Republic of the Philippines
Department of Finance
Securities and Exchange Commission
COMMISSION EN BANC

IN THE MATTER OF:

SURITY CASH LENDING INVESTORS CORPORATION DOING BUSINESS UNDER THE NAME OF SURITY CASH,
Appellant,

-versus-

FINANCING AND LENDING COMPANIES DIVISION,
Appellee.

SEC En Banc Case No. 04-25-573
(Finlend Case No. 2025-02)

Promulgated: 16 September 2025

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DECISION

Before this Commission is the Appeal Memorandum dated 11 April 2025 (the "Appeal") filed by Surity Cash Lending Investors Corporation, praying for the reversal and the setting aside of the Order dated 14 January 2025 (the "Assailed Order") issued by the Financing and Lending Companies Department, the dispositive portion of which, in part, reads:

> WHEREFORE, in view of the foregoing, the Certificate of Incorporation Registration (SEC REG No. CS 201910185) AND the Certificate of Authority to Operate as a Lending Company (CA No. 3013) including the Authority to Operate its Online Lending Platform, Surity Cash, of Respondent Surity Cash Lending Investors Corporation are hereby REVOKED. This Order shall be immediately executory.

THE PARTIES

Appellant, Surity Cash Lending Investors Corporation (the "Corporation") is a domestic corporation duly organized and existing under Philippine laws, having been issued a Certificate of Incorporation bearing registration number SEC No. CS201910185. Its principal office is at the 11th Floor Coherco Financial Tower, Trade Avenue, Alabang, Muntinlupa City. The Corporation is a grantee of a Certificate of Authority to Operate as a Lending Company ("CA") with CA No. 3013, which allows it to engage in lending business. It owns and operates the online lending application/platform (OLP) Surity Cash.

Appellee, the Financing and Lending Companies Department (FLCD) is a department of this Commission tasked to monitor and enforce compliance by financing companies (FCs) and lending companies (LCs) with the Financing Company Act, the Lending Company Regulation Act, the Financial Products and Services Consumer Protection Act, and their respective implementing rules and regulations, among others. The FLCD is sufficiently vested with authority to suspend or revoke the Certificates of Registration and CA of LCs or FCs.

RELEVANT FACTS

The FLCD (then Financing and Lending Companies Division under the Corporate Governance and Finance Department) received complaints between September 2022 to March 2023 from the purported borrowers of the Corporation on its alleged violation of Memorandum Circular No. 18, series of 2019, (MC No. 18) otherwise known as the *Prohibition on Unfair Debt Collection Practices of Financing Companies and Lending Companies.*

The complainants and their respective allegations borne in their respective complaints (the "Complaints") are summarized as follows:

(1) Gary Videña (Gary) alleged that the Corporation sent messages that were disrespectful in tenor in effecting collection of his loan amount;[1]
(2) Cristi Mary Veronica Ectobañez (Cristi) alleged that the Corporation sent text messages containing hurtful words, and threats directed at her sibling, in effecting collection of the amount which she borrowed;[2]
(3) Jenifer M. Belda (Jenifer) alleged that she experienced depression and harassment consequent to the Corporation's manner of collecting loan, particularly its disclosure of her loan details to one of her named references;[3]
(4) Gellie Rodriguez (Gellie) alleged that even without any delay in payment, the Corporation's agent had been harassing and threatening her that a case would be filed against her, and

[1] *Order* dated 14 January 2025. See pages 1 to 2.
[2] *Ibid.*, pages 2 to 3.
[3] *Ibid.*, page 3.

her loan details would be disclosed to the persons in her workplace and the barangay;[4] and

(5) Sherwin Caraan (Sherwin) alleged that he received text messages with varying degrees of rude threats and harassment from the Corporation despite his proposal to pay his loan on certain dates.[5]

Acting on the Complaints, Show Cause Letters were issued to the Corporation on different dates,[6] directing it to explain why it should not be penalized for violating MC No. 18.[7] In response,[8] the Corporation claimed that the mobile numbers in the screenshots provided by complainants do not belong to its employees/agents; and neither were these mobile numbers issued by it. The Corporation equally assured the FLCD that its collection agent, Upright Recovery and Collections Management Services, Inc. (the "Collection Agent"), agreed in writing to abide by all applicable rules and regulations issued by the Commission, and to terminate any employee who will be found to violate the same.[9]

The records also show that the Corporation responded to the complainants with the letters that were sent to them individually,[10] informing the latter of the Corporation's zero tolerance policy on violations of MC No. 18; and denying ownership of the mobile numbers that were used to allegedly threaten or harass them.

On 12 April 2023, the FLCD conducted a conference which was attended by the Corporation's President, Ms. Mary Leabelle Ibarreta, its counsel, Atty. Katrin Jessica Distor-Guinigundo of Calleja Law Office, and its employees Ms. Precious Danel De Asis and Ms. Dana, who presented and explained the defenses of the Corporation. The FLCD then directed the Corporation to submit its *Position Paper.*

On 14 May 2023, the Corporation filed its Position Paper with the FLCD, therein reiterating its defenses and prayer for the dismissal of the Complaints. In particular, the Corporation stressed that it has implemented its existing policies against any act that violates MC No.

