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

11
12 In the Matter of:) CFL FILE NO.: 60DBO-104155
13 THE COMMISSIONER OF BUSINESS)
OVERSIGHT,) CONSENT ORDER
14)
15 Complainant,)
16 v.)
17 SEZZLE, INC.,)
18 Respondent.)
19)
20)
21)

22 In consideration of the application filed by Sezzle, Inc. for a lending license under the
23 California Financing Law (Fin. Code, § 22000, et seq.) (CFL), this Consent Order is entered into by
24 and between the Commissioner of Business Oversight and Sezzle, Inc. (Consent Order).

25 **RECITALS**

26 This Consent Order is made with reference to the following facts:

27 A. Sezzle, Inc. (Sezzle) is a Delaware corporation organized in 2016 with its principal
28 place of business at 251 1st Avenue N, Suite 200, Minneapolis, Minnesota 55401.

1 B. Charlie Youakim is the Chief Executive Officer of Sezzle. Charlie Youakim is
2 authorized to enter into this Consent Order on behalf of Sezzle.

3 C. The Department of Business Oversight, through the Commissioner of Business
4 Oversight (Commissioner), has jurisdiction over the licensing and regulation of persons and entities
5 engaged in the business of lending and brokering pursuant to the CFL.

6 D. On or about September 24, 2019, Sezzle filed with the Commissioner an application
7 for licensure as a lender under the CFL (CFL File No. 60DBO-104155) (Application). During the
8 application process, Sezzle provided to the Commissioner information describing services Sezzle had
9 rendered in connection with loans made in California (Information).

10 E. Following a review of the Application and the Information, the Commissioner issued
11 an administrative action to deny the Application on December 30, 2019 (Denial Action), pursuant to
12 Financial Code section 22109, subdivision (a), paragraph (3), on the ground that Sezzle had engaged
13 in the business of a finance lender in California without obtaining a license in violation of Financial
14 Code section 22100, subdivision (a).

15 NOW, THEREFORE, in consideration of the foregoing, and the terms and conditions
16 contained herein, the Commissioner and Sezzle (the Parties) agree as follows:

17 **TERMS AND CONDITIONS**

18 1. **Purpose.** This Consent Order resolves the Denial Action in a manner that avoids
19 the expense of a hearing and other possible court proceedings, protects consumers, is in the public
20 interest, and is consistent with the purposes, policies, and provisions of the CFL.

21 2. **Desist and Refrain Order.** Pursuant to Financial Code section 22712, Sezzle, Inc. is
22 hereby ordered to desist and refrain from engaging in the business of a finance lender in California, in
23 violation of Financial Code section 22100, subdivision (a).

24 3. **Penalty.** Sezzle shall pay a penalty of \$28,200.00 to the Commissioner (Penalty).
25 The Penalty is due within 30 days of the Effective Date, as defined in Paragraph 25 below (Effective
26 Date), and should be made payable in the form of a cashier's check or Automated Clearing House
27 deposit to the "Department of Business Oversight" and transmitted to the attention of: Accounting –
28 Enforcement Division, Department of Business of Oversight, 1515 K Street, Suite 200, Sacramento,

1 California 95814. Notice of such payment shall be forwarded to Adam Wright, Senior Counsel,
2 Department of Business Oversight, Enforcement Division, 320 West 4th Street, Suite 750, Los
3 Angeles, California 90013.

4 4. **Refunds.** Sezzle shall refund or credit all fees paid to Sezzle by California residents
5 in connection with Sezzle's loans, as described more fully in the Denial Action, including, without
6 limitation, failed payment penalty fees and payment-rescheduling fees. Sezzle represents to the
7 Commissioner that it has collected \$282,000 in such fees to date. Sezzle shall make the refunds no
8 later than 30 days after the Effective Date. Sezzle shall submit evidence of such payments or credits
9 no later than 60 days after the Effective Date. Sezzle shall escheat any unclaimed refunds to the
10 California State Controller's Office within the period provided by Code of Civil Procedure section
11 1520 of the Unclaimed Property Law (Code of Civ. Proc., section 1500, et seq.).

12 5. **Compliance.** As of the Effective Date, Sezzle shall cease providing loans or
13 extensions of credit to California residents by means of purchasing credit sales contracts from
14 merchants. Instead, Sezzle shall only provide loans or extensions of credit to California residents
15 under the authority of a license issued by the Commissioner under the CFL.

