

1 MARY ANN SMITH
Deputy Commissioner
2 SEAN M. ROONEY
Assistant Chief Counsel
3 SAMUEL J. PARK (State Bar No. 293902)
Counsel
4 Department of Business Oversight
320 West 4th Street, Suite 750
5 Los Angeles, California 90013
Telephone: (213) 576-7683
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

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

11 In the Matter of:) CFL FILE NO.: 60DBO-100444
12 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) CONSENT ORDER
13 Complainant,)
14 v.)
15 LENDTUIT, LLC,)
16 Respondent.)
17

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19 This Consent Order is entered into between the Commissioner of Business Oversight
20 (Commissioner) and Lendtuit, LLC (Lendtuit), and is made with respect to the following facts:

21 **I.**

22 **Recitals**

23 A. The Commissioner has jurisdiction over the licensing and regulation of persons and
24 entities engaged in the business of finance lending or brokering under the California Financing Law
25 (CFL) (Fin. Code, § 22000 et seq.).¹

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28 ¹ Effective October 4, 2017, the name of the California Finance Lenders Law changed to the California Financing Law. (Assem. Bill No. 1284 (2017-2018 Reg. Sess.) § 4.) For purposes of this document, a reference to the California Financing Law means the California Finance Lenders Law before October 4, 2017, and the California Financing Law on and after that date. (Fin. Code, § 22000.)

1 B. Under the CFL, the Commissioner has authority to issue orders to desist and refrain
2 from violations of the CFL; to deny, suspend, or revoke licenses pending or issued under the CFL;
3 and to assess penalties.

4 C. The purpose of the CFL is to ensure an adequate supply of credit to borrowers in
5 California; to simplify, clarify, and modernize the law governing loans made by finance lenders; to
6 foster competition among finance lenders; to protect borrowers against unfair practices by some
7 lenders, having due regard for the interests of legitimate and scrupulous lenders; to permit and
8 encourage the development of fair and economically sound lending practices; and to encourage and
9 foster a sound economic climate in this state. (Fin. Code, § 22001, subd. (a).)

10 D. Lendtuit is a California limited liability company with its principal place of business
11 at 20281 Southwest Birch Street, Suite 200, Newport Beach, California 92660. Lendtuit provides
12 commercial real estate lending and brokering.

13 E. On June 27, 2019, Lendtuit filed an application for a finance lender and broker
14 license under the CFL under file number 60DBO-100444. Lendtuit has never been licensed under
15 the CFL.

16 F. A predecessor business entity with the same name, Lendtuit, LLC, was licensed as a
17 CFL lender and broker on November 28, 2012, under license number 603J941.

18 G. On April 2, 2015, the predecessor entity was sold to a new owner.

19 H. On April 17, 2015, the Commissioner was notified of the change of ownership.

20 I. On July 6, 2015, the predecessor entity was dissolved, and a month later, on August
21 3, 2015, Lendtuit filed articles of organization with the California Secretary of State.

22 J. Although Lendtuit notified the Department of the ownership change, it did not notify
23 the Commissioner of the dissolution of the old entity and formation of the new entity.

24 K. Three years later, on May 10, 2018, Lendtuit filed a notice of change of address with
25 the Commissioner.

26 L. While reviewing the request, the Commissioner discovered the 2015 dissolution and
27 formation. On or around March 14, 2019, the Commissioner notified Lendtuit that the change of
28 address could not be processed because the entity that was licensed, the predecessor entity, no

1 longer existed. (See Fin. Code, § 22151, subd. (b) [licenses are not transferable or assignable].) The
2 Commissioner instructed Lendtuit to file an application, which it did, on June 27, 2019.

3 M. During review of the application, the Commissioner found that Lendtuit made and
4 brokered commercial loans without a license since its formation in August 3, 2015, in violation of
5 Financial Code section 22100, subdivision (a).

6 N. The Commissioner finds that entering into this Consent Order is in the public
7 interest and consistent with the purposes fairly intended by the policy and provisions of the CFL.

8 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
9 contained herein, the parties agree as follows:

10 **II.**

11 **Terms and Conditions**

12 1. Purpose. This Consent Order resolves the issues before the Commissioner in a
13 manner that avoids the expense of a hearing and other possible court proceedings, protects
14 consumers, is in the public interest, and is consistent with the purposes and provisions of the CFL.

15 2. Desist and Refrain Order. Pursuant to Financial Code section 22712, Lendtuit is
16 hereby ordered to desist and refrain from engaging in the business of a finance lender or broker
17 without a license in violation of section 22100, subdivision (a).