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[4] *Ibid.*, pages 3 to 4.
[5] *Ibid.* pages 4 to 5.
[6] 19 October 2021, 22 March 2022, 20 and 21 July 2022, and 3 March 2023.
[7] *Id.* page 1.
[8] Comment/Opposition. Annexes "A", "B", "C", "D", and "E".
[9] *Id.* page 2.
[10] *Comment/Opposition* dated 5 June 2025. See Annexes "A" to "E".

18;[11] denied ownership of the numbers mentioned in the Complaints;[12] and maintained that the complainants failed to establish that the mobile numbers used in carrying out unfair collection practices belong to the Corporation.[13]

On 14 January 2025, the FLCD, through its OIC-Director Atty. Kenneth Joy A. Quimio (OIC Quimio), issued an Order (the "Assailed Order") revoking the Corporation's Certificate of Incorporation and Certificate of Authority (hereafter referred to collectively as the "Certificates") on the basis of a finding that it committed multiple violations of MC No. 18. OIC Quimio ruled that the Corporation's violation of Section 1 of MC No. 18 (5 counts), was based on: (a) its failure to specifically deny the allegations in the complaints which resulted in the same being deemed admitted;[14] and (b) the substantial evidence presented by the complainants showing that the Corporation and/or its Collection Agent employed threats in effecting the collection of the loan amounts.[15] OIC Quimio further ruled that the Corporation's belated submission of the sworn certification prescribed under Section 4 of MC No. 18 also constituted a violation of the said circular.[16]

In the instant Appeal, the Corporation claims that it has been denied of due process,[17] and assails the findings of the FLCD for want of legal and factual bases. In particular, the Corporation bewails the FLCD's conclusion that the mobile numbers in the screenshots submitted by the complainants belong to it, alleging that the FLCD did not even conduct/make an independent verification,[18] and no evidence was shown establishing its ownership of the said numbers other than the bare allegations of the complainants.[19] The Corporation also argued that even on the assumption that the text messages came from its Collection Agent, such messages did not constitute harassment, misleading representations or unauthorized disclosure of borrower information.[20] The Corporation maintained that MC No. 18 does not prohibit contacting references that were voluntarily provided by the borrowers; informing borrowers of their overdue accounts and the remedies available under the law; and requesting from borrowers for update on their payments,

[11] *Position Paper*, pars. 31 to 39.
[12] *Ibid.*, pars. 48 to 51.
[13] *Ibid.*, par. 60.
[14] OIC Quimio applied Rule 8, Section 11 of the 2019 Rules of Court. See *Order*, page 6.
[15] *Order*. pages 9 to 10.
[16] *Ibid.* page 12.
[17] *Appeal*. pars. 39, 40, 41 and 43.
[18] *Ibid.* par. 14.
[19] *Ibid.* par. 15.
[20] *Ibid.* pars. 22, 25, 27, 28, 30, and 31.

among others.[21] Finally, the Corporation claims that the penalty of revocation of its Certificates is too harsh and disproportionate to the violations committed, especially that corrective measures are already in place and ready to be implemented.[22]

The FLCD filed its Comment/Opposition on 09 June 2025, therein praying for the dismissal of the Appeal both on procedural and substantive grounds. The FLCD alleged that the failure of the Corporation to file a motion for reconsideration required under Section 2-1, Rule II, Part V of the 2016 Rules of Procedure of the Securities and Exchange Commission (the "2016 Rules") precluded it from exercising the right to appeal.[23] On the substantive aspect, the FLCD reiterated its finding in the Assailed Order that the complainants were able to establish by substantial evidence that the Corporation violated MC No. 18,[24] and that the imposition of the penalty of revocation of its Certificates was in order.[25]

On 11 August 2025, the Corporation filed a Manifestation with Motion for Early Resolution, therein praying that the Commission reinstate its corporate franchise, lift the revocation of its Certificate of Authority, and reinstate its registered online lending platform. The Corporation manifested that: (a) it has created an internal system that will effectively monitor the conduct of its collection agents and evaluate borrower engagements to ensure compliance with applicable laws, rules and regulations;[26] (b) it will implement institutionalized training programs for its agents which it has already developed, to ensure the proper handling of the concerns of its clients;[27] (c) it will implement a real-time tracking and monitoring system, record all phone calls and communications of its agents and borrowers; and (d) operationalize a 24-hour customer service hotline to address borrowers' inquiries and concerns.[28] Finally, the Corporation disclosed all the contact numbers that its agents will be using should the Commission allow the resumption of its lending operations.[29]

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[21] *Ibid.* pars. 23, 24, 27, 30 and 33.
[22] *Ibid.* pars. 65, 66 and 69.
[23] *Comment/Opposition* dated 5 June 2025. Pages 2 and 3.
[24] *Ibid.* page 3.
[25] *Ibid.* pages 6 and 7.
[26] *Manifestation with Motion for Early Resolution*. Par. 1 (see Annex "A")
[27] *Ibid.* par. 2 (see Annexes "B", "C" and "D")
[28] *Ibid.* pars. 2, 3, 4, and 6.
[29] *Ibid.*

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ISSUES

(A) Whether the Corporation was denied of due process.
(B) Whether the Corporation is precluded from filing the instant Appeal.
(C) Whether the Corporation violated MC No. 18.
(D) Whether the FLCD was correct in imposing the supreme penalty of revocation of the Corporation's Certificates.

