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

11 In the Matter of:)
12 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) CONSENT ORDER
13)
14 Complainant,)
15 v.)
16 PREMIER BUSINESS LENDING, INC.,)
17 Respondents.)
18 _____)

19 In consideration of the application filed by Premier Business Lending, Inc., for a lending
20 license under the California Financing Law (Fin. Code, § 22000, et seq.) (CFL), this Consent Order
21 is entered into by and between the Commissioner of Business Oversight and Premier Business
22 Lending, Inc.

23 **I.**

24 **Recitals**

25 This Consent Order is made with reference to the following facts:

26 A. Premier Business Lending, Inc., (PBL) is a California corporation with its principal
27 place of business located at 1102 Windfield Way, Suite 1, El Dorado Hills, California 95762. PBL
28 operates and maintains an Internet website located at <http://www.premierbusinesslending.com>.

1 B. Chris Wilcox (Wilcox) is the Executive Vice President of PBL. Wilcox is authorized
2 to enter into this Consent Order on behalf of PBL.

3 C. The Department of Business Oversight, through the Commissioner of Business
4 Oversight (Commissioner), has jurisdiction over the licensing and regulation of persons and entities
5 engaged in the business of lending and brokering pursuant to the CFL.

6 D. On January 22, 2019, the Commissioner issued a Desist and Refrain Order (Order)
7 against PBL and Wilcox for unlawfully engaging in the business of a finance lender or broker by
8 offering to secure a business line of credit to at least one California resident in violation of Financial
9 Code section 22100. The Order directed PBL and Wilcox to cease from further engaging in the
10 business of a finance lender and/or broker in the State of California without first obtaining a license
11 from the Commissioner, or otherwise being exempt.

12 E. PBL and Wilcox timely requested a hearing on the Order and the matter was
13 scheduled for hearing on October 7, 2019 at the Office of Administrative Hearings in Los Angeles,
14 California.

15 F. On July 15, 2019, PBL filed with the Commissioner an application for licensure as a
16 lender and broker under the CFL. (CFL File No. 60 DBO-101086) (Application). The Application
17 identified Wilcox as the Executive Vice President and 40% owner of PBL.

18 G. On July 17, 2019, PBL and Wilcox withdrew their request for a hearing on the Order
19 and the matter was taken off the court's calendar.

20 H. In PBL's Application, Wilcox answered "unknown" to a disclosure question 7 (b),
21 which asks whether the "... applicant at any time violated the California Financing Law or
22 regulations, or any similar regulatory scheme of California or a foreign jurisdiction?"

23 I. In addition, Wilcox answered "No" to Items 3(a) and 3(b) of his Statement of Identity
24 and Questionnaire (SIQ) filed in support of PBL's Application. Item 3(a) of the SIQ asks whether
25 the "... applicant has ever been named in any order... of any court or any governmental agency...
26 enjoining you from engaging in or continuing any conduct, practice or employment." Item 3(b) asks
27 whether the applicant "... has been within the last ten years, under federal, state or local
28 investigation for possible violation of any law, ordinance, or licensing or regulatory scheme?"

1 J. On August 19, 2019, the Commissioner’s staff sent a deficiency notice to Wilcox
2 requesting that he correct his response to Item 7(b) of his Application and Items 3 (a) and (b) in the
3 SIQ. In response, PBL submitted a revised Item 7(b), stating “No” to the question 7 (b) that asks
4 whether the applicant at any time violated the CFL or any similar regulatory scheme of California or
5 a foreign jurisdiction. PBL provided to the Commissioner, along with its revised response to Item 7
6 (b), information describing services PBL had rendered in connection with loans made in California.
7 PBL did not disclose the Order in its response to question 7 (b). Further PBL maintained a “No”
8 response to disclosure question 3 (a) in the SIQ which asks whether the applicant has been within the
9 last ten years, under federal, state or local investigation for possible violation of any law, ordinance,
10 or licensing or regulatory scheme.

