



CORPORATE GOVERNANCE AND FINANCE DEPARTMENT

In the matter of:

**For: VIOLATION OF SEC MEMORANDUM
CIRCULAR NO. 18, SERIES OF 2019 ON THE
PROHIBITION ON UNFAIR DEBT
COLLECTION PRACTICES OF FINANCING
COMPANIES (FC) AND LENDING
COMPANIES (LC)**

SUPER CASH LENDING CORP.
(Company Reg. No. CS201821927)
Respondent

X-----X

TO:

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Receiving copy

Greetings:

Please take notice that on 11 November 2020, an Order, copy hereto attached, was issued in the above-entitled case, the original of which is now on file with the Commission.

Please acknowledge receipt hereof.

19 November 2020. Pasay City.


RACHEL ESTHER J. GUMTANG-REMALANTE
Director

Received by: Abby Balada 11/19/2020



CORPORATE GOVERNANCE AND FINANCE DEPARTMENT

CGFD Order No. 125
Series of 2020

In the matter of:

For: VIOLATION OF SEC MEMORANDUM CIRCULAR NO. 18, SERIES OF 2019 ON THE PROHIBITION ON UNFAIR DEBT COLLECTION PRACTICES OF FINANCING COMPANIES (FC) AND LENDING COMPANIES (LC)

SUPER CASH LENDING CORP.
(Company Reg. No. CS201821927)
Respondent.
x-----x

ORDER

This resolves the Formal Charge dated 05 October 2020 issued by this Department (the "Formal Charge") against Super Cash Lending Corp. (hereinafter referred to as "Respondent") for violations of SEC Memorandum Circular No. 18, series of 2019 on the Prohibition on Unfair Debt Collection Practices of Financing Companies (FC) and Lending Companies (LC) (the "SEC MC 18").

I. STATEMENT OF FACTS

Respondent is a licensed lending company under SEC Registration No. CS201821927 and Certificate of Authority to Operate as a Lending Company ("CA") No. 2798.¹ On 05 October 2020, the Corporate Governance and Finance Department (the "CGFD" or the "Department") formally charged the Respondent company for committing multiple violations of SEC MC 18 in relation to complaints received from its borrowers.

Section 1 of SEC MC 18 defines unfair debt collection practices, thus:

Sec 1 Unfair Collection Practices - FCs, LCs, and TPSPs hired by them may resort to all reasonable and legally permissible means to collect amounts due them under the loan agreement, provided that, in the exercise of their rights and performance of their duties, they must observe good faith and reasonable conduct and refrain from engaging in unscrupulous and untoward acts. Without limiting the general application of the foregoing, the following conduct shall constitute unfair collection practices, which shall be subject to the penalties provided herein:

¹ Registered on 04 October 2018.

(a) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person;

(b) The use of threats to take any action that cannot legally be taken;

(c) The use of obscenities, insults, or profane language the natural consequence of which is to abuse the borrower and/or which amount to a criminal act or offense under applicable laws;

(d) Disclosure or publication of the names and other personal information of borrowers who allegedly refuse to pay debts, except as may be allowed under Section 2 hereof;

(e) Communicating or threatening to communicate to any person loan information, which is known, or which should be known, to be false, including the failure to communicate that the debt is being disputed, except as may be allowed under Section 2 hereof;

(f) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a borrower; and

(g) Making contact at unreasonable/inconvenient times or hours, which shall be defined as contact before 6:00 A.M. or after 10:00 P.M., unless the account is past due for more than fifteen (15) days, or the borrower has given express consent that the said times are the only reasonable or convenient opportunities for contact.

Such consent which shall be evidenced by written, electronic, or recorded means, may be given prior to, during, or after the execution of the loan agreement.

(h) Notwithstanding the borrower's consent, contacting the persons in the borrower's contact list other than those who were named as guarantors or co-makers shall also constitute unfair debt collection practice. (Emphasis supplied)

Respondent's violations of SEC MC 18 which were discussed in the Department's Formal Charge are summarized in the table hereunder:

Table 1. Summary of Respondent's SEC MC 18 violations

	Complainant	Violations	Frequency
1	Jocelle Sioson	Section 1, Section 1(b), (f)	1 st (paid) ²
2	Clara Mae Julaton	Section 1, Section 1(b), (f)	2 nd (paid) ³
3	Maricel Robles Flores	Section 1(b), (f)	3 rd
4	Joan Singson	Section 1, Section 1(f)	4 th
5	Maricel Gunda	Section 1, Section 1(a), (c)	5 th
6	Claudine Vertucio	Section 1, Section 1(b), (f)	6 th
7	Pinky Magno Lagura	Section 1, Section 1(b), (f)	7 th
8	Christian Recto	Section 1, Section 1(b),(f)	8 th
9	Ervinna Villanueva	Section 1	9 th

² O.R. No. 1891891

³ O.R. No. 1891892

In accordance with the 2016 Rules of Procedure of the Securities and Exchange Commission (the "2016 Rules"), the Respondent was ordered to submit a verified answer to the Formal Charge, explaining why its Certificate of Authority to Operate as a Lending Company ("CA") should not be revoked for violating SEC MC 18 nine (9) times.

On 21 October 2020, the Department received Respondent's Verified Answer dated 21 October 2020 (the "Verified Answer").

