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8
9 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
10 OF THE STATE OF CALIFORNIA

11 In the Matter of:) CFL LICENSE NO.: 60DBO-87635
)
12 THE COMMISSIONER OF FINANCIAL) DESIST AND REFRAIN ORDERS
13 PROTECTION AND INNOVATION,) PURSUANT TO FINANCIAL CODE
) SECTIONS 22712 and 50513; and
)
14 Complainant,) CITATIONS PURSUANT TO FINANCIAL
15 v.) CODE SECTION 22707.5
)
16 THOMAS COSTABILE; THE LENDING)
17 ANSWER; and TLA BANCORP, INC.,)
)
18 Respondents.)
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25 The Complainant Commissioner of Financial Protection and Innovation (Commissioner) is
26 informed and believes and based upon such information and belief, alleges and charges Thomas
27 Costabile (Costabile), TLA Bancorp, Inc. (TLA Bancorp), and The Lending Answer (collectively,
28 Respondents) as follows:

I.

Introduction

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

6 2. The Commissioner also has jurisdiction over the licensing and regulation of persons
7 and entities engaged in the business of lending and/or servicing residential mortgage loans, including
8 mortgage loan originators pursuant to the California Residential Mortgage Lending Act (CRMLA)
9 (Fin. Code, § 50000 et seq.).

10 3. At all relevant times, The Lending Answer is an entity of unknown form with a last
11 known business address at 28030 Dorothy Drive, Suite 304, Agoura Hills, California 91301.

12 4. At all relevant times, TLA Bancorp is a California corporation and licensed finance
13 lender and broker (CFL license number 60DBO-87635) with principal place of business at 29209
14 Canwood Street, Suite 210, Agoura Hills, California 91301. TLA Bancorp employs at least one
15 mortgage loan originator.

16 5. At all relevant times, Costabile is an individual residing in Newbury Park, California,
17 and a mortgage loan originator (NMLS ID 1727092) licensed by the Commissioner on or around
18 June 7, 2018. Costabile is the president of The Lending Answer and the 100% owner, president, and
19 chief executive officer of TLA Bancorp.

20 6. On or around July 9, 2018, in connection with TLA Bancorp’s pending application
21 for a CFL license, Costabile stated, “In RE: The Lending Answer, if we’re approved with TLA
22 Bancorp, Inc. by the DBO, this company will be dissolved or placed as a DBA to TLA Bancorp, Inc.
23 Essentially, if TLA Bancorp, Inc. is approved, this will be Thomas Costabile’s sole responsibility of
24 operation”

25 7. On or around September 5, 2018, in connection with TLA Bancorp’s pending
26 application for a CFL license, Costabile further stated, “The Lending Answer markets to Licensed
27 Professionals only. The Lending Answer has never originated a loan since its inception *nor does it*
28 *market to consumers . . . it never works* or has worked with consumers” (Emphasis applied.)

1 8. On or around September 21, 2018, TLA Bancorp obtained its finance lender and
2 broker license.

3 9. From in or around February 2020, Costabile was the Secretary of D & G Escrow
4 Corporation, a licensed escrow company (Escrow License No. 963-0081).

5 10. The Lending Answer has never obtained any license under the CFL or CRMLA.

6 11. Neither Costabile nor TLA Bancorp has ever obtained authorization to use the name,
7 The Lending Answer, or the address 28030 Dorothy Drive, Suite 304, Agoura Hills, California
8 91301, to engage in the business of finance lending or brokering under the CFL or to engage in the
9 business of a residential mortgage lender, servicer, or mortgage loan originator under the CRMLA.

