



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)

KINGABC LENDING CORPORATION
(Company Reg. No. CS201951228)
Respondent.

x-----x

TO:

MR. XIN TONG
President
KINGABC LENDING CORPORATION
2104A East Tower PSE Center
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Greetings:

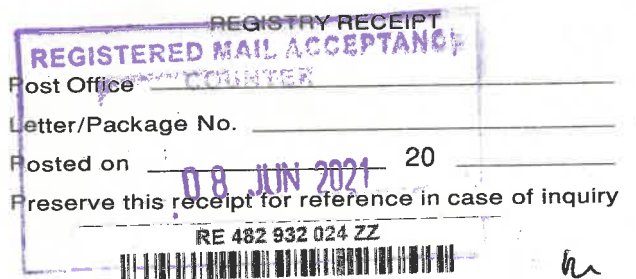
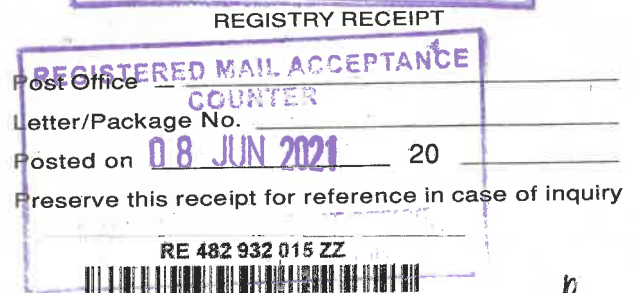
Please take notice that on 7 June 2021, an Oruer, copy nereto attached, was issued in the above-entitled case, the original of which is now on file with the Commission.

Please acknowledge receipt hereof.

7 June 2021. Pasay City.


RACHEL ESTHER J. GUMTANG-REMALANTE
Director

CC: Atty. Michael De Castro
403 FSS I Scout Tuason, Quezon City





CORPORATE GOVERNANCE AND FINANCE DEPARTMENT

CGFD Order No. 44
Series of 2021

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)

KINGABC LENDING CORPORATION
(Company Reg. No. CS201951228)
Respondent.

X-----X

ORDER

This resolves the Formal Charge dated 29 March 2021 issued by this Department (the "*Formal Charge*") against KingABC Lending Corporation (hereinafter referred to as "*Respondent*") for committing several 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. CS201951228 and Certificate of Authority to Operate as a Lending Company (CA) No. 2919.¹ Respondent operates the online lending platforms "*Pondo Loan*", "*StartLoan*", "*Green Loan*", and "*Loan Club*".² On 29 March 2021, 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

¹ Registered on 22 March 2019.

² Per Respondent's Affidavit of Compliance (SEC Form 1 - Existing Online Lending Platforms) submitted on 19 November 2019.

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 therein:

(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 detail in the Department's Formal Charge are summarized in the table hereunder:

Frequency	Complainant	Violations
1 st	Jessamine Livara	Section 1
2 nd	Debbie Andes	Section 1
3 rd	Janno Danga	Section 1(a), (f)
4 th	Jenna Mendoza	Section 1, Section 1(a)
5 th	Crismalyn Hubahib	Section 1, Section 1(a)
6 th	Brylle Estrada	Section 1(a), (d)
7 th	Kathlene May Gandia	Section 1, Section 1(a)
8 th	Michelle Dianne Samson	Section 1, Section 1(c)
9 th	Ramel Laminero	Section 1, Section 1(c)
10 th	Jessica Visto	Section 1
11 th	Mayumi Sugaya	Section 1(h)
12 th	Kathlynn Bocalan	Section 1, Section 1(a)
13 th	Ronalyn Janiola	Section 1, Section 1(c), (h)
14 th	Jean Grace Astrologo	Section 1
15 th	Iris Mae Lagumbay	Section 1

Pursuant to 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 CA should not be revoked for violating SEC MC 18 fifteen (15) times.

On 20 April 2021, contrary to the express requirement in the Formal Charge to submit a verified answer, the Department received a mere one-page letter reply from the Respondent (the "Letter-Reply").³ The Letter-Reply contained substantially the same statements as its previous replies to this Department's show-cause letters, *i.e.*, that it adheres to the provisions of SEC MC 18 and that it adopted a standard operating procedure (SOP) for its collection (the "SOP Collection").

To give Respondent another opportunity to explain its position, it was called for a hearing for the revocation of its CA.

On 10 May 2021, the hearing was held as scheduled where Mr. Gwen Lemuel Zamora (Mr. Zamora), Corporate Secretary, and Atty. Michael De Castro (Atty. De Castro) appeared on behalf of Respondent.

During the hearing, Mr. Zamora was given a chance to explain Respondent's business model, including, among others, their collection practices and policies, and how they handle complaints from the public. He mentioned that he is aware that a lot of borrowers complain about Respondent's collection practices.