11 K. Financial Code section 22109 subdivision (a)(1) states that the Commissioner shall
12 deny a CFL application unless the Commissioner finds at a minimum that “the applicant has
13 demonstrated such financial responsibility, character, and general fitness as to command the
14 confidence of the community and to warrant a determination that the mortgage loan originator will
15 operate honestly, fairly, and efficiently within the purposes of this division.”

16 L. Financial Code section 22169 subdivision (a) (1)(2) grants the Commissioner
17 discretion to bar a person, including a mortgage loan originator, from any position of employment
18 with, or management or control of, any finance lender, broker, program administrator, or any other
19 person, if the Commissioner finds the “bar is in the public interest ... and that the person has
20 committed or caused a violation of this division or rule or order of the Commissioner, which
21 violation was either known or should have been known by the person committing or causing it or has
22 caused material damage to the finance lender, broker, program administrator, or mortgage loan
23 originator, or to the public.”

24 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
25 contained herein, the Commissioner and PBL (the Parties) agree as follows:

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II.

Terms and Conditions

1. Purpose. This Consent Order resolves the issues before the Commissioner’s findings set forth in paragraphs A through L above, in a manner that avoids the expense of a hearing and other possible court proceedings, protects consumers, is in the public interest, and is consistent with the purposes, policies, and provisions of the CFL.

2. Administrative Penalty. PBL shall pay a penalty of \$3,000.00 to the Commissioner (Penalty). The Penalty is due within 30 days of the Effective Date, as defined in Paragraph 23 below (Effective Date), and should be made payable in the form of a cashier’s check or Automated Clearing House deposit to the “Department of Business Oversight” and transmitted to the attention of: Accounting – Enforcement Division, Department of Business of Oversight, 1515 K Street, Suite 200, Sacramento, California 95814. Notice of such payment shall be forwarded to Uche Enenwali, Senior Counsel, Department of Business Oversight, Enforcement Division, 320 West 4th Street, Suite 750, Los Angeles, California 90013.

3. Consideration. In consideration of PBL’s agreement to the issuance of this Consent Order, and PBL’s payment of the Penalty, the Commissioner hereby agrees to continue reviewing PBL’s Application in accordance with Financial Code section 22109, subdivision (c).

4. Waiver of Hearing Rights. PBL acknowledges the Commissioner is ready, willing, and able to proceed with the filing of an administrative enforcement action on the charges contained in this Consent Order. PBL hereby waives the right to any hearings, and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the CFL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law. PBL further expressly waives any requirement for the filing of an Accusation pursuant to Government Code section 11415.60, subdivision (b). By waiving such rights, PBL effectively consents to this Consent Order becoming final.

5. Full and Final Settlement. The parties hereby acknowledge and agree that this Consent Order is intended to constitute a full, final, and complete resolution of the violations described herein, and that no further proceedings or actions will be brought by the Commissioner in

1 connection with these matters except under the CFL or any other provision of law, excepting
2 therefrom any proceeding to enforce compliance with the terms of this Consent Order.

3 6. Failure to Comply with Consent Order. PBL agrees that if it fails to comply with the
4 terms of this Consent Order, the Commissioner may, in addition to all other available remedies it
5 may invoke under the CFL, summarily suspend/revoke the CFL license of PBL until PBL is in
6 compliance. PBL waives any notice and hearing rights to contest such summary suspensions/
7 revocations which may be afforded under the CFL, the California Administrative Procedure Act, the
8 California Code of Civil Procedure, or any other provision of law in connection therewith.

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

13 8. Future Actions by Commissioner. If PBL fails to comply with any terms of the
14 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise
15 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions
16 against PBL, or any of its partners, owners, officers, shareholders, directors, employees or
17 successors for any and all unknown violations of the CFL.