RULING

A. Appellant was not denied its right to due process

The Corporation claims that the failure of the FLCD to issue a Formal Charge which is required under the 2016 Rules, and the latter's eventual revocation of its Certificates on the basis of the Show Cause Letters constitute a violation of its right to due process.[30]

The FLCD countered that the Corporation's claim of being denied due process was negated by its active participation in the proceedings where it availed of, and exercised its right to present its defenses.[31] The FLCD equally emphasized that its actions were sanctioned by SEC Resolution No. 718A, series of 2019, which effectively suspended the application of Section 3-1 Rule III, Part II of the 2016 Rules[32] in administrative proceedings involving lending companies.

At the outset, emphasis should be made that the instant case partakes of the nature of an administrative action which is governed by the rules and principles obtaining in administrative proceedings. In our jurisdiction, it is jurisprudential that in administrative proceedings the technical rules of procedure and evidence are not strictly applied,[33]

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[30] *Appeal.* par. 46.
[31] *Comment on the Appeal Memorandum.* see page 6.
[32] SEC. 3-1 Commencement of Administrative Action – An administrative action filed under these Rules shall be commenced (i) upon issuance of a formal charge by the Operating Department that has authority to act over the subject matter, or (ii) upon issuance of an *ex-parte* cease and desist order by the Commission En Banc.
[33] "Further, **administrative bodies are not bound by the technical niceties of law and procedure and the rules obtaining in courts of law**. Administrative tribunals exercising quasi-judicial powers are unfettered by the rigidity of certain procedural requirements, subject to the observance of fundamental and essential requirements of due process in justiciable cases presented before them. **In administrative proceedings, technical rules of procedure and evidence are not strictly applied**

where the quantum of proof necessary to sustain a finding is merely substantial evidence or that amount of relevant evidence a reasonable mind might accept as adequate to support a conclusion.[34] Section 1-4(a), Rule I, Part I of the 2016 Rules has adopted these jurisprudential precepts, and laid down the purpose of the same, to wit:

> These rules shall be liberally construed and administered **to promote public interest, to secure a just, prompt, expeditious, and inexpensive determination of every action and proceeding before the Commission and to carry out the objectives of the laws** it is mandated to implement. (Emphasis supplied)

To enable the Commission to promptly and effectively implement the laws administered by it, unfettered by the technical rules of procedure obtaining in the courts of justice, Section 5-1, Rule I, Part I of the 2016 Rules specifically grants the Commission the power and authority to suspend the application of its provisions, to wit:

> **In the broad interest of justice and in order to best serve public interest, the Commission <u>may</u>,** in any particular manner, **exempt it from these Rules in exceptional cases and apply such suitable, fair and reasonable procedure** to improve the delivery pf public service and **to assist the parties in obtaining a speedy and judicious disposition of cases.**[35] (Emphasis supplied)

It is equally established in jurisprudence that administrative due process is satisfied where the notice requirement and the opportunity to be heard, either through oral arguments or pleadings,[36] are complied

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and administrative due process cannot be fully equated with due process in its strict judicial sense." (*Samalio vs Court of Appeals.* G.R. No. 140079. March 31, 2005)

[34] "Administrative proceedings are governed by the "substantial evidence rule." A finding of guilt in an administrative case would have to be sustained for as long as it is supported by substantial evidence that the respondent has committed the acts stated in the complaint or formal charge. As defined, substantial evidence is such relevant evidence as a reasonable mind may accept as adequate to support a conclusion. This is different from the quantum of proof required in criminal proceedings which necessitates a finding of guilt of the accused beyond reasonable doubt. The Ombudsman, in ordering the withdrawal of the criminal complaints against respondent was simply saying that there is no evidence sufficient to establish her guilt beyond reasonable doubt which is a condition *sine qua non* for conviction. Ergo, the dismissal of the criminal case will not foreclose administrative action against respondent." (*Velazques vs Hernandez.* G.R. No. 150732. August 32, 2004)

[35] The rationale and purpose of the summary nature of administrative proceedings was expounded by the Supreme Court in *Sibayan vs Alda* (G.R. No. 233395. January 17, 2018 [Per J. Velasco, Third Division]) as follows: "The rationale and purpose of the summary nature of administrative proceedings is to achieve an expeditious and inexpensive determination of cases without regard to technical rules. As such, in proceedings before administrative or quasi-judicial bodies, xxx, decisions may be reached on the basis of position papers or other documentary evidence only. **They are not bound by technical rules of procedure and evidence. To require otherwise would negate the summary nature of the proceedings which could defeat its very purpose.**