18 3. Penalty. Lendtuit shall pay an administrative penalty of \$5,000.00 no later than five
19 days after the effective date of this Consent Order as defined in paragraph 23 (Effective Date).
20 Lendtuit shall pay in accordance with paragraph 4.

21 4. Payment of Penalty. Lendtuit shall pay penalties by cashier’s check or Automated
22 Clearing House deposit made payable to the Department of Business Oversight and transmitted to
23 the attention of Accounting – Litigation at the Department of Business Oversight, 1515 K Street,
24 Suite 200, Sacramento, California 95814. Lendtuit shall provide notice of payments to the
25 Commissioner in accordance with paragraph 20.

26 5. Waiver of Hearing Rights. Lendtuit acknowledges that the Commissioner is ready,
27 willing, and able to proceed with the filing of an administrative enforcement action on the charges
28 contained in this Consent Order. Lendtuit hereby waives the right to any hearings, and to any

1 reconsideration, appeal, or other right to review which may be afforded pursuant to the CFL, the
2 California Administrative Procedure Act, the California Code of Civil Procedure, or any other
3 provision of law. Lendtuit further expressly waives any requirement for the filing of an accusation
4 pursuant to Government Code section 11415.60, subdivision (b). By waiving such rights, Lendtuit
5 effectively consents to the finality of this Consent Order and Desist and Refrain Order.

6 6. Failure to Comply with Consent Order. Lendtuit agrees that if it fails to comply with
7 the terms of this Consent Order, the Commissioner may, in addition to all other available remedies
8 he may invoke under the CFL, summarily suspend the CFL licenses of Lendtuit until Lendtuit is in
9 compliance. Lendtuit waives any notice and hearing rights to contest any such summary suspension
10 which may be afforded under the CFL, the California Administrative Procedure Act, the California
11 Code of Civil Procedure, or any other provision of law.

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

16 8. Future Actions by Commissioner. If Lendtuit fails to comply with any terms of this
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 Lendtuit or any of its partners, owners, officers, shareholders, directors, employees, or
20 successors for any and all unknown violations of the CFL.

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

25 10. Headings. The headings to the paragraphs of this Consent Order are inserted for
26 convenience only and will not be deemed a part hereof or affect the construction or interpretation of
27 the provisions hereof.

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1 11. Binding. This Consent Order is binding on all heirs, assigns, or successors in
2 interest.

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

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

18 14. Full Integration. This Consent Order is the final written expression and the complete
19 and exclusive statement of all the agreements, conditions, promises, representations, and covenants
20 between the parties with respect to the subject matter hereof, and supersedes all prior or
21 contemporaneous agreements, negotiations, representations, understandings, and discussions
22 between and among the parties, their respective representatives, and any other person or entity, with
23 respect to the subject matter covered hereby.

24 15. Governing Law. This Consent Order will be governed by and construed in
25 accordance with California law. Each of the parties consents to the jurisdiction of a court in
26 California, and hereby irrevocably waives, to the fullest extent permitted by law, the defense of an
27 inconvenient forum to the maintenance of such action or proceeding in such court.

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1 16. Counterparts. This Consent Order may be executed in one or more separate
2 counterparts, each of which, when so executed, shall be deemed an original. Such counterparts shall
3 together constitute a single document.

4 17. Mandatory Disclosure in Future Applications. Lendtuit agrees to disclose this
5 Consent Order in any application for a license, permit, or qualification under the Commissioner’s
6 current or future jurisdiction.

7 18. Effect Upon Future Proceedings. If Lendtuit applies for any license, permit, or
8 qualification under the Commissioner’s current or future jurisdiction or is the subject of any future
9 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be
10 admitted for the purpose of such application or action.

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

16 20. Notice. Any notice required under this Consent Order shall be provided to Lendtuit
17 at Lendtuit, LLC, 20281 Southwest Birch Street, Suite 200, Newport Beach, California 92660 and
18 dbo@lendtuit.com, or to the Commissioner at Samuel J. Park, Counsel, Department of Business
19 Oversight, 320 West 4th Street, Suite 750, Los Angeles, California 90013 and
20 samuel.park@dbo.ca.gov.

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

23 22. Public Record. Lendtuit hereby acknowledges that this Consent Order is and will be
24 a matter of public record.

25 23. Effective Date. This Consent Order shall become final and effective when signed by
26 all parties and delivered by the Commissioner’s agent via electronic mail to Lendtuit at
27 dbo@lendtuit.com.

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

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5 Dated: August 14, 2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

6
7 By: _____
8 MARY ANN SMITH
 Deputy Commissioner

9
10 Dated: August 13, 2020

LENDTUIT, LLC

11
12 By: _____
13 TIMOTHY JAMES McCORMACK
 President and Chief Executive Officer