18 9. Assisting Other Agencies. Nothing in this Consent Order limits the Commissioner's
19 ability to assist any other government agency (city, county, state, or federal) with any prosecution,
20 administrative, civil or criminal brought by that agency against PBL or any other person based upon
21 any of the activities alleged in this matter or otherwise.

22 10. No Presumption Against Drafting Party. Each party acknowledges that it has had the
23 opportunity to draft, review, and edit the language of this Consent Order. Accordingly, the parties
24 intend that no presumption for or against the drafting party will apply in construing any part of this
25 Consent Order. The parties waive the benefit of Civil Code section 1654 as amended or
26 corresponding provisions of any successor statute, which provide that in cases of uncertainty,
27 language of a contract should be interpreted most strongly against the party that caused the
28 uncertainty to exist.

1 11. Independent Legal Advice. Each of the parties represents, warrants, and agrees that it
2 has received independent advice from its attorney(s) and/or representatives with respect to the
3 advisability of executing this Consent Order.

4 12. Headings. The headings to the paragraphs of this Consent Order are inserted for
5 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
6 the provisions hereof.

7 13. Binding. This Consent Order is binding on all heirs, assigns, and/or successors in
8 interest.

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

18 15. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of
19 this Consent Order will be valid or binding unless it is in writing and signed by each of the parties.
20 The waiver of any provision of this Consent Order will not be deemed a waiver of any other
21 provision. No waiver by either party of any breach of, or of compliance with, any condition or
22 provision of this Consent Order by the other party will be considered a waiver of any other condition
23 or provision or of the same condition or provision at another time.

24 16. Full Integration. This Consent Order is the final written expression and the complete
25 and exclusive statement of all the agreements, conditions, promises, representations, and covenant
26 between the parties with respect to the subject matter hereof, and supersedes all prior or
27 contemporaneous agreements, negotiations, representations, understandings, and discussions

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1 between and among the parties, their respective representatives, and any other person or entity, with
2 respect to the subject matter covered hereby.

3 17. Governing Law. This Consent Order will be governed by and construed in
4 accordance with California law. Each of the parties hereto consents to the jurisdiction of such court,
5 and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient
6 forum to the maintenance of such action or proceeding in such court.

7 18. Counterparts. This Consent Order may be executed in one or more separate
8 counterparts, each of which when so executed, shall be deemed an original. Such counterparts shall
9 together constitute a single document.

10 19. Effect Upon Future Proceedings. If PBL apply for any license, permit or
11 qualification under the Commissioner's current or future jurisdiction, or are the subject of any future
12 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be
13 admitted for the purpose of such application(s) or enforcement proceedings(s).

14 20. Voluntary Agreement. PBL enters into this Consent Order voluntarily and without
15 coercion and acknowledges that no promises, threats or assurances have been made by the
16 Commissioner or any officer, or agent thereof, about this Consent Order. The parties each represent
17 and acknowledge that he, she or it is executing this Agreement completely voluntarily and without
18 any duress or undue influence of any kind from any source.

19 21. Signatures. A fax or electronic mail signature shall be deemed the same as an
20 original signature.

21 22. Public Record. PBL hereby acknowledges that this Consent Order is and will be a
22 matter of public record.

23 23. Effective Date. This Consent Order shall become final and effective when signed by
24 all parties and delivered by the Commissioner's agent via e-mail to PBL or its counsel of record,
25 Kenneth Charles Greene, Esq. at ken@kengreenelaw.com.

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24. Authority to Sign. Each signatory hereto covenants that he/she possesses all necessary capacity and authority to sign and enter into this Consent Order and undertake the obligations set forth herein.

Dated: April 20, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

Dated: April 20, 2020

PREMIER BUSINESS LENDING

By _____
CHRIS WILCOX
Executive Vice President

APPROVED AS TO FORM

Kenneth Charles Greene, Esq.
LAW OFFICE OF KENNETH CHARLES GREENE
Attorneys for PBL and Wilcox