In the Verified Answer, Respondent admitted that per its own investigation, the said violations were indeed committed. In her affidavit, Ms. Rossana Robledo, Operations Manager of Respondent, stated that some of the employees who were responsible for the violations were already separated, while those who are still with them had been warned and sanctioned by reducing their borrower-client accounts.⁴

With its admission of guilt, Respondent prayed for it to be allowed to continue to operate, and for the Formal Charge to be set aside. Respondent also offered a settlement in the amount of "at least Three Hundred Thousand Philippine Pesos (PHP300,000.00)" for a second chance to enable it to comply with existing laws, rules, and regulations of the Commission.⁵

II. ISSUE

The sole issue for the Department's determination is whether or not Respondent's CA should be revoked for its commission of several violations of SEC MC 18.

III. THE CGFD'S RULING

The Department finds that the revocation of Respondent's CA is in order.

The gravity and the number of Respondent's violations of SEC MC 18 warrant the revocation of its CA.

Section 5 of SEC MC 18 lays down the applicable penalties for violations thereof, to wit:

Sec. 5. Applicable Penalties. - Violation of this Circular shall subject FCs and LCs to the following penalties:

	<i>LCs</i>	<i>FCs</i>
<i>First Offense:</i>	<i>P25,000.00</i>	<i>P50,000.00</i>
<i>Second Offense:</i>	<i>P50,000.00</i>	<i>P100,000.00</i>
<i>Third</i>	<i>Subject to the facts, circumstances and gravity</i>	

⁴ Annex A, Verified Answer.

⁵ Annex C, Verified Answer.

Offense: of the offense, the Commission, at its discretion, may impose a Fine of not less than twice the fine for the second offense but not more than P1 Million (1,000,000) Pesos; or Suspension of lending and financing activities for a period of sixty (60) days; or Revocation of Certificate of Authority to operate as a Financing or Lending Company, as appropriate for each circumstance. xxx (Emphasis supplied)

It is clear from the afore-quoted provision that a third violation of SEC MC 18 merits the imposition of either a monetary fine, suspension, or revocation of the CA, depending on the facts, circumstances, and gravity of the offense. In the instant case against the **Respondent, it was found to have violated SEC MC 18 nine (9) times.** This much is supported by the documents submitted by the individual complainants, as well as Respondent's own admissions in its Verified Answer.

It is likewise clear that at this point, the revocation of Respondent's CA is not merely appropriate, but rather necessitated by the gravity and number of its offenses.

A review of all the complaints, as well as the evidence produced by the complainants reveal a common and recurring pattern in the Respondent's collection practices: inculcating fear in the minds of the borrowers of being shamed on social media by publication of the borrower's loan and personal details; of being sued for estafa and intentional theft; of being blacklisted with the National Bureau of Investigation; and use of profane and abusive language to collect debts, all in violation of SEC MC 18. Worse, in one of the screen captures submitted by one of the complainants, messages showing threats of inflicting grave physical harm upon the person of the complainant could be seen.⁶ These unfair collection practices are all too obnoxious to ignore.

Respondent's settlement offer lacks basis.

Respondent offers the amount of at least Three Hundred Thousand Pesos (₱300,000.00) as settlement for its violations, and for another chance to be allowed to continue its operations.

As regards settlement offers, the Securities Regulation Code (the "SRC") and the 2016 Rules are instructive. Section 55 of the SRC provides:

SEC. 55. Settlement Offers. - 55.1 At any time, during an investigation or proceeding under this Code, parties being investigated and/or charged may propose in writing an offer of settlement with the Commission. (Emphasis supplied)

The 2016 Rules similarly states:

RULE V. SETTLEMENT OFFERS

SEC. 5-1. Settlement Offers. - Any person who is the subject of an investigation which may ripen into an administrative action, or any person already subject of an administrative action, may, at any time, propose in writing to the Director of the EIPD an offer of settlement under SRC Rule 55.1. (Emphasis supplied)

⁶

Attachments of Ms. Maricel Gunda,

From the provisions of both the SRC and the 2016 Rules, it can easily be gleaned that an **offer of settlement is pertinent only to cases involving violations of the SRC.**

On the other hand, the administrative case against the Respondent, *i.e.*, violation of SEC MC 18, does not involve violations of the SRC. Nowhere in SEC MC 18 can one find a provision similar to that of Section 55 of the SRC which allows for offers of settlement.

Hence, considering that the case against the Respondent does not involve violation of the provisions of the SRC, there is no basis for Respondent's Settlement Offer, and it is but improper for the CGFD to pass upon the merits of the same.

At any rate, the SRC, as well as the 2016 Rules are clear that it is the **Enforcement and Investor Protection Department** (the "*EIPD*") that has jurisdiction over settlement offers. Insofar as the CGFD is concerned, no such option is available in administrative cases for violations of SEC MC 18 and the other rules and regulations which are under the jurisdiction of the Department to implement.

WHEREFORE, in view of the foregoing, the Certificate of Authority to Operate as a Lending Company of Super Cash Lending Corp. (CA No. 2789) is hereby **REVOKED**, and its settlement offer is hereby **DENIED** for lack of basis.

SO ORDERED.

11 November 2020. Pasay City.


RACHEL ESTHERY GUMTANG-REMALANTE
Director