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10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:)	CFL License No.: 60DBO-43691
13 THE COMMISSIONER OF BUSINESS)	
14 OVERSIGHT,)	CONSENT ORDER
15 Complainant,)	
16 v.)	
17 TC DEBT OPPORTUNITIES, LLC,)	
18 Respondent.)	
19 _____)	

21 The Commissioner of Business Oversight (Commissioner) and TC Debt Opportunities, LLC
22 (TCDO), (collectively, Parties), enter into this Consent Order 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 making consumer and commercial loans pursuant to the
26 California Financing Law (CFL) (Fin. Code, § 22000 et seq.).

27 B. TCDO is a finance lender that was licensed by the Commissioner from February 13,
28 2015 to December 26, 2018 (CFL License No. 60DBO-43691). TCDO has its principal office located

1 at 633 West Fifth Street, Suite 2200, Los Angeles, California 90071.

2 C. TCDO has no branch locations in California.

3 D. Kevin H. Miller is the Chief Executive Officer and a control person of TCDO and, as
4 such, is authorized to enter into this Consent Order on TCDO's behalf.

5 E. In accordance with Financial Code section 22107, each finance lender, broker, or
6 program administrator licensee shall pay to the commissioner its pro rata share of all costs and
7 expenses, including the costs and expenses associated with the licensing of mortgage loan originators
8 it employs, reasonably incurred in the administration of this division, as estimated by the
9 commissioner, for the ensuing year and any deficit actually incurred or anticipated in the
10 administration of the program in the year in which the assessment is made. The CFL licensees must
11 pay the annual assessment on or before the 31st day of October each year.

12 F. On September 28, 2018, the Commissioner sent TCDO the Assessment Notice per
13 invoice number CF2990. The notice was mailed to the address TCDO registered with the Department
14 (Registered Address): 601 South Figueroa Street, Suite 2050, Los Angeles, California, 90017. The
15 notice stated that the annual assessment would become delinquent if not paid by October 31, 2018.

16 G. As of November 6, 2018, TCDO had not paid its annual assessment. As a result, the
17 Commissioner sent to TCDO's Registered Address a Notice of Unpaid Assessment on November 7,
18 2018. The notice warned that failure to pay the assessment would result in summary revocation of
19 TCDO's license. TCDO did not respond to the Commissioner's notice.

20 H. As of December 7, 2018, TCDO had not paid its annual assessment. As a result, on
21 December 7, 2018, the Commissioner issued an Order Summarily Revoking California Financing
22 Law License Pursuant to Financial Code Section 22107 for CFL License Number 60DBO-43691
23 (Revocation Order). The Department mailed the Revocation Order to TCDO's Registered Address
24 along with notice that it would become effective December 27, 2018 unless payment of the annual
25 assessment was received by December 26, 2018. The Department sent the Revocation Order and
26 notice via certified mail with return receipt, which were subsequently returned undelivered by the
27 United States Postal Service.

28 I. As of December 26, 2018, the assessment remained unpaid. As such, the Revocation

1 Order became effective December 27, 2018.

2 J. Under Financial Code section 22107, subdivision (d), a request for hearing must be
3 filed within 30 days after an order is made. On May 6, 2019, TCDO submitted to the Commissioner an
4 untimely request for hearing on the Revocation Order.

5 K. TCDO stated that it did not receive the notices or the Revocation Order because it failed
6 to notify the Commissioner that it had changed its place of business to a street address other than that
7 designated on its license, as required by Financial Code section 22153.

8 L. TCDO failed to pay its annual assessment on or before the due date of October 31, 2018.
9 The failure to pay the annual assessment on or before October 31, 2018 represents a violation of
10 Financial Code section 22107. Financial Code section 22707.5 authorizes the Commissioner to issue a
11 citation not exceeding \$2,500.00 for each violation of any provision of the CFL or any rule or order
12 thereunder.

13 M. In connection with these proceedings, TCDO represented to the Commissioner that it had
14 made five commercial mortgage loans nationwide since December 27, 2018, including one in California.
15 These loans were made after TCDO's CFL license was revoked and are therefore unlicensed activity in
16 violation of Financial Code section 22100.

17 N. TCDO admits to the jurisdiction of the Department of Business Oversight (Department)
18 and it is the intention of the parties to resolve this matter without the necessity of a hearing and/or other
19 litigation.