16 6. **Proof of Compliance.** Sezzle acknowledges that the Commissioner will examine and
17 review Sezzle's compliance with Paragraphs 4 through 5 of this Consent Order. Sezzle agrees to
18 provide, upon the Commissioner's request, documentation satisfactory to the Commissioner to
19 determine compliance with Paragraphs 4 through 5.

20 7. **Consideration.** In consideration of Sezzle's agreement to the issuance of this Consent
21 Order, Sezzle's payment of the Penalty and Refunds, the Application, and the Information, the
22 Commissioner hereby agrees to withdraw its issuance of the Denial Action and agrees to continue
23 reviewing Sezzle's Application in accordance with Financial Code section 22109, subdivision (c).

24 8. **Waiver of Hearing Rights.** Sezzle acknowledges the Commissioner is ready,
25 willing, and able to proceed on the Denial Action. Sezzle hereby waives the right to any hearings,
26 and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the
27 CFL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any
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1 other provision of law. By waiving such rights, Sezzle effectively consents to this Consent Order
2 becoming final.

3 9. **Full and Final Settlement.** The Parties hereby acknowledge and agree that this
4 Consent Order is intended to constitute a full, final, and complete resolution of the Denial Action, and
5 that no further proceedings or actions will be brought by the Commissioner in connection with the
6 Denial Action under the CFL or any other provision of law, excepting therefrom any proceeding to
7 enforce compliance with the terms of this Consent Order.

8 10. **Failure to Comply with Consent Order.** Sezzle agrees that, failure to comply with
9 the terms of this Consent Order, the Commissioner may, in addition to all other available remedies it
10 may invoke under the CFL, summarily suspend the CFL license of Sezzle, if subsequently issued,
11 until Sezzle is in compliance. Sezzle waives any notice and hearing rights to contest such summary
12 suspension which may be afforded under the CFL, the California Administrative Procedure Act, the
13 California Code of Civil Procedure, or any other provision of law in connection therewith.

14 11. **Information Willfully Withheld or Misrepresented.** This Consent Order may be
15 revoked, and the Commissioner may pursue any and all remedies available under the law against
16 Sezzle if the Commissioner discovers that Sezzle knowingly or willfully withheld information used
17 for and relied upon in this Consent Order.

18 12. **Future Actions by Commissioner.** If Sezzle fails to comply with any terms of the
19 Consent Order, the Commissioner may institute proceedings for any and all violations otherwise
20 resolved under this Consent Order. The Commissioner reserves the right to bring any future actions
21 against Sezzle, or any of its partners, owners, officers, shareholders, directors, employees or
22 successors for any and all unknown violations of the CFL.

23 13. **Assisting Other Agencies.** Nothing in this Consent Order limits the Commissioner's
24 ability to assist any other government agency (city, county, state, or federal) with any administrative,
25 civil or criminal prosecutions brought by that agency against Sezzle or any other person based upon
26 any of the activities alleged in this matter or otherwise.

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

1 hereof.

2 15. **Binding.** This Consent Order is binding on all heirs, assigns, and/or successors in
3 interest.

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

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

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

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

1 20. **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 21. **Effect Upon Future Proceedings.** If Sezzle applies for any license, permit or
5 qualification under the Commissioner’s current or future jurisdiction, or is the subject of any future
6 action by the Commissioner to enforce this Consent Order, then the subject matter hereof shall be
7 admitted for the purpose of such application or proceeding.

8 22. **Voluntary Agreement.** Sezzle enters into this Consent Order voluntarily and without
9 coercion and acknowledges that no promises, threats or assurances have been made by the
10 Commissioner or any officer, or agent thereof, about this Consent Order. The Parties each represent
11 and acknowledge that he, she or it is executing this Consent Order completely voluntarily and
12 without any duress or undue influence of any kind from any source.

13 23. **Signatures.** A fax or electronic mail signature shall be deemed the same as an
14 original signature.

15 24. **Public Record.** Sezzle hereby acknowledges that this Consent Order is and will be a
16 matter of public record.

17 25. **Effective Date.** This Consent Order shall become final and effective when signed by
18 all parties and delivered by the Commissioner’s counsel via e-mail to Sezzle’s counsel, Dana Clarke,
19 at dclarke@hudco.com.

20 26. **Authority to Sign.** Each signatory hereto covenants that he or she possesses all
21 necessary capacity and authority to sign and enter into this Consent Order and undertake the
22 obligations set forth herein.

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Dated: 1/16/2020

MANUEL P. ALVAREZ
Commissioner of Business Oversight

By _____
Mary Ann Smith
Deputy Commissioner

Dated: 1/16/2020

SEZZLE, INC.

By _____
Charlie Youakim
Chief Executive Officer