[36] "**Due process in an administrative context does not require trial-type proceedings similar to those in courts of justice**. Where opportunity to be heard either through oral arguments or through pleadings is accorded, there is no denial of procedural due process. **A formal or trial-type hearing is**

with, and respondent is given the opportunity to explain his/her side, or the opportunity to seek reconsideration of the action that is being assailed, thus:

> In administrative proceedings, due process is satisfied when a person is notified of the charge against him and given an opportunity to explain or defend oneself. In such proceedings, the filing of charges and giving reasonable opportunity for the person so charged to answer the accusations against him constitute the minimum requirements of due process. In *Ang Tibay v. Court of Industrial Relations,* the Court stated that one of the requisites for due process compliance was that the decision must be rendered on the basis of the evidence presented at the hearing, or at least contained in the record and disclosed to the parties affected.
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> The essence of due process, therefore, as applied to administrative proceedings, is an opportunity to explain one's side, or an opportunity to seek a reconsideration of the action or ruling complained of.

While the records bear that the FLCD did not issue a Formal Charge, Show Cause Letters were nonetheless issued, and the proceedings prescribed under the 2016 Rules were complied with by the FLCD, which enabled the Corporation to fully address and refute the allegations presented in the Complaints. Through such Show Cause Letters, the Corporation was given the opportunity to reach out to the complainants, and in fact succeeded in settling some of the Complaints.

The Corporation likewise availed of its right to appeal where it was afforded ample opportunity to present before this Commission its arguments and evidence in support of the claim that the FLCD committed reversible error in revoking its Certificates.

We thus find and so hold that the active participation of the Corporation in the proceedings *a quo*, and the filing of the instant Appeal which was given due course by this Commission negate the claim that it was denied due process.

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not at all times and in all instances essential. The requirements are satisfied where the parties are afforded fair and reasonable opportunity to explain their side of the controversy at hand. The standard of due process that must be met in administrative tribunals allows a certain degree of latitude as long as fairness is not ignored. In other words, it is not legally objectionable for being violative of due process for an administrative agency to resolve a case based solely on position papers, affidavits or documentary evidence submitted by the parties as affidavits of witnesses may take the place of their direct testimony." (*Lastimoso vs Asayo.* G.R. No. 154243. December 22, 2007 [Per J. Austria-Martinez, Special Third Division])

B. The failure of the Corporation to seek reconsideration of the Assailed Order is not fatal, and does not render the instant Appeal dismissible.

In its Comment/Opposition, the FLCD advanced the position that the instant Appeal is dismissible for being a wrong remedy, citing Section 2-1, Rule II, Part of the 2016 Rules which allegedly requires the filing of a motion for reconsideration as condition precedent for a valid appeal.[37]

We do not agree.

Section 2-1, Rule II, Part V of the 2016 Rules, provides:

> Section 2-1. Who Can File. – A party to an action <u>**may**</u> **move for a reconsideration of an adverse decision, final order or resolution of the Director of an Operating Department**, the Special Hearing Panel or any of its members within fifteen (15) days from receipt thereof, provided that all parties on record shall be furnished a copy of the same. (Emphasis and underscoring supplied)

The afore-quoted provision of the 2016 Rules uses the word "may" to expressly grant any aggrieved party the discretion to file a motion for reconsideration if he/she believes that the decision, order or resolution of the Director of an Operating Department, the Special Hearing Panel, or any of its members is not supported by evidence, or contrary to law.[38] The use of the word "may" in the afore-quoted provision negates the position of the FLCD that a motion for reconsideration is mandatory, and the failure to comply with the same will preclude the party from exercising his/her right to appeal. The general rule in our jurisdiction is that the use of the word "may" in a statute means the grant of discretion, to wit:

> **The use of the word "may" clearly shows that it is directory in nature and not mandatory as petitioner contends. When used in a statute, it is permissive only and operates to confer discretion**; while the word "shall" is imperative, operating to impose a duty which may be enforced. Applying Section 20(5), therefore, it is discretionary upon the Ombudsman whether or not to conduct an investigation on a complaint even if it was filed after one year from the occurrence of the act or omission complained of. In fine, the complaint is not barred by prescription." (Emphasis supplied)

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[37] *Appeal.* page 3.
[38] Rule 2-2, Rule II, Part V of the 2016 Rules.

Moreover, the argument of the FLCD is also negated by Sec. 3-3[39] in relation to Sec. 3-5(a)[40] of Rule III, Part V of the 2016 Rules which provides for the requirements of a valid appeal, as well as the grounds for an outright dismissal of an appeal, none of which mentioned the failure to file a motion for reconsideration. In fact, even if we apply the Rules of Court which, under the 2016 Rules, are suppletorily applicable, an appeal is also not conditioned on a prior filing of a motion for reconsideration.[41] It is only a petition for *certiorari* under Rule 65 of the Rules of Court which, as a general rule, requires a prior filing of motion for reconsideration to afford the court *a quo* the opportunity to correct an error.[42]

Verily, the exercise by the Corporation of its discretion to directly file the instant Appeal with this Commission, foregoing the filing of a motion for reconsideration before the FLCD, is an option that is expressly recognized and allowed under the 2016 Rules. The same therefore did not render the instant Appeal infirm.