10 **II.**

11 **Violations of the CFL and CRMLA**

12 12. From at least 2018 through April 2021, notwithstanding the lack of a license or
13 authorization to be used as a fictitious business name by a licensed finance lender or broker, The
14 Lending Answer operated a website, mypowerlender.com, which advertised, among other things:

15 The Lending Answer . . . Apply Now . . . We specialize in all facets of
16 Alt-Doc Lending, in multiple States, with the promise of offering the
17 lowest interest rates in the Nation compared to any competing lender with
18 similar guidelines . . . Our programs are ideal for **Self-Employed**
19 **borrowers** who have too many write-offs on their tax returns . . . **wealthy**
20 **individuals** who do not wish to share their private information to obtain a
21 mortgage; **Borrower's (sic) with poor credit history** who've been declined
22 by other Lenders; Farming clients looking to buy large parcels of land to
23 grow crops in the State of California; **Senior Citizen Borrower's (sic)**
24 looking to be placed into a Reverse Mortgage . . . CA IL MA MD NV NY
25 NJ TX WA . . . Unlimited Loan Amounts are taken on a case-by-case
26 basis and decision will be based on compensating factors of Borrower's
27 strengths such as High Reserves, Excellent Credit, etc. . . .

24 13. The Lending Answer solicited, among other things, the following information from a
25 prospective borrower on mypowerlender.com, "How is Your Credit? . . . Requested Loan Amount . .
26 . © 2010-2020 The Lending Answer."

27 14. On or around July 1, 2019, The Lending Answer issued a "conditional letter of
28 approval" for a purported loan (Approval Notice) on behalf of a California resident (Borrower) in

1 connection with a real estate transaction between the Borrower and another California resident
 2 (Seller) to buy residential property located in Newbury Park, California, stating in relevant part:

3 Approval Notice . . . Program: 30 Year Fixed; Approved Amount:
 4 \$1,610,750 . . . Interest Rate: 5.125% . . . Application ID:
 5 CA0850215510626-19 . . . **The Lending Answer** issues this conditional
 letter of approval for the Purchase of the Residential property listed above.
 The following due diligence has been completed:

- 6 • A full application has been taken with the above referenced
- 7 borrower.
- 8 • A credit report has been received, reviewed and approved.
- 9 • Asset documentation has been received, reviewed and approved.
- 10 • Income documentation has been received, reviewed and approved.

The Borrower’s loan . . . will be subject to the following items of
 information: Final Underwriting Approval. Borrower’s acceptance of
 terms.

***Please note TLA is a full service direct lender. This approval is based on
 our own funds (Emphasis applied.)***

13 15. Pursuant to Financial Code section 22159 all CFL licensees must file an annual report
 14 with the Commissioner by March 15 of each year (Annual Report) regarding all business conducted
 15 under the license either in or outside the State of California. On or around April 23, 2020, Costabile,
 16 as the chief executive officer of TLA Bancorp, submitted the 2019 Annual Report on behalf of TLA
 17 Bancorp stating, “Not open for business yet,” and “No business was conducted under the license for
 18 calendar year 2019.”

19 16. From at least June 2020 through July 2020 The Lending Answer solicited at least one
 20 California resident (Client) for a consumer loan via email, listing in the signature line, The Lending
 21 Answer, 28030 Dorothy Drive, Suite 304, Agoura Hills, California 91301, and
 22 www.mypowerlender.com.

23 17. In or around June 2020 The Lending Answer offered via email solicitation an
 24 “Exclusive Real Estate Marketing Agreement” (Agreement) to the Client stating, among other
 25 things:

26 The undersigned Client . . . hereby employs **The Lending Answer, Inc.** its
 27 assigns, affiliates, and any successors (“**TLA**”) and grants to TLA for a
 28 period of time (the “Term”) commencing on June 17, 2020 and ending
 June 17, 2021, the right and authority to obtain a Debt Financing

1 Commitment (“Commitment”) on substantially the following terms . . .

2 Loan Amount: 70% of the sales price or appraised value up to a loan
3 amount of \$2,500,000 . . . Income and DTI: Income is stated on the
4 application and calculated at a 40% debt to income ratio”

