
14 WESTERN BANCORP,) ACCUSATION
15 Respondent.)
16)
17)

18
19 The Complainant, the Commissioner of Business Oversight (“Commissioner”) is informed
20 and believes, and based upon such information and belief, alleges and charges Respondent, Western
21 Bancorp (“Respondent” or “Western Bancorp”) as follows:

22 I

23 Respondent is a finance lender and/or broker licensed by the Commissioner pursuant to the
24 California Financing Law (California Financial Code § 22000 et seq.) ("CFL"), under License No.
25 605 4078. Respondent has its principal place of business located at:

26 5671 SANTA TERESA BOULEVARD, SUITE 100
27 SAN JOSE, CALIFORNIA 95123
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II

Pursuant to California Financial Code section 22112, all CFL licensees are required to maintain a surety bond in the minimum amount of \$25,000.00. Respondent's surety bond expired on 1/23/2019. On or about 12/28/2018, the Commissioner notified Respondent that a replacement surety bond had to be filed immediately, but no later than the expiration date to avoid suspension or revocation of its CFL license.

Respondent has yet to obtain a replacement surety bond in violation of California Financial Code section 22112.

III

California Financial Code section 22112 provides in pertinent part:

(a) A licensee shall maintain a surety bond in accordance with this subdivision in a minimum amount of twenty-five thousand dollars (\$25,000). The bond shall be payable to the commissioner and issued by an insurer authorized to do business in this state. An original surety bond, including any and all riders and endorsements executed subsequent to the effective date of the bond, shall be filed with the commissioner within 10 days of execution. For licensees with multiple licensed locations, only one surety bond is required. The bond shall be used for the recovery of expenses, fines, and fees levied by the commissioner in accordance with this division or for losses or damages incurred by borrowers or consumers as the result of a licensee's noncompliance with the requirements of this division.

California Financial Code section 22714(a) provides in pertinent part:

The commissioner shall suspend or revoke any license, upon notice and reasonable opportunity to be heard, if the commissioner finds any of the following

- (1) The licensee has failed to comply with any demand, ruling, or requirement of the commissioner made pursuant to and within the authority of this division.
- (2) The licensee has violated any provision of this division or any rule or regulation made by the commissioner under and within the authority of this division.
- (3) A fact or condition exists that, if it had existed at the time of the original application for the license, reasonably would have warranted the commissioner in refusing to issue the license originally.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IV

The Commissioner finds that, by reason of the foregoing, Respondent has violated California Financial Code section 22112, and based thereon, grounds exist to revoke Respondent’s CFL license.

WHEREFORE, IT IS PRAYED that the California Finance Lenders license of Western Bancorp be revoked.

Dated: January 23, 2019
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
CHARLES AGBONKPOLOR
Special Administrator
California Financing Law

1 MARY ANN SMITH
Deputy Commissioner
2 DEPARTMENT OF BUSINESS OVERSIGHT
320 W. 4th St., Suite 750
3 Los Angeles, California 90013
Telephone: (213) 576-7690
4 Fax: (213) 576-7574
Attorneys for the People of the State of California
5

6 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
7 OF THE STATE OF CALIFORNIA
8

9 In the Matter of Accusation of THE) FILE NO.: 605 4078
10 COMMISSIONER OF BUSINESS)
OVERSIGHT,)
11 Complainant,)
12 vs.) STATEMENT TO RESPONDENT
13 WESTERN BANCORP,)
14 Respondent.)
15
16
17

18 TO: WESTERN BANCORP
5671 SANTA TERESA BOULEVARD, SUITE 100
19 SAN JOSE, CALIFORNIA 95123
20

21 Attached is a copy of the Accusation issued in the above matter, which is hereby served upon
22 you in accordance with the provisions of Section 11505(c) of the Government Code.

23 Unless a written request for a hearing signed by or on behalf of the person named as
24 Respondent in the accompanying Accusation is delivered or mailed to the agency within 15 days after
25 the Accusation was personally served upon you or mailed to you, the Commissioner of Business
26 Oversight may proceed upon the Accusation without a hearing. The request for a hearing may be
27 made by delivering or mailing the enclosed form entitled Notice of Defense, or by delivering or
28 mailing a Notice of Defense as provided by Section 11506 of the Government Code to:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CHARLES AGBONKPOLOR
Special Administrator
Department of Business Oversight
320 West 4th Street, Suite 750
Los Angeles, California 90013-2344

You may, but need not, be represented by counsel at any or all steps of these proceedings.