C. The Corporation violated Section 1 of MC No. 18.

The FLCD found the text messages, which the Collection Agent of the Corporation sent to the complainants, to have either threatened them, or disclosed their loan information to other persons. Considering that four (4) out of the five (5) Complaints were found to have violated Section 1 of MC No. 18, the penalty of revocation, according to the FLCD, is warranted and proper.

The Corporation, however, maintained that there is absence of any showing that the mobile numbers which contained the prohibited

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[39] "**SEC. 3-3. Perfection of Appeal**. - The appellant shall perfect an appeal by filing the following with the Commission En Banc, through the Office of the General Counsel, within the period prescribed in the preceding section: (i) an appeal memorandum in six (6) legible copies; (ii) proof of service of a copy of the appeal memorandum on the appellee and/or the Director of the Operating Department, the Special Hearing Panel or the Self-Regulatory Organization concerned, as the case may be; and (iii) payment of the appeal fee and other applicable fees."

[40] "SEC. 3-5 Action on the Appeal Memorandum. –

a. Grounds for outright dismissal of an Appeal. – From an initial examination of the allegations or averments in the appeal memorandum and such documents that may be attached thereto, the appeal may be dismissed outright for failure to comply with the requirements set fort in these Rules."

[41] See Sec. 1, Rule 41.

[42] "The settled rule is that a Motion for Reconsideration is a condition sine qua non for the filing of a Petition for *Certiorari*. Its purpose is to grant an opportunity for the court to correct any actual or perceived error attributed to it by re-examination of the legal and factual circumstances of the case." (Republic v Bayao. G.R. No. 179492. June 5, 2013)

messages belonged to it;[43] and granting that such messages originated from its Collection Agent, the same did not amount to threats, harassments or misleading representations, and none made an unauthorized disclosure of borrower information.[44]

Section 1 of MC No. 18 provides for the acts that constitute unfair collection practices. The specific acts which are relevant for purposes of the instant Appeal are quoted below, thus:

> Section 1. Unfair Collection Practices – FCs, LCs and TPSPs hired by them may resort to all reasonable and legally permissible means to collect amounts due to them under the loan agreement, provided that, in the exercise of the 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 therein:
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> (a) The **use or threat of violence** or other criminal means **to harm the physical person, reputation or property** of a person;
> (b) The **use of threats to take action that cannot legally be taken**;
> (c) The **use of obscenities, insults or profane language** the natural consequences 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 allowed under section 2 hereof;
>
> Xxx xxx xxx
>
> (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)

In exacting or collecting a loan obligation from a borrower, the afore-quoted provision expressly prohibits all lending/financing companies, under pain of administrative penalties, from: (a) using violence to harm the physical person, reputation or property of a person; (b) using threat of violence to harm the physical person, reputation or property of a person; (c) using threat to carry out an act that cannot be

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[43] *Appeal.* paragraph 14.
[44] *Ibid.* pars. 22, 25, 27, 28, 30, 31 and 36.

legally taken; (d) using obscenities, insults or profane language which will likely abuse a borrower; (e) using obscenities, insults or profane language which amounts to a criminal act or offense; or (f) disclosing or publishing the names and other personal information of borrowers who refuse to pay debts.

Cambridge dictionary defines threat as a statement that someone will be hurt or harmed especially if the persons does not do something in particular.[45] Applying the rule in statutory construction that the express mention of one person, thing, act, or consequence excludes all others,[46] the Commission, in limiting the prohibited acts constituting unfair collection practices to those that are expressly enumerated in MC No. 18, is deemed to have excluded acts that are not mentioned. Clearly, not all statements which may appear to threaten their recipients are prohibited and penalized under MC No. 18. A statement, for instance, made by a lending company to a borrower with an overdue loan that the former will institute the appropriate legal actions against the latter and/or submit an official report to the CIC, can lawfully and validly be made under MC No. 18.

MC No. 18 was issued to implement RA No. 9474 (the Lending Company Regulation Act of 2007), by ensuring that lending companies operate on a sound, efficient and stable condition, thus allowing the public to derive optimum advantages from them as an additional source of credit; and that lending companies does not engage in practices that are prejudicial to public interest.[47] For lending and financing companies to continue being operationally sound and functional as an alternative source of credit, Section 1 of MC No. 18 fully recognizes their right to demand payment of a loan extended by them,[48] and to *"resort to all*

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[45] Definition of threat. https://dictionary.cambridge.org/us/dictionary/english/threat

[46] "It is a settled rule of statutory construction that the express mention of one person, thing, act, or consequence excludes all others. This rule is expressed in the familiar maxim *expressio unius est exclusio alterius.* Where a statute, by its terms, is expressly limited to certain matters, it may not, by interpretation or construction, be extended to others. The rule proceeds from the premise that the legislature would not have made specified enumerations in a statute had the intention been not to restrict its meaning and to confine its terms to those expressly mentioned." (*DBP vs COA*. G.R. No. 221706. March 13, 2018)

