

BEFORE THE  
DEPARTMENT OF BUSINESS OVERSIGHT  
STATE OF CALIFORNIA

In the Matter of:

THE COMMISSIONER OF BUSINESS  
OVERSIGHT,

Complainant,

v.

SYNERGY FINANCIAL PARTNERS, LLC,

Respondent.

Agency No. 603K813

OAH No. 2019050989

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Department of Business Oversight as its Decision in the above-entitled matter.

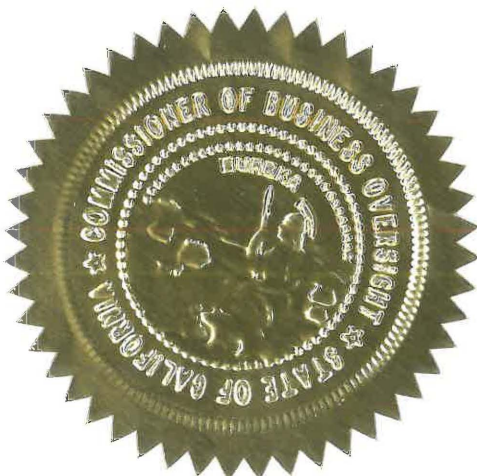
This Decision shall become effective on

October 23, 2019.

IT IS SO ORDERED THIS 23<sup>rd</sup> day of

September.

  
MANUEL P. ALVAREZ  
Commissioner of Business Oversight



**BEFORE THE  
DEPARTMENT OF BUSINESS OVERSIGHT  
STATE OF CALIFORNIA**

**In the Matter of:**

**THE COMMISSIONER OF BUSINESS OVERSIGHT**

**VS.**

**SYNERGY FINANCIAL PARTNERS, LLC, Respondent**

**Agency No. 603K813**

**OAH No. 2019050989**

**PROPOSED DECISION**

Erlinda G. Shrenger, Administrative Law Judge (ALJ), Office of Administrative Hearings (OAH), State of California, heard this matter on June 20, 2019, in Los Angeles.

Uche L. Enenwali, Senior Counsel, Department of Business Oversight (Department), represented complainant Manuel P. Alvarez, the Commissioner of Business Oversight (Commissioner).

No appearance was made by or on behalf of respondent Synergy Financial Partners, LLC.

Oral and documentary evidence was received. The record was closed and the matter was submitted for decision on June 20, 2019.

During the hearing, complainant's Exhibits 5 and 6 were marked for identification but later withdrawn by counsel. In preparing this Proposed Decision, the ALJ found Exhibit 5 would be helpful to assist the trier of fact in adjudicating this matter. Upon the ALJ's own motion, complainant's Exhibit 5 is admitted into the record.

## **FACTUAL FINDINGS**

### **Parties and Jurisdiction**

1. Pursuant to the California Financing Law (CFL), Financial Code section 22000 et seq., the Commissioner has jurisdiction over the licensing and regulation of persons and entities engaged in the business of finance lending or brokering.
2. Synergy Financial Partners, LLC (respondent) is a limited liability company licensed as a finance lender and broker under the CFL, license number 603K813.
3. On April 3, 2019, the Commissioner issued an Order Summarily Revoking Finance Lender and/or Broker License(s) Pursuant to Financial Code Section 22715 (Summary Revocation Order), which revoked respondent's CFL license due to respondent's failure to timely file its annual report for 2018 as required by Financial Code section 22715. Additionally, the Summary Revocation Order directed and ordered respondent to discontinue making or brokering any loan made pursuant to

the CFL, and to discontinue all activity conducted pursuant to Financial Code sections 22340 and 22600 within 60 days of the effective date of the order.<sup>1</sup>

4. By email dated April 26, 2019, respondent requested a hearing to appeal the Summary Revocation Order. (Exh. 2.)

5. On June 3, 2019, complainant served respondent with a Notice of Hearing, notifying respondent of the date, time, and location of the June 20, 2019 hearing, along with a Notice to Appear, requesting that respondent's chief executive officer, Nasir Shaikh, and/or respondent's "Person Most Knowledgeable" appear for the hearing. (Exh. 3.)

6. The hearing proceeded as a default pursuant to Government Code section 11520, based on respondent's failure to appear. At the hearing, complainant's counsel informed the ALJ that she had spoken to Mr. Shaikh on June 7, 2019, in connection with negotiating a civil penalty amount for respondent's failure to timely file its 2018 annual report. According to counsel, Mr. Shaikh informed her that he would not be appearing at the June 20, 2019 hearing because of a medical issue. OAH did not receive any request to continue the June 20, 2019 hearing from respondent, Mr. Shaikh, or anyone acting on their behalf.

7. In preparing this Proposed Decision, the ALJ noted that the Notice of Hearing referred to an "Accusation and Statement of Issues." That reference was a mistake. At the time the Notice of Hearing was served on respondent on June 3, 2019, the only pending matter between respondent and the Department was respondent's

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<sup>1</sup> Financial Code sections 22340 and 22600, in general, pertain to the sale of promissory notes to institutional investors.

appeal of the Summary Revocation Order related to its 2018 annual report. An "Accusation" that the Department sent to respondent in January 2019, pertaining to respondent's 2017 annual report, was withdrawn on March 29, 2019. (Exh. 5.) Based on these circumstances, the ALJ found that the Notice of Hearing's mistaken reference to an "Accusation and Statement of Issues" did not result in any apparent confusion regarding the subject of the June 20, 2019 hearing.