5 18. The Agreement provided that the Client would pay to The Lending Answer a
6 “Marketing Fee” equal to 1.28% of the final loan amount plus \$995.00 administrative fee plus an
7 \$1,495 underwriting fee, in addition to any fees the lender may charge upon the occurrence of
8 certain specified events, including but not limited to “A Commitment being issued on substantially
9 the terms and conditions set forth in this Agreement, and Client becoming contractually obligated to
10 the Lender to close the resulting Loan”

11 19. The Agreement further provided:
12 Escrow Agreement (Escrow Deposit Not Required for CA CASHOUT
13 Transactions) . . . Client will deposit the agreed upon marketing fee of
14 \$18,990.00 into the mutually agreed upon *3rd party escrow* hold account
15 listed below. Funds are to be deposited via wire or bank check prior to
16 submission by *TLA* to introduced sources . . . Bank of Santa Clarita – For
17 the Credit of *D & G Escrow Corporation*” (Emphasis applied.)

18 20. Neither Costabile nor The Lending Answer disclosed that since at least February
19 2020 Costabile was the Secretary of D & G Escrow Corporation, thereby making a materially false
20 or misleading statement to the Client in or around June 2020, i.e. that D & G Escrow Corporation
21 was a “3rd party escrow” agent.

22 21. On or around June 17, 2020 Costabile signed the Agreement on behalf of The
23 Lending Answer as its President.

24 22. On or around July 20, 2020 Costabile emailed the Client stating, “We receive dozens
25 of applications everyday and about a third of those are turn downs and those files are kept safely for
26 5 years per Law . . . We are a Lender hence we do need to retain ALL DOCUMENTS FOR 5
27 YEARS”

28 23. In fact, The Lending Answer has no CFL broker or lender license. Costabile, a
mortgage loan originator, failed to disclose his NMLS ID in the Agreement. Neither Costabile nor
The Lending Answer even mentioned TLA Bancorp to the Client or disclosed that neither TLA

1 Bancorp nor Costabile was ever authorized to do business under the name, The Lending Answer, at
2 28030 Dorothy Drive, Suite 304, Agoura Hills, California 91301.

3 24. Moreover, on or around March 15, 2021, Costabile, as the chief executive officer of
4 TLA Bancorp, submitted the 2020 Annual Report on behalf of TLA Bancorp stating, once again,
5 “Not open for business yet,” and “No business was conducted under the license for calendar year
6 2020.”

7 25. In or around April 2021 TLA Bancorp advertised on its website, tlabancorp.com, that
8 “TLA Bancorp is a fully-licensed, locally owned and operated loan company doing business online
9 and from our Agoura Hills location in California since 2006. We are licensed and regulated under
10 the California Consumer Installment Loan Act. With over 15 years in the business, we have
11 thousands of loyal customers who have trusted us to help them with their finances in times of need . .
12 . .”

13 26. In fact, TLA Bancorp obtained a finance lender and broker license on or around
14 September 21, 2018 under the CFL and the “California Consumer Installment Loan Act” does not
15 exist.

16 **III.**

17 **Desist and Refrain Orders to All Respondents**

18 27. Financial Code section 22004 provides, “‘Broker’ includes any person who is
19 engaged in the business of negotiating or performing any act as broker in connection with loans
20 made by a finance lender.”

21 28. Financial Code section 22009 provides,

22 “Finance lender” includes any person who is engaged in the business of
23 making consumer loans or making commercial loans. The business of
24 making consumer loans or commercial loans may include lending money
25 and taking, in the name of the lender, or in any other name, in whole or in
26 part, as security for a loan, any contract or obligation involving the
27 forfeiture of rights in or to personal property, the use and possession of
28 which property is retained by other than the mortgagee or lender, or any
lien on, assignment of, or power of attorney relative to wages, salary,
earnings, income, or commission.

1 29. Financial Code section 22100, subdivision (a) provides, “No person shall engage in
2 the business of a finance lender or broker without obtaining a license from the commissioner.”