[47] "SEC 2. Declaration of Policy. - **It is hereby declared the policy of the State to regulate the establishment of lending Companies and to place their operation on a sound, efficient and stable condition** to derive the optimum advantages from them as an additional source of credit, **to prevent and mitigate, as far as practicable, practices prejudicial to public interest**; and to lay down the minimum requirements and standards under which they may be established and do business." (Emphasis supplied)

[48] "Jurisprudence tells us that one who pleads payment has the burden of proving it; the burden rests on the defendant to prove payment, rather than on the plaintiff to prove non-payment. **Indeed, once the existence of an indebtedness is duly established by evidence, the burden of showing with legal certainty that the obligation has been discharged by payment rests on the debtor.**" (*Bognot vs RRI Lending Corporation*. G.R. No. 180144, September 24, 2014)

reasonable and legally permissible means to collect amounts due to them under the loan agreement." MC No. 18 is in place to ensure that lending companies are able to enforce a demandable obligation within the bounds of law, and with due regard to the privacy, dignity, and well-being of borrowers; it was not designed, and should not be used to prevent or curtail the recovery of a loan that lending companies have extended to their borrowers.

The FLCD considered the following statements which the complainants allegedly received from the Corporation as constituting threat proscribed under Section 1 of MC No. 18, to wit:

(a) Message to Cristi:

> Ano na po ang update sa inyong settlement kay Surity Cash? Sumagot po tayo sa mga tawag at text reminders, upang maiwasan ang pagtawag sa mga contact references ninyo, salamat![49]

(b) Message to Gary:

> Kung di ho kayo sasagot, contact reference nyo nalang aabalahin namin sir maraming salamat, ayaw naming ng maraming dahilan para hindi makapagbayad.
>
> We have the rights to call all of your contact references lalo na at hindi ka makausap on call.[50]

(c) Message to Gellie:

> WARNING!
>
> We need your payment until 2PM TODAY (Jan. 23, 2023) or your account (sic) we'll be automatically transferred to Credit Information Corporation and you will be blacklisted in all Financial Institutions and Lending Corporation. It may also affect your Government Loans in the future. We also have your Information together with your valid ID. Voice recordings and pictures. We will send all your information and loan details to Credit Information Corporation (CIC) for blacklisting SSS, PAG-IBIG, PHILHEALTH will effected in the future. I hope you understand all the terms and conditions including your contact references.[51]

We do not agree that the afore-quoted messages constitute threats which are proscribed under MC No. 18.

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[49] *Comment/Opposition* dated 5 June 2025. Annex "A".
[50] *Id.* Annex "B".
[51] *Id.* Annex "E".

While it is clear that the messages inform the borrower that the failure to pay may result in the Corporation either reporting their loan details to the Credit Information Corporation (CIC), or contacting the references voluntarily provided by the borrower who acted as guarantor(s), they do not constitute threat of violence, or threat to carry out an action that cannot legally be taken.

Section 4 of RA No. 9510, or the Credit Information System Act, requires all submitting entities, which include lending and financing companies, to submit credit data to the CIC. This is an obligation which the law requires to be disseminated to borrowers;[52] and no less than the FLCD itself recognized this continuing obligation on the part of lending and financing companies.[53] Thus, compliance with the statutory requirement cannot be considered an unfair collection practice even if the same will result in the borrowers receiving the said information feeling threatened.

In relation to the prohibition on disclosure of credit information to third persons, it must be emphasized that the purpose/objective of the regulation is to protect and safeguard the privacy and reputation of borrowers by ensuring that no one in latter's contact list, which lending/financing companies might have accessed, deliberately or otherwise, are ever involved in the collection of the loan amount, under pain of administrative sanction. This notwithstanding, MC No. 18 however expressly excepted guarantors who may be validly contacted in the event that a borrower defaults or fails to settle his/her obligation.[54] In the instant case, the Corporation informed Gary and Cristi that it will contact the person (not in their contact list) whose names they *voluntarily* provided since they are not answering its calls, a matter that was admitted by Gary.[55] Considering the absence of any evidence showing that the persons alluded to in the texts messages were obtained in the contact list of Gary or Cristi, which is what Section 1(f) of MC No. 18 prohibits, these messages to Gary and Cristy will not qualify as a threat to take action that cannot legally be taken.

Verily, this Commission finds and so holds that the messages which the Collection Agent of the Corporation sent to Gellie, Gary, and Cristi did not constitute acts that MC No. 18 considers as unfair collection practices.