As for its counsel, Atty. De Castro explained that he was hired on 28 April 2021 to assist in Respondent's employee training and to improve its collection practices. Atty. De Castro further manifested that should the Commission decide to revoke Respondent's CA, it will submit to such decision.

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 severity 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:

	LCs	FCs
<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 Offense:</i>	<i>Subject to the facts, circumstances and gravity 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</i>	

³ Dated 19 April 2021.

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 fifteen (15) times**. This much is supported by the proofs submitted by the individual complainants, as well as Respondent's own admissions in its replies to this Department's show-cause letters.

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.

The evidence produced by the complainants and their allegations against Respondent reveal a common and recurring pattern in the Respondent's collection practices: threatening borrowers to be published on social media as scammers; contacting people in their borrowers' contact list who were not named as co-makers or guarantors to shame them; use of obscenities, insults, or profane language in its collection; and threatening borrowers that they will be sued pursuant to made up legal bases.

Furthermore, it bears stressing that aside from the complainants who were subjects of the Formal Charge, there are several others who filed complaints against the Respondent alleging violations of SEC MC 18, as shown on the table below:

	Name of Complainant	Date of Complaint	Date of Show Cause Letter
1	Danica Ros	31 Oct 2020	4 Nov 2020
2	Ma. Angelic Flores	23 Oct 2020	5 Nov 2020
3	Ditas Agoy-agoy	23 Oct 2020	6 Nov 2020
4	Claudine Vertucio	14 Feb 2020	18 Dec 2020
5	Irisheila Roman	18 Nov 2020	20 Nov 2020
6	Lorello Lacap	19 Nov 2020	7 Dec 2020
7	Rizalina Tambis	25 Nov 2020	7 Dec 2020
8	Sally Cunanan	26 Nov 2020	9 Dec 2020
9	Julie Martinez	11 Dec 2020	21 Dec 2020
10	Cherrylyn Ganir	29 Feb 2020	22 Dec 2020
11	Gabrielle Sara	20 Feb 2020	22 Dec 2020
12	Roger Laurente, Jr.	3 Jan 2020	23 Dec 2020
13	Ian Valeza Aranel	21 Jan 2020	28 Dec 2020

14	Judy Ann Macailao	undated	23 Dec 2020
15	Rhea Quintana	4 Feb 2020	23 Dec 2020
16	Kissy Liane Binas	18 Nov 2020	29 Mar 2021
17	Akemi Daigen	15 Jan 2020	21 Dec 2020
18	Jovelyn Tumangday	13 Nov 2020	12 Jan 2021
19	Mary Rose Esperanzate	9 Nov 2020	12 Jan 2021
20	Mary Dominique Rivera	27 Dec 2020	19 Jan 2021
21	Aloha Dela Cruz	7 Dec 2020	18 Jan 2021
22	Edlhiz Margaret Maxino	4 Jan 2021	23 Apr 2021
23	Alexandra Castillo	21 Jan 2021	17 Feb 2021
24	Melanie Manlangit	6 Jan 2021	17 Feb 2021
25	Christine Jan Lorca	28 Jan 2021	18 Feb 2021
26	Judea Mallari	undated	22 Feb 2021
27	Roanna Marie Paralejas	10 Feb 2021	3 Mar 2021
28	Lorena Mae Velasco	15 Feb 2021	17 Mar 2021
29	Jobelle Lescano	16 Feb 2021	16 Mar 2021
30	Sheena Marie Apryl Leano	17 Feb 2021	16 Mar 2021
31	Alfred Anton Bercasio	17 Feb 2021	17 Mar 2021
32	Christine Marie Monacillo	17 Feb 2021	22 Mar 2021
33	Emily Osorio	23 Feb 2021	23 Mar 2021
34	Jesserina Gumabon	28 Feb 2021	23 Mar 2021
35	Madalin Frances Almonte	1 Mar 2021	25 Mar 2021
36	Maricel Zepeda	24 Feb 2021	25 Mar 2021
37	Mae Ann Delos Santos	1 Mar 2021	25 Mar 2021
38	Chekee Rose Roranes	7 Mar 2021	30 Mar 2021
39	Teresa Kathy Antang	10 Mar 2021	30 Mar 2021
40	Onofre Ladera, Jr.	3 Mar 2021	30 Mar 2021
41	Conny Glenda Aquino	20 Mar 2021	13 Apr 2021
42	Joshua Beato	27 Mar 2021	13 Apr 2021
43	Pauline Marie Eliab	11 Mar 2021	12 Apr 2021

44	Marlon Arintoc	18 Mar 2021	19 Apr 2021
45	Ana Deserie Bulacja	18 Mar 2021	12 Apr 2021
46	Ma. Christina Nazareth	22 Mar 2021	21 Apr 2021
47	Aaron John Talugco	5 Apr 2021	27 Apr 2021
48	Sarah Alaba	13 Jan 2021	27 Apr 2021
49	Charl Mae Quimson	11 Apr 2021	27 Apr 2021
50	Lutgardo Ramos	1 Apr 2021	4 May 2021
51	Rezie Balisalisa	12 Apr 2021	7 May 2021
52	Jesus Nazareno Corpuz	26 Apr 2021	7 May 2021
53	Jonathan Igno	12 Apr 2021	7 May 2021

During the hearing, Respondent made efforts to assure this Department that it is trying to correct its ways. To support this, it was explained that one such step it took towards this direction was the hiring of a legal counsel to assist in its business operations.