3 30. Financial Code section 22155 provides, in relevant part:

4 No *finance lender, broker, or mortgage loan originator licensee* shall
5 transact the business licensed or make any loan provided for by this
6 division *under any other name or at any other place of business than*
7 *that named in the license* except pursuant to a currently effective written
8 order of the commissioner authorizing the other name or other place of
9 business. The commissioner’s order, while effective, shall be deemed to
10 amend the original license issued pursuant to Section 22105 or 22109.1 . .
11 . . (Emphasis applied.)

12 31. Financial Code section 22161 states, in relevant part:

13 No person subject to this division shall do any of the following:

14 (a) *Make a materially false or misleading statement* or representation *to*
15 *a borrower* about the terms or conditions of that borrower’s loan, when
16 making or brokering the loan.

17 (b) *Advertise, print, display, publish, distribute, or broadcast*, or cause or
18 permit to be advertised, printed, displayed, published, distributed, or
19 broadcast in any manner, any statement or representation with regard to
20 the *business subject to the provisions of this division*, including the rates,
21 terms, or conditions for making or negotiating loans, that is false,
22 *misleading*, or deceptive, or that omits material information that is
23 necessary to make the statements not false, misleading, or deceptive, or in
24 the case of a licensee, that *refers to the supervision of the business by the*
25 *state or any department or official of the state*. (Emphasis applied.)

26 32. Financial Code section 50700 provides in relevant part:

27 (a) A residential mortgage lender, or a person or employee acting under
28 the authority of a residential mortgage lender's license, including a
29 *mortgage loan originator, shall not provide brokerage services to a*
30 *borrower, except as provided in subdivision (c).*

31 (b) “Brokerage services” means either of the following:

32 (1) Obtaining or attempting to obtain, on behalf of a borrower, a
33 residential mortgage loan, as defined in subdivision (p) of Section 50003,
34 secured by residential real estate, as defined in subdivision (v) of Section
35 50003, made with the funds of another institutional lender, as defined in
36 paragraphs (1), (2), and (4) of subdivision (k) of Section 50003, and
37 closed in the name of that lender, for a fee paid by the borrower or the
38 institutional lender.

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(2) Obtaining or attempting to obtain, on behalf of a borrower, a residential mortgage loan, as defined in subdivision (p) of Section 50003, secured by residential real estate, as defined in subdivision (v) of Section 50003, made with the funds of another institutional lender, as defined in paragraphs (1), (2), and (4) of subdivision (k) of Section 50003, but closed in the name of the licensee, for a fee paid by the borrower or the institutional lender.

(c) A residential mortgage lender or a mortgage loan originator employed by a residential mortgage lender may provide brokerage services ***under the authority of the lender's license***, if the lender first enters into a written brokerage agreement with the borrower that satisfies the requirements of Section 50701 . . .

(e) ***A mortgage loan originator may only provide brokerage services as an employee of a licensed residential mortgage lender.*** (Emphasis applied.)

33. Financial Code section 50701, subdivision (c) provides that “[t]he loan brokerage agreement shall include the mortgage loan originator’s unique identifier.”

34. California Code of Regulations, title 10, section 1950.122.5, subdivision (h) provides: “A mortgage loan originator may not engage in business under any name other than a name approved by the Commissioner for use by the sponsor of the mortgage loan originator.”

35. Financial Code section 50503, subdivision (a) provides in relevant part:

(a) It is a violation for ***any person subject to this law*** or any director, partner, shareholder controlling an ownership interest of 10 percent or more, trustee, officer, agent, or employee of any such person to do any of the following: . . .

(2) Knowingly or recklessly make or cause to be made ***any misstatement or omission of a material fact, pertaining to a loan*** or loan servicing. (Emphasis applied.)