20 O. The Commissioner finds this action is appropriate, in the public interest, and consistent
21 with the purposes fairly intended by the CFL.

22 NOW, THEREFORE, for good and valuable consideration, and the terms and conditions set
23 forth herein, the Parties agree as follows:

24 TERMS

25 1. Purpose: This Consent Order resolves the issues before the Commissioner described
26 above in a manner that avoids the expense of a hearing and other possible court proceedings,
27 protects consumers, is in the public interest, and is consistent with the provisions of the CFL.

28 2. Order to Pay Annual Assessment: Pursuant to Financial Code section 22107, the

1 Commissioner hereby orders TCDO to pay \$250.00 to the Department of Business Oversight for the
2 2018 – 2019 annual assessment. The annual assessment shall be paid to the Commissioner within 10
3 days of the Effective Date of this Consent Order as defined in paragraph 22.

4 3. Order to Notify the Department of Address Change: Pursuant to Financial Code
5 section 22153, the Commissioner hereby orders TCDO to notify the Commissioner if TCDO seeks
6 to change its place of business to a street address other than that designated on its license.

7 4. Desist and Refrain Order: Pursuant to Financial Code section 22712, the
8 Commissioner hereby orders TCDO to immediately desist and refrain from further violations of the
9 CFL, including but not limited to failing to pay the annual assessment and failing to notify the
10 Commissioner if TCDO seeks to change its place of business to a street address other than that
11 designated on its license.

12 5. Order Rescinding Revocation Order(s): The Commissioner hereby rescinds the
13 Revocation Order, which was issued on December 7, 2018, and became effective on December 27,
14 2018. The rescission of the Revocation Order will also be deemed effective as of December 27,
15 2018.

16 6. Administrative Penalties and Fines: TCDO shall pay administrative fines and
17 penalties in the amount of \$5,500.00 for the violation of the CFL enumerated herein. The
18 administrative fines and penalties shall be paid to the Commissioner within 30 days of the Effective
19 Date of this Consent Order as defined in paragraph 22. All administrative fines and penalties shall be
20 made payable in the form of a cashier’s check or Automated Clearing House deposit to the
21 Department of Business Oversight and mailed to the attention of:

22 Accounting-Litigation
23 Department of Business Oversight
24 1515 K Street, Suite 200
25 Sacramento, California 95814

26 Notice of payment shall be made via email to Trevor Carroll, Counsel at Department of
27 Business Oversight, at trevor.carroll@dbo.ca.gov.

28 7. Failure to Pay Administrative Fines and Penalties: If TCDO fails to comply with
paragraph 4, the Commissioner may summarily suspend it from engaging in business under its

1 license until it provides evidence of compliance to the Commissioner’s satisfaction. TCDO hereby
2 waives any notice or hearing rights afforded under the Administrative Procedure Act, including
3 Government Code section 11415.60, subdivision (b); Code of Civil Procedure; or any other
4 provision of law to contest the summary suspension contemplated by this paragraph.

5 8. Waiver of Hearing Rights: TCDO acknowledges that the Commissioner is ready,
6 willing, and able to proceed with the filing of an administrative enforcement action on the charges
7 contained in this Consent Order. TCDO hereby waives the right to any hearings, and to any
8 reconsideration, appeal, or other right to review which may be afforded pursuant to the CFL, the
9 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
10 provision of law. TCDO further expressly waives any requirement for the filing of an Accusation
11 pursuant to Government Code section 11415.60, subdivision (b).

12 9. Information Willfully Withheld or Misrepresented: This Consent Order may be
13 revoked, and the Commissioner may pursue any and all remedies available under law against TCDO
14 if the Commissioner discovers that TCDO knowingly or willfully withheld or misrepresented
15 information used for and relied upon in this Consent Order.

16 10. Future Actions by the Commissioner: If TCDO fails to comply with any terms of the
17 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise
18 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions
19 against TCDO, or any of its partners, owners, officers, shareholders, directors, affiliates, employees
20 or successors for any and all unknown violations of the CFL. This Consent Order shall not serve to
21 exculpate TCDO or any of its members, officers, directors, affiliates, shareholders, employees, or
22 successors from liability for its violations of the CFL.

23 11. Assisting Other Agencies: Nothing in this Consent Order limits the Commissioner’s
24 ability to assist any other government agency (city, county, state, or federal) with any prosecution,
25 administrative, civil or criminal brought by that agency against TCDO or any other person based
26 upon any of the activities alleged in this matter or otherwise.