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[52] See Section 4(f) of CISA.
[53] See Comment/Opposition. page 4.
[54] Article 2047 of the Civil Code.
[55] "I didn't contact them cause I think that they will just laugh at this cause they're the ones who texted me this and they (sic) are keep messaging me with foul words so filing a complaint to them I think is useless." (See *Comment/Opposition*. Annex "B")

We, however, agree with the FLCD that the messages which the Collection Agent of the Corporation sent to Sherwin and Jenifer constitute a violation of MC No. 18 as they either used threats to harm their reputation or obscenities, insults and profane language which are not necessary in effecting collection of loan amount, to wit:

(a) Messages to Sherwin:

> Paki click yung LINK sa i-baba, naka post na ANG Picture MO na may HAWAK NA I.D. nung IKA'Yay umutang, naka post na IKAW Ay isang SCAMMER O MAG_NANAKAW!! Sisiguraduhin kong MASISIRA ANG PANGALAN MO SA MGA TAONG MAKAKAKITA NG MGA POST KO!!!."
>
> "BAKIT NAPAKAHIRAP MONG SINGILIN? NUNG NANGUTANG KA BA PINAHIRAPAN KA BANG MAKUHA YUNG PERA? ALAM MO BANG OVERDUE KANA? SANA NAMAN MARUNONG KANG MAHIYA! HINDI YUNG OVERDUE KANA MAKAPAL PA MUKHA!! KAPAG KINAKAUSAP KAYO NG MAAYOS PURO KAYO PAKIUSAP PERO KAPAG GALIT NA NANININGIL SA INYO SASABIHIN NINYO HINAHARASS KAYO? ANG DAMI NINYO SINASABI!! MGA PLAYING VICTIM KAYO![56]

(b) Message to Jenifer:

> Magandang araw!
> Ito ay mula sa SURITY CASH ONLINE LENDING APPLICATION company, kung sakali po ay may kilala kayong JENIFER MEDEK BELDA 09327273274 mangyari lamang po na pakisabihan sya na bayaran nya ang kanyang loan mula sa amin Ngayon po ay OVERDUE na sya at hindi po sya sumasagot sa aming mga tawag. Pakiabisuhan po syang isettle ang kanyang loan hanggang 5:00pm lamang. Sa oras na ipasa ko ang kanyang account information sa CIC Department maari syang ma-blacklist sa ano mang online lending companies at mga institusyong pampinansya gay ana lamang ng SSS/GSIS, Philhealth at Pag-ibig. Ang mga ID na lanyang ipinasa ay maaaring maban. SUSPECTED FRAUD po ang ilalagay naming sa account nya dahil sap ag-utang na walang balak magbayad.[57]

Finally, anent the Corporation's alleged violation of Section 4 of MC No. 18 requiring the submission of a Sworn Certification, this Commission notes of the FLCD's finding that the Corporation already submitted the required certification, albeit belatedly, which contained all the information needed to be disclosed.[58] On account thereof, the Corporation can already be considered compliant with the requirements of Section 4 of MC No. 18. This, however, does not negate the fact that the Corporation's violation of this provision is *fait accompli*.

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[56] *Id.* Annex "D".
[57] *Id.* Annex "C".
[58] *Order* dated 14 January 2025.page 12.

D. The penalty of revocation of Appellant's Certificate of Registration and CA is not warranted by the circumstances and evidence on record.

The FLCD imposed the supreme penalty of revocation of the Corporation's Certificates on the basis of a finding that the Corporation committed five (5) violations of MC No. 18. In particular, the FLCD found that the messages which the Corporations collection agents sent to the four (4) complainants, i.e., Jenifer, Gillie, Sherwin, and Cristi constituted four (4) violations of Section 1 of MC No. 18, while its belated filing of the Sworn Certification required under Section 4 of MC No. 18 accounted for its fifth (5^{th}) violation of the said regulation. In justifying the imposition of the penalty of revocation, the FLCD applied Section 5 of MC No. 18 and ratiocinated that the number, nature and gravity of the Corporation's violations warranted the same.

Considering Our earlier findings on the Corporation's three (3) violations of the relevant provisions of MC No. 18, i.e. two (2) violations of Section 1 and a single violation of Section 4, which are duly supported by the evidence on record, the penalty imposed by FLCD should, as it hereby is, modified.

Section 5 of MC No. 18 provides:

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

	LCs	FCs
First Offense:	P25,000.00	P50,000.00
Second Offense:	P50,000.00	P100,000.00
Third Offense:	**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 Million (1,000,000) Pesos; **or suspension of lending or 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.** (Emphasis supplied)	

The afore-quoted provision grants the Commission the discretion to impose a penalty that is commensurate to the gravity and seriousness of the violation(s), on the basis of its appreciation of all the attendant facts and/or circumstances established by evidence. The Commission is not bound to impose a penalty of suspension or revocation for a third or even subsequent violation of MC No. 18 if, to its mind, the same is not warranted by the facts and circumstances. It is the Commission's independent consideration of the seriousness of the offense based on its appreciation of the attendant facts and circumstances which facilitates the proper exercise of its sound discretion in imposing the appropriate penalt(-ies).