36. Financial Code section 22712, subdivision (a), provides, in relevant part:

Whenever, in the opinion of the commissioner, any person is engaged in the business as a broker or finance lender, or a mortgage loan originator, as defined in this division, without a license from the commissioner, or any licensee is violating any provision of this division, the commissioner may order that person or licensee to desist and to refrain from engaging in the business or further violating this division. If, within 30 days after the

order is served, a written request for a hearing is filed and no hearing is held within 30 days thereafter, the order is rescinded

37. Financial Code section 50513, subdivision (a)(5)(B) provides, in relevant part:

(a) The commissioner may do one or more of the following: . . .

(5) Issue orders or directives to mortgage loan originators under this division as follows: . . .

(B) Order or direct a mortgage loan originator or any residential mortgage lender or servicer licensee employing a mortgage loan originator to cease any harmful activities or violations of this division, including immediate temporary orders to desist and refrain.

Unlicensed Finance Lending or Brokering by The Lending Answer

38. Based on the foregoing, the Commissioner is of the opinion that from at least 2018 through at least April 2021 The Lending Answer engaged in the business of finance lending or brokering without obtaining a license from the Commissioner, in violation of Financial Code section 22100. Pursuant to Financial Code section 22712, The Lending Answer, and any and all officers, directors, employees, independent contractors, or agents operating on behalf of The Lending Answer, and their successors or assigns are hereby ordered to desist and refrain from engaging in the business of a finance lender or broker without a license from the Commissioner, in violation of Financial Code section 22100.

Making False, Misleading, Deceptive Representations by All Respondents

39. Furthermore, based on the foregoing, the Commissioner is of the opinion that from at least 2018 through at least April 2021 Costabile and The Lending Answer made false, misleading, or deceptive representations about the terms or conditions of a borrower’s loan when making or brokering the loan, or advertised, printed, displayed, published, distributed, or broadcasted statements and representations with regard to the business subject to the provisions of the CFL, including the rates, terms, or conditions for making or negotiating loans, that was false, misleading, or deceptive, or that omitted material information that is necessary to make the statements not false, misleading, or deceptive, or in the case of a licensee, that referred to the supervision of the business by the state or any department or official of the state, in violation of

1 Financial Code section 22161. Pursuant to Financial Code section 22712, Costabile and The
2 Lending Answer, and any and all officers, directors, employees, independent contractors, or agents
3 operating on behalf of The Lending Answer, and their successors or assigns are hereby ordered to
4 desist and refrain from violating Financial Code section 22161.

5 40. Also based on the foregoing, the Commissioner is of the opinion that in or around
6 April 2021 TLA Bancorp via its website, tlabancorp.com, advertised, printed, displayed, published,
7 distributed, or broadcasted, or caused or permitted to be advertised, printed, displayed, published,
8 distributed, or broadcast in any manner, any statement or representation with regard to the business
9 subject to the provisions of this division, including the rates, terms, or conditions for making or
10 negotiating loans, that was false, misleading, or deceptive, or that omitted material information that
11 was necessary to make the statements not false, misleading, or deceptive, or in the case of a licensee,
12 that referred to the supervision of the business by the state or any department or official of the state,
13 in violation of Financial Code section 22161, subdivision (b). Pursuant to Financial Code section
14 22712, TLA Bancorp, and any and all officers, directors, employees, independent contractors, or
15 agents operating on behalf of TLA Bancorp, and their successors or assigns are hereby ordered to
16 desist and refrain from violating Financial Code section 22161, subdivision (b).

17 41. Moreover, based on the foregoing, the Commissioner is of the opinion that from at
18 least July 2019 through at least July 2020 Costabile knowingly or recklessly made or caused to be
19 made any misstatement or omission of a material fact, pertaining to a loan or loan servicing, in
20 violation of Financial Code section 50503, subdivision (a)(2). Pursuant to Financial Code section
21 50513, subdivision (a)(5)(B), Costabile is hereby ordered to desist and refrain from violating
22 Financial Code section 50503.