The Respondent's assertion fails to convince.

In its replies to this Department's show-cause letters as well as to the Formal Charge, Respondent kept on insisting that it complies with SEC MC 18 through its SOP Collection. We quote hereunder verbatim some of the rather dubious provisions thereof:

The first time talk with the debtor:

xxx

*e). After the call ends, record the details about the conversation and write the impression and judgment of the debtor **based on subjective analysis**.*

The second time talk with the debtor:

xxx

Ask the exact reasons:

- Put pressure through indicate the poor credit, legal obligation, social impact, etc.

xxx

- Pay attention to the debtor's overdue excuses, effectively analyze the debtor's repayment intention, and don't easily agree on delay of repayment. The voice must be positive and firm.

xxx

The third and fourth time talk with the debtor

xxx

Ask the exact reason:

- Make more outgoing calls to the debtor, be firm, stand firm, (don't easily accept another promise);

- Re-appoint time (no delay, get his promise)

xxx

Note on the collection process:

1. 1 time follow up does not means only call 1 time. It should be a complete process. It means collectors should pay more attention on the debtor and contact other person related with the debtor

2. All the collectors should learn how to make the *collection strength increased gradually; include attitude, tone, voice, words, etc.* xxx (Emphasis supplied)

The SOP Collection, as evidenced by the above-cited provisions, leaves so much to be desired. First, there are no clear rules or parameters that would guide the collectors in the proper conduct of the collection. Second, it appears that collectors are given a wide-latitude of discretion as to the borrowers' intention to pay based on *subjective analysis*. Third, there are no rules as to which reasons or excuses are acceptable and which are not. Fourth, if anything, the SOP Collection shows that contacting persons in the borrowers' contact list other than those who were named as guarantors and co-makers, in violation of SEC MC 18, is actually sanctioned by Respondent.

At any rate, assuming that Respondent's collectors are properly guided by the SOP Collection, the volume of complaints received by Respondent each day that directly come from their borrowers in addition to complaints forwarded by this Department through show-cause letters should have been enough for the Respondent to be aware of the seriousness of their unfair collection practices and the ineffectiveness of the steps that they claim to be undertaking to address the same. This, including the fact that Respondent had been previously penalized for its first and second violations of the said circular should have been enough for Respondent to undertake serious measures to restructure its internal processes to resolve its collection issues.

Indeed, the steps taken by Respondent are inconsistent with what could reasonably be expected from a company who sincerely and ardently wishes to keep its business. From its previous replies to our show-cause letters and as mentioned during the hearing, it appears that Respondent took only a reactive approach to its problem on collection harassment – dismissal of erring employees.

What is readily apparent here, instead, is Respondent's indifference. Up until the point where it was called for a hearing for the revocation of its CA, Respondent could not be bothered to hire a legal counsel to assist it with the preparation of its response to the Formal Charge, or even to explain to it the consequences of its violations of SEC MC 18.

Even more telling is the fact that subsequent to the issuance of the Formal Charge, the abusive collection practices of the Respondent only became worse and more hostile based on the evidence submitted by the complainants. The Department noted messages filled with death threats, profanities, and other obnoxious, and reprehensible language.⁴

Republic Act No. 9474, or the Lending Company Regulation Act of 2007 (the "LCRA"), gives the Commission regulatory and supervisory authority over lending companies to carry out the state policy to place their operation on a sound, efficient and stable condition to derive the optimum advantages from them as an additional source of credit; and to prevent and mitigate, as far as practicable, practices prejudicial to public interest.⁵ In line with this, and in response to the numerous complaints received by the CGFD for abusive collection practices, the Commission issued SEC MC 18 which seeks to curtail the unscrupulous and pernicious practice of lending and financing companies that employ unreasonable, abusive, and unfair practices in order to collect debt from their borrowers.

At this point, the risks posed by the continuation of Respondent's business as a going concern substantially outweigh the benefit it offers to the public. It is thus incumbent upon this Department to put an end to Respondent's practices that are prejudicial to the public interest.

⁴ Complaints of Mr. Joshua Beato, Mr. Jim Anselmo Villavicencio, Ms. Charl Mae Quimson, and Mr. Lutgardo Ramos

⁵ Section 2, LCRA.

WHEREFORE, in view of the foregoing, the Certificate of Authority to Operate as a Lending Company of KingABC Lending Corporation (CA No. 2919) is hereby **REVOKED**.

SO ORDERED.

7 June 2021. Pasay City.


RACHEL ESTHER J. GUMTANG-REMALANTE
Director