

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 UCHE L. ENENWALI (State Bar No. 235832)
Senior Counsel
4 Department of Business Oversight
320 West 4th Street, Suite 750
5 Los Angeles, California 90013
Telephone: (213) 576-7586
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant
8

9
10 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
11 OF THE STATE OF CALIFORNIA

12 In the Matter of:) CFL APPLICATION NO. 60DBO-91707
13 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) STATEMENT OF ISSUES IN SUPPORT OF
14) NOTICE OF INTENTION TO ISSUE ORDER
Complainant,) DENYING CALIFORNIA FINANCE LENDER
15 v.) LICENSE APPLICATION PURSUANT TO
16 APEXLEND, LLC,) FINANCIAL CODE SECTION 22109.1
17)
Respondent.)
18)
19)

20 The Complainant, the Commissioner of Business Oversight (Commissioner), alleges and
21 charges Respondent Apexlend, LLC (Apexlend) as follows:
22

23 **I.**

24 **Introduction**

25 1. The Commissioner licenses and regulates mortgage loan originators, finance lenders,
26 and brokers under the California Financing Law (Fin. Code, § 22000 et seq.) (CFL).¹
27

28 ¹ All further references are to the CFL unless otherwise indicated.

1 2. Apexlend is a limited liability company with its principal place of business located at
2 56 Forest Lake Drive, West Harrison, New York 60604.

3 3. At all relevant times, Pavan Shunker Agarwal (Agarwal) is, or was, a direct owner of
4 Apexlend.

5 4. To become licensed by the Commissioner as a finance lender, an individual must
6 submit an application for a finance lender or broker's license under the CFL (Application) to the
7 Commissioner. The Application contains a set of detailed instructions for filing license applications,
8 including a checklist of items to be completed by the applicant, who is fully responsible for all the
9 requirements of the license.

10 5. On October 23, 2018, Apexlend applied for a CFL license with the Commissioner
11 (file number 60DBO-91707) by submitting an Application to the Commissioner.

12 6. The Commissioner seeks to deny Apexlend's Application pursuant to section 22109
13 on the basis that an officer of Apexlend, Agarwal, has violated a provision of the CFL, or the rules
14 thereunder or a similar regulatory scheme of a foreign jurisdiction.

15 **II.**

16 **Statement of Facts**

17 7. On August 19, 2014, the state of Georgia's Department of Banking and Finance
18 (DBF) issued a Notice of Intent to Revoke Annual License (Notice) to Sun West Mortgage
19 Company, Inc. (Sun West). The Notice identified Agarwal as the chief executive officer and director
20 of Sun West, alleging among other things, that Sun West employed nine convicted felons in
21 violation of state of Georgia's laws.

22 8. On August 19, 2014, Georgia's DBF issued proposed Orders to Cease and Desist to
23 Sun West, Agarwal, and Hari S. Agarwal based on the violations referenced in the Notice.

24 9. On September 18, 2014, Georgia's DBF and Agarwal entered into a Consent Order
25 dated September 18, 2014 (Consent Order) on terms including, but not limited to, the following:

26 Upon entry of this Consent Order, the mortgage lender license of
27 Sun West Mortgage Company Inc. will be deemed surrendered.
28 Sun West Mortgage Company, Inc. will never apply for a Georgia
mortgage broker or Georgia mortgage lender license. The officers
shall be prohibited from making an application for a Georgia

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

mortgage loan originator’s license, a Georgia mortgage broker’s license, or a Georgia mortgage lender’s license, either in their individual capacities or as the owners or officers of a corporation, partnership or limited liability company. The officers shall be prohibited from directing the affairs of a Georgia mortgage broker or Georgia mortgage lender including, but not limited to, as a director, officer, partner, equitable owner, branch manager, employee, or any other equivalent role for a licensed Georgia mortgage broker or Georgia mortgage lender...”

10. The Consent Order further directed Agarwal to surrender its license and enjoined him from applying for a mortgage loan originator license from the state of Georgia. The Consent Order assessed fines in the amount of \$45,500.00 against Agarwal in connection with the violations that formed the basis of the Notice.

III.
Apexlend’s CFL Application

11. Apexlend submitted its application for a CFL license with the Commissioner on October 23, 2018. The Application identified Agarwal as an owner of 50% or more shares of Apexlend. Agarwal verified the Application as correct and true under penalty of perjury.

12. As required under the CFL, Apexlend submitted a Statement of Identity and Questionnaire (SIQ) in support of its Application. Question 3 of the SIQ contains the following question:

Q3. Have you ever been named in any order, judgment or decree of any court or any governmental agency or administrator, temporarily or permanently restraining or enjoining you from engaging in or continuing any conduct, practice or employment....

13. Question 3 of the SIQ further states: “if the answer is “Yes,” give details.” Agarwal responded “Yes” to Question 3 of the SIQ, and disclosed the Consent Order, admitting that he was ordered to refrain from making any future applications for a Georgia mortgage loan originator’s license or mortgage broker’s license, in either his individual capacity or as owner or officer of a corporation, partnership or LLC.

///
///

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.

Authority to deny Apexlend’s Application

14. California Financial Code section 22109, subdivision (a), provides, in pertinent part:

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

...

(3) The applicant or an officer, director, general partner, person responsible for the applicant's lending activities in this state, or person owning or controlling, directly or indirectly, 10 percent or more of the outstanding interests or equity securities of the applicant has violated any provision of this division or the rules thereunder or any similar regulatory scheme of the State of California or a foreign jurisdiction.

15. Based on the foregoing findings of fact, the Commissioner has determined that there are grounds to deny Agarwal licensure under section 22109 (a) (3) on the basis that Agarwal who owns directly or indirectly, 10 percent or more of the outstanding interests or equity securities of Apexlend has violated a similar regulatory scheme of the state of California or a foreign jurisdiction by employing convicted felons in violation of state of Georgia’s laws. Agarwal’s violations of the laws of the state of Georgia resulted in a Consent Order that among other terms, prohibits Agarwal from applying for a mortgage loan originator license from the state of Georgia or directing the affairs of a mortgage broker or mortgage lender in the state of Georgia.

V.

CONCLUSION

16. The Commissioner finds, by reason of the foregoing, that Agarwal who owns 10 percent or more of the outstanding interests or equity securities of Apexlend has violated a similar regulatory scheme of the state of California or a foreign jurisdiction by employing convicted felons in violation of the laws of the state of Georgia. Agarwal’s violations resulted in a Consent Order that enjoins Agarwal from applying for a mortgage loan originator license from the state of Georgia or directing the affairs of a Georgia mortgage broker or Georgia mortgage lender.

///

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

The findings set forth above constitute grounds under California Financial Code section 22109, subdivision (a), to deny the issuance of a finance lender license to Apexlend, LLC.

WHEREFORE, the Commissioner prays that the Application for a finance lender license filed by Apexlend, LLC on October 23, 2018, be denied.

Dated: November 20, 2019

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
UCHE L. ENENWALI
Senior Counsel
Enforcement Division