27 12. Independent Legal Advice: Each of the Parties represents, warrants, and agrees that it
28 has received or been advised to seek independent legal advice from its attorneys with respect to the

1 advisability of executing this Consent Order.

2 13. No Other Representation: Each of the Parties represents, warrants, and agrees that in
3 executing this Consent Order, it has relied solely on the statements set forth herein and the advice of
4 its own counsel. Each of the Parties further represents, warrants, and agrees that in executing this
5 Consent Order, it has placed no reliance on any statement, representation, or promise of any other
6 party, or any other person or entity not expressly set forth herein, or upon the failure of any party or
7 any other person or entity to make any statement, representation or disclosure of anything
8 whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in
9 any way fraudulently induced to execute this Consent Order; and (2) to preclude the introduction of
10 parol evidence to vary, interpret, supplement, or contradict the terms of this Consent Order.

11 14. Waiver, Modification, and Qualified Integration: The waiver of any provision of this
12 Consent Order shall not operate to waive any other provision set forth herein. No waiver,
13 amendment, or modification of this Consent Order shall be valid or binding to any extent unless it is
14 in writing and signed by all of the parties affected by it.

15 15. Full Integration: Each party represents, warrants, and agrees that in executing this
16 Consent Order it has relied solely on the statements set forth herein and the advice of its own
17 counsel. Each of the parties further represents, warrants, and agrees that in executing this Consent
18 Order it has placed no reliance on any statement, representation, or promise of any other party, or
19 any other person or entity not expressly set forth herein, or upon the failure of any party or any other
20 person or entity to make any statement, representation or disclosure of anything whatsoever. The
21 parties have included this clause to preclude any claim that any party was in any way fraudulently
22 induced to execute this Consent Order, and preclude the introduction of parol evidence to vary,
23 interpret, supplement, or contradict the terms of this Consent Order.

24 16. No Presumption From Drafting: In that the Parties have had the opportunity to draft,
25 review and edit the language of this Consent Order, no presumption for or against any party arising
26 out of drafting all or any part of this Consent Order will be applied in any action relating to,
27 connected to, or involving this Consent Order. Accordingly, the Parties waive the benefit of Civil
28 Code section 1654 and any successor or amended statute, providing that in cases of uncertainty,

1 language of a contract should be interpreted most strongly against the party who caused the
2 uncertainty to exist.

3 17. Counterparts: This Consent Order may be executed in any number of counter-parts by
4 the Parties, and when each party has signed and delivered at least one such counterpart to the other
5 party, each counterpart shall be deemed an original and taken together shall constitute one and the
6 same Consent Order. A fax or emailed signature shall be deemed the same as an original signature.

7 18. Terms, Headings and Governing Law: All terms used, but not defined herein, shall
8 have the meaning assigned to them by the California Financing Law. The headings to the paragraphs
9 of this Consent Order are inserted for convenience only and will not be deemed a part hereof or
10 affect the construction or interpretation of the provisions hereof. This Consent Order shall be
11 construed and enforced in accordance with, and governed by, the laws of the State of California.

12 19. Authority for Consent: Each signatory hereto covenants that he/she possesses all
13 necessary capacity and authority to sign and enter into this Consent Order. Each party warrants and
14 represents that such party is fully entitled and duly authorized to enter into and deliver this Consent
15 Order. In particular, and without limiting the generality of the foregoing, each party warrants and
16 represents that it is fully entitled to enter into the covenants, and undertake the obligations set forth
17 herein.

18 20. Public Record: TCDO hereby acknowledges that this Consent Order will be a matter
19 of public record. TCDO further understands and agrees to not make any statements or
20 representations that is inconsistent with this Consent Order.

21 21. Voluntary Consent Order: The Parties each represent and acknowledge that he, she or
22 it is executing this Consent Order completely voluntarily and without any duress or undue influence
23 of any kind from any source.

24 22. Effective Date: This Consent Order shall become effective when signed by all parties
25 and delivered by the Commissioner's counsel by email to TCDO's counsel at
26 T.Kim@geracillp.com.

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Dated: July 30, 2019

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: July 18, 2019

By _____
TC DEBT OPPORTUNITIES, LLC

APPROVED AS TO FORM AND CONTENT

Dated: July 18, 2019

By _____

Counsel for TC DEBT OPPORTUNITIES, LLC