## **Annual Reports**

8. Angelito Salandanan is currently employed by the Department as a Corporation Examiner. Mr. Salandanan's testimony, as supplemented by complainant's documentary evidence, established the Department's processes related to annual reports filed by CFL licensees generally, and the circumstances related to the issuance of the Summary Revocation Order against respondent's CFL license.

9. CFL licensees, such as respondent, are required to file annual reports for their previous year's activities by March 15 of the following year. The annual report form is available on-line and may be completed and filed through the self-service portal on the Department's website. The Department sends email notices to CFL licensees in January, February, and March, reminding licensees of the requirement to timely file annual reports by March 15, and of the possible consequences for late-filing or failing to file the annual report (e.g., monetary penalties and license revocation).

10. The Department sent respondent notices on January 2, February 1, and March 5, 2019, regarding the filing of its 2018 annual report. (Exh. 2.) Respondent did not file its 2018 annual report by the March 15, 2019 statutory deadline. On March 20, 2019, the Department sent respondent a Final Notice for Non-Filing of 2018 CFL Annual Report (Final Notice). The Final Notice stated, in pertinent part:

Our records indicate you have not filed the Annual Report for the year ended December 31, 2018 as required by Financial Code section 22159(a). The report was due to be completed and filed on the [Department's] website via the self-service portal by March 15, 2019. The Annual Filing is in addition to any filing(s) you may have submitted on NMLS.

Financial Code section 22715 provides the Commissioner authority (1) to assess penalties based on how late the licensee files the report and (2) to summarily revoke the license of any licensee who fails to file this report within 10 days after notice by the Commissioner that the report is due and has not been filed.

**You are hereby notified that if your 2018 Annual Report is not completed and filed online on the [Department's] website via the self-service portal by the close of business on Friday, March 29, 2019, your license will be summarily revoked pursuant to Financial Code section 22715(a).** A separate summary revocation order would be issued.

Additionally, penalties are and will continue to accrue pursuant to Financial Code section 22715(b) until the Annual Report is filed. [¶ . . . ¶] The earlier you file the report, the lesser the penalties. A separate penalty order will be issued.

(Exh. 2 (emphasis in original).)

11. Respondent filed its 2018 annual report on April 15, 2019, 17 days after the March 29, 2019 deadline set in the Final Notice. (Exh. 4C.) The late filing of the 2018 annual report is the third consecutive year respondent has filed its annual report late. Respondent's 2017 annual report was filed late on April 5, 2018 (Exh. 4B), and its 2016 annual report was filed late on April 10, 2017. (Exh. 4A.)<sup>2</sup>

## LEGAL CONCLUSIONS

1. Financial Code section 22159, subdivision (a), provides in pertinent part:

Each finance lender, broker, and program administrator shall file an annual report with the commissioner, on or before March 15th, giving the relevant information that the commissioner reasonably requires concerning the business and operations conducted by the licensee or authorized by the program administrator licensee within the state during the preceding calendar year for each licensed place of business.

2. Financial Code section 22715, subdivision (a), states:

The commissioner may by order summarily suspend or revoke the license of any licensee if that person fails to file the report required by Section 22159 within 10 days after

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<sup>2</sup> As stated on the record, copies of respondent's annual reports for 2016, 2017, and 2018 (Exhibits 4A, 4B, and 4C) were admitted under seal.

notice by the commissioner that the report is due and not filed. If, after an order is made, a request for hearing is filed within 30 days and the hearing is not held within 60 days thereafter, the order is deemed rescinded as of its effective date.

3. Additionally, the Commissioner may impose, by order, a penalty on any licensee who does not, within the time specified in any written demand of the Commissioner, make and file any report required by law. (Fin. Code § 22715, subd. (b)(1)(A).) The amount of the penalty shall not exceed \$100 for each business day for the first five business days the report is overdue, and thereafter not exceed \$500 for each business day the report is overdue, not to exceed \$25,000 in the aggregate. (Fin. Code § 22715, subd. (b)(3).)

## **Disposition**

4. Pursuant to Financial Code section 22715, subdivision (a), the Commissioner was authorized to issue the Summary Revocation Order, which summarily revoked respondent's CFL license, based on respondent's failure to file its 2018 annual report within 10 days after being notified by the Commissioner that the report was due but had not been filed. (Factual Findings 1-4, 8-11.)

5. Respondent's late-filing of the 2018 annual report on April 15, 2019, did not cancel or otherwise affect the Summary Revocation Order. There is no such exception provided in Financial Code section 22715.

6. At the hearing, complainant's counsel requested an order confirming the Commissioner's authority to impose a monetary penalty on respondent for failing to timely file its 2018 annual report. The ALJ declines to act on that request. The



Commissioner is authorized to impose monetary penalties as provided under Financial Code section 22715, subdivisions (b) through (e), irrespective of any order by the ALJ in this matter.

7. Based on the foregoing, the Summary Revocation Order shall be upheld as set forth in the Order below.

### **ORDER**

1. The Order Summarily Revoking Finance Lender And/Or Broker License(s) Pursuant to Financial Code Section 22715 (Summary Revocation Order), issued against respondent Synergy Financial Partners, LLC, is upheld.

2. Finance lender and broker license number 603K813, issued to respondent Synergy Financial Partners, LLC, is revoked.

3. Respondent Synergy Financial Partners, LLC shall discontinue making or brokering any loans made pursuant to the California Financing Law, and shall discontinue all activity conducted pursuant to Financial Code sections 22340 and 22600, as directed and ordered in the Summary Revocation Order.

DATE: July 22, 2019



ERLINDA G. SHRENGER

Administrative Law Judge

Office of Administrative Hearings