In the instant case, only two (2) complainants, *i.e.,* Sherwin and Jenifer, were able to show and establish that the Corporation violated Section 1 of MC No. 18. This, together with the Corporation's belated submission[59] of the required Sworn Certification prescribed under Section 4 of MC No. 18, accounts for three (3) violations of MC No. 18 which Section 5 penalizes with a fine of not less than twice the fine for the second offense but not more than Php1 Million (1,000,000.00) Pesos.

On whether these violations of the Corporation warrant the suspension or revocation of its corporate franchise and Certificate of Authority, We answer in the negative.

While the messages which the Collection Agents of the Corporation sent to Sherwin and Jenifer indeed violated Section 1 of MC No. 18, We find that the imposition of a harsh penalty short of suspension or revocation will satisfy the objectives of regulation. The use by the Corporation of obscenities against Sherwin, its act of sharing the loan information of Jenifer, and its belated submission of the Sworn Certification are indeed reprehensible, and should be penalized accordingly.

On the other hand, We are equally cognizant of the fact established by evidence that the other employees of the Collection Agent of the Corporation have adhered to its existing policies requiring full compliance with laws, rules and regulations, including MC No. 18. In this regard, the message of another employee of the Collection Agent to Sherwin is notable for its politeness and professionalism, to wit:

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[59] 941 days per *Order* dated 14 January 2025. page 12.

> Thank you for reaching out. We appreciate you bringing this matter to our attention. We understand the need of more time in settling your account and we'd love to help you maintain a good credit standing.
>
> On this note, we have escalated your account to our Collection Department for further assistance. Please expect a call from our team within 1-2 days. For the meantime, kindly leave your registered mobile number available all the time.[60]

The foregoing shows that the Corporation has in place, and is implementing systems, rules and policies that are aligned to the objectives of applicable laws, rules and regulations, and are designed to ensure compliance with the same. While some, if not most, of the employees of its Collection Agent have faithfully adhered to the said policies, some unfortunately have not, which resulted in a number of violations of MC No. 18. The Corporation has, nonetheless shown that it has not tolerated such violations and have imposed the appropriate sanctions on erring employees/agents.[61] Be that as it may, the law is clear that the Corporation has to assume full responsibility for the actions of its Collection Agent,[62] and precludes it from setting up the defense that it has no control over its employees.

Moreover, We further note that during the pendency of the instant case, the Corporation took corrective actions to demonstrate its willingness to fully comply with the provisions of applicable laws, rules and regulations. It continued to investigate and penalize erring employees/agents who were found to have violated MC No. 18; conducted relevant orientations and workshops on fair and proper debt collection for its employees; and sought the assistance of legal consultants to improve its compliance to the laws and regulations.[63] We are cognizant of the risks, as well as the cost, that the Corporation assumed in carrying out such reforms in the interim, even if there was no assurance that its prayer for the reinstatement of its franchises will be granted. To Our mind, these subsequent actions of the Corporation show its sincerity to conduct its business affairs in a manner that fully complies with statutory, regulatory and legal requirements.

Considering all the attendant facts and circumstances, We are convinced that the imposition of the penalty of suspension or revocation is not warranted in the instant case. The remedy of dissolving a

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[60] *Comment/Opposition.* See Annex "D".
[61] *Position Paper* dated 14 May 2023. Annex "5".
[62] Section 13 of R.A. No. 11765.
[63] *Appeal Memorandum.* Par. 65. See also *Manifestation with Motion for Early Resolution*. Annexes "A", "B", "C", "D", and "E".

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corporation, or revoking a franchise/license must be exercised with great caution, to the extent that all remedies must be exhausted before imposing the harsh penalty of dissolution/revocation.[64]

A final note. While this Commission is not imposing the penalty of suspension or the supreme penalty of revocation at this time, unfair or abusive debt collection and recovery practices have no place in the lending/financing industry. These practices will never be considered reasonable and legally permissible means to collect a loan. This, together with the fact that the Corporation failed to substantiate its defenses relating to ownership of the mobile numbers used in sending the messages subject of the complaints, warrant the imposition of the maximum fine provided under Section 5 of MC No. 18. The instant Decision should therefore be considered by the Corporation as a stern and final warning that another, or a repeated violation of MC No. 18, and other applicable laws, rules and regulations will be dealt with more severely.

WHEREFORE, premises considered, the Appeal Memorandum is hereby **GRANTED**. The Order dated 14 January 2025 of the FLCD is hereby **MODIFIED**. Surity Cash Lending Investors Corporation, doing business under the name of Surity Cash, is hereby assessed a fine of Pesos: One Million & 00/100 (Php1,000,000.00) for its three (3) violations of MC No. 18.

SO ORDERED.

Makati City, Philippines.

FRANCISCO ED. LIM
Chairperson

JAVEY PAUL D. FRANCISCO
Commissioner

KARLO S. BELLO
Commissioner

MCJILL BRYANT T. FERNANDEZ
Commissioner

ROGELIO V. QUEVEDO
Commissioner

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[64] See *FCash Global Lending, Inc. vs CGFD* (SEC *En Banc.* Case No. 12-20-480., March 2, 2021) citing 16A Fletcher *Cyc Corp* [Perm Ed] sec. 8035 at p. 155.