If you desire the names and addresses of witnesses or an opportunity to inspect and copy the items mentioned in Section 11507.6 in the possession, custody or control of the agency, you may contact:

CHARLES AGBONKPOLOR
Special Administrator
Department of Business Oversight
320 West 4th Street, Suite 750
Los Angeles, California 90013-2344

The hearing may be postponed for good cause. If you have good cause, you are obliged to notify the agency or, if an administrative law judge has been assigned to the hearing, the Office of Administrative Hearings, within 10 working days after you discover the good cause. Failure to give notice within 10 days will deprive you of a postponement.

In accordance with the provisions of Section 11505 of the Government Code, attached are copies of 11507.5, 11507.6 and 11507.7 of the Government Code.

Dated: January 23, 2019
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By _____
CHARLES AGBONKPOLOR
Special Administrator
California Financing Law

11507.5 The provisions of Section 11507.6 provide the exclusive right to and method of discovery as to any proceeding governed by this chapter.

11507.6 After initiation of a proceeding in which a respondent or other party is entitled to a hearing on the merits, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the agency of the initial pleading or within 15 days after the service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(a) A statement of a person, other than the respondent, named in the initial administrative pleading, or in any additional pleading, when it is claimed that the act or omission of the respondent as to this person is the basis for the administrative proceeding;

(b) A statement pertaining to the subject matter of the proceeding made by any party to another party or person;

(c) Statements of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in (a) or (b) above;

(d) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(e) Any other writing or thing which is relevant and which would be admissible in evidence;

(f) Investigative reports made by or on behalf of the agency or other party pertaining to the subject matter of the proceeding, to the extent that these reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in (a) to (e), inclusive, or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of these oral statements.

Nothing on this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product.

11507.7 (a) Any party claiming the party's request for discovery pursuant to Section 11507.6 has not been complied with may serve and file with the administrative law judge a motion to compel discovery, naming as respondent the party refusing or failing to comply with Section 11507.6. The motion shall state facts showing the respondent party failed refused to comply with Section 11507.6, a description of the matters sought to be discovered, the reason or reasons why the matter is discoverable under that section, that a reasonable and good faith attempt to contact the respondent for an informal resolution of

the issue has been made, and the ground or grounds of respondent's refusal so far as known to the moving party.

(b) The motion shall be served upon respondent party and filed within 15 days after the respondent party first evidenced failure or refusal to comply with Section 11507.6 or within 30 days after request was made and the party has failed to reply to the request, or within another time provided by stipulation, whichever period is longer.

(c) The hearing on the motion to compel discovery shall be held within 15 days after the motion is made, or a later time that the administrative law judge may on the judge's own motion for good cause determine. The respondent party shall have the right to serve and file a written answer or other response to the motion before or at the time of the hearing.

(d) Where the matter sought to be discovered is under the custody or control of the respondent party and the respondent party asserts that the matter is not a discoverable matter under the provisions of Section 11507.6, or is privileged against disclosure under those provisions, the administrative law judge may order lodged with it matters provided in subdivision (b) of Section 915 of the Evidence Code and examine the matters in accordance with its provisions.

(e) The administrative law judge shall decide the case on the matters examined in camera, the papers filed by the parties, and such oral argument and additional evidence as the administrative law judge may allow.

(f) Unless otherwise stipulated by the parties, the administrative law judge shall no later than 15 days after the hearing make its order denying or granting the motion. The order shall be in writing setting forth the matters the moving party is entitled to discover under Section 11507.6. A copy of the order shall forthwith be served by mail by the administrative law judge upon the parties. Where the order grants the motion in whole or in part, the order shall not become effective until 10 days after the date the order is served. Where the order denies relief to the moving party, the order shall be effective on the date it is served.

11522 A person whose license has been revoked or suspended may petition the agency for reinstatement or reduction of penalty after a period of not less than one year has elapsed from the effective date of the decision or from the date of the denial of a similar petition. The agency shall give notice to the Attorney General of the filing of the petition and the Attorney General and the petitioner shall be afforded an opportunity to present either oral or written argument before the agency itself. The agency itself shall decide the petition, and the decision shall include the reasons therefore, and any terms and conditions that the agency reasonably deems appropriate to impose as a condition of reinstatement. This section shall not apply if the statutes dealing with the particular agency contain different provisions for reinstatement or reduction of penalty.