23 Use of Unauthorized Name and Address by Costabile and TLA Bancorp

24 42. Furthermore, based on the foregoing, the Commissioner is of the opinion that from
25 at least June 7, 2018 through at least July 2020, TLA Bancorp and Costabile, a mortgage loan
26 originator licensed on June 7, 2018, and the principal of TLA Bancorp, a finance lender and broker
27 licensed on September 21, 2018, transacted the business of a finance lender, broker, or mortgage
28 loan originator under a name and at a location that was not authorized by the Commissioner, i.e.

1 The Lending Answer, at 28030 Dorothy Drive, Suite 304, Agoura Hills, California 91301, in
2 violation of Financial Code section 22155. Pursuant to Financial Code section 22712, Costabile
3 and TLA Bancorp, and any and all officers, directors, employees, independent contractors, or
4 agents operating on behalf of TLA Bancorp, and their successors or assigns are hereby ordered to
5 desist and refrain from violating Financial Code section 22155.

6 43. Also, based on the foregoing, the Commissioner is of the opinion that from at least
7 June 7, 2018 through at least July 2020, Costabile, a mortgage loan originator licensed on June 7,
8 2018, and the principal of TLA Bancorp, a finance lender and broker licensed on September 21,
9 2018, engaged in business under a name that was not approved by the Commissioner, i.e. The
10 Lending Answer, in violation of California Code of Regulations, title 10, section 1950.122.5,
11 subdivision (h). Pursuant to Financial Code section 50513, subdivision (a)(5)(B), Costabile is
12 hereby ordered to desist and refrain from violating California Code of Regulations, title 10, section
13 1950.122.5, subdivision (h).

14 Providing Brokerage Services Using an Unlicensed Entity and Failing to Disclose NMLS ID by
15 Costabile

16 44. Furthermore, based on the foregoing, the Commissioner is of the opinion that from at
17 least June 2020 through at least July 2020 Costabile, a mortgage loan originator licensed on June 7,
18 2018, and the principal of TLA Bancorp, a finance lender and broker licensed on September 21,
19 2018, provided brokerage services using an unlicensed entity, The Lending Answer, and failed to
20 disclose in the brokerage services agreement Costabile's NMLS ID, in violation of Financial Code
21 sections 50700 and 50701, subdivision (c). Pursuant to Financial Code section 50513, subdivision
22 (a)(5)(B), Costabile is hereby ordered to desist and refrain from violating Financial Code sections
23 50700 and 50701, subdivision (c).

24 45. These Orders are necessary, in the public interest, for the protection of investors and
25 consistent with the purposes, policies, and provisions of the California Financing Law and the
26 California Residential Mortgage Lending Act.

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IV

Citations to The Lending Answer

46. Pursuant to Financial Code section 22707.5, the Commissioner issues the following Citations A and B as part of this single document:

47. CITATION A – From at least 2018 through at least April 2021 The Lending Answer engaged in the business of finance lending or brokering without obtaining a license from the Commissioner, in violation of Financial Code section 22100.

48. CITATION B – From at least 2018 through at least April 2021 The Lending Answer made false, misleading, or deceptive representations about the terms or conditions of a borrower’s loan when making or brokering the loan, or advertised, printed, displayed, published, distributed, or broadcasted statements and representations with regard to the business subject to the provisions of the CFL, including the rates, terms, or conditions for making or negotiating loans, that was false, misleading, or deceptive, or that omitted material information that is necessary to make the statements not false, misleading, or deceptive, in violation of Financial Code section 22161.

49. Pursuant to Financial Code section 22707.5, the Commissioner hereby assesses and orders The Lending Answer to pay an administrative penalty of \$2,500.00 per violation, for each of the two Citations A and B, totaling \$5,000.00 within 30 days from the date of this citation. The penalty shall be made payable in the form of a cashier’s check or Automated Clearing House deposit to the Department of Financial Protection and Innovation and transmitted to the attention of Accounting – Litigation, at the Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California 95814-2306. Notice of the payment must be concurrently sent to Sophia C. Kim via e-mail at: Sophia.Kim@dfpi.ca.gov.

50. Financial Code section 22707.5 states:

(a) If, upon inspection, examination, or investigation, the commissioner has cause to believe that a licensee or other person is violating any provision of this division or any rule or order thereunder, the commissioner or their designee, may issue a citation to the licensee or person in writing, describing with particularity the basis of the citation. Each citation may contain an order to correct the violation or violations identified and provide a reasonable time period or periods by which the violation or violations must be corrected. In addition, ***each citation may assess an administrative fine not to exceed two thousand five hundred***

1 *dollars (\$2,500)* that shall be deposited in the State Corporations Fund. In
2 assessing a fine, the commissioner shall give due consideration to the
3 appropriateness of the amount of the fine with respect to factors including
4 the gravity of the violation, the good faith of the person or licensees cited,
5 and the history of previous violations. In addition, the commissioner may
6 include a claim for ancillary relief. The ancillary relief may include, but
7 not be limited to, refunds, restitution or disgorgement, or damages on
8 behalf of the persons injured by the act or practice constituting the subject
9 matter of the action. A citation issued or a fine assessed pursuant to this
10 section, while constituting punishment for a violation of law, shall be in
11 lieu of other administrative discipline by the commissioner for the
12 offense or offenses cited.

13 (b) Notwithstanding subdivision (a), nothing in this section shall prevent
14 the commissioner from issuing an order to desist and refrain from
15 engaging in a specific business or activity or activities, or an order to
16 suspend all business operations to a person or licensee who is engaged in
17 or who has engaged in continued or repeated violations of this division.
18 In any of these circumstances, the sanctions authorized under this section
19 shall be separate from, and in addition to, all other administrative, civil,
20 or criminal remedies.

21 (c) If, within 30 days from the receipt of the citation, the licensee or
22 person cited fails to notify the department that they intend to request a
23 hearing as described in subdivision (d), the citation shall be deemed final.
24 (d) Any hearing under this section shall be conducted in accordance with
25 Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of
26 Title 2 of the Government Code.

27 (e) After the exhaustion of the review procedures provided for in this
28 section, the commissioner may apply to the appropriate superior court for
a judgment in the amount of the administrative fine and an order
compelling the cited licensee or person to comply with the order of the
commissioner.

(1) The application shall include a certified copy of the final order of the
commissioner.

(2) Upon the filing of the application, the superior court shall set a date
for a hearing for an order to show cause why judgment should not be
entered, which shall be set not less than 60 calendar days from the date
the application is filed.

(3) The commissioner shall serve a copy of the application and order
along with notice of the hearing to all entities or persons cited in the order
against whom a civil judgment is sought not less than 15 calendar days

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before the date set for the hearing. Service of the application shall be pursuant to the methods specified by Article 3 (commencing with Section 415.10) of Chapter 4 of Title 5 of Part 2 of the Code of Civil Procedure for service of summons.

(4) The court shall consider the filing of a certified copy of the final order of the commissioner and the proof of service of the application and notice of the hearing on the persons or entities against whom the judgment is sought, a sufficient prima facie showing to warrant the issuance of the civil judgment at the hearing. The respondent then has the burden of showing by affirmative evidence at the hearing why the order of the commissioner is not final, or why the timely notice of application and hearing was not provided to avoid judgment being entered. Any method of service authorized by laws under which the order was issued is considered valid service for the purposes of determining whether the order is final. Absent this showing by the respondent, the superior court shall issue a final civil judgment compelling compliance with the order.

(5) The judgment issued pursuant to paragraph (4) may be for injunctive relief or payment of ancillary relief or penalties. The judgment may be enforced by the court pursuant to the procedures authorized for any other civil judgment.

(6) This subdivision shall not be construed to limit judicial review of any order of the commissioner in accordance with the law.

Dated: April 28, 2021
Los Angeles, California

MANUEL P. ALVAREZ
Commissioner of Financial Protection and Innovation

By _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division

