Securities and Exchange Commission
PHILIPPINES

BAGONG PILIPINAS

FINANCING AND LENDING COMPANIES DEPARTMENT

FinLend Case No. 2025 - 02

IN THE MATTER OF:

SURITY CASH LENDING INVESTORS CORPORATION DOING BUSINESS UNDER THE NAME OF SURITY CASH
(SEC Reg. No. CS201910185 and Certificate of Authority No. 3013),
Respondent.
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FOR: REVOCATION OF CERTIFICATE OF INCORPORATION AND CERTIFICATE OF AUTHORITY TO OPERATE A LENDING COMPANY FOR VIOLATION OF SEC MEMORANDUM CIRCULAR NO. 18, SERIES OF 2019, ON THE PROHIBITION ON UNFAIR DEBT COLLECTION PRACTICES OF FINANCING COMPANIES AND LENDING COMPANIES

ORDER

This resolves the administrative proceedings referring to six (6) formal complaints against Surity Cash Lending Investors Corporation doing Business under the name of Surity Cash (the "*Respondent*"), a registered domestic corporation with SEC Reg. No. CS201910185; Certificate of Authority No. 3013, and registered address at 12th Floor Aseana Three Building, Macapagal Ave. cor. Aseana Ave., Aseana City, Tambo City of Parañaque, Fourth District, NCR, Philippines, 1701, and email addresses at admin@suritycash.com; Hr@suritycash.com; kdg@callejalaw.com; csa@callejalaw.com; and callejalaw@gmail.com.

STATEMENT OF FACTS

From September 2022 to March 2023, multiple complaints against the Respondent and its Online Lending Platform ("*OLP*") were filed before the Financing and Lending Companies Division ("*FinLenD*") of the Securities and Exchange Commission ("*SEC*" or "*Commission*"), for alleged violations of SEC Memorandum Circular No. 18, Series of 2019 ("*SEC MC 19*") otherwise known as the Prohibition on Unfair Debt Collection Practices of Financing Companies and Lending Companies.

Thereafter, Show Cause Letters ("*SCLs*") dated 19 October 2021[1], 22 March 2022[2], 20 July 2022[3], 21 July 2022[4], 22 July 2022[5], 3 March 2023[6] were sent to the Respondent, followed by email exchanges between the parties.

Hereunder are the complaints details and replies of the Respondent.

1. **MR. GARRY VIDEÑA**

Mr. Videña alleged, among others, that on the day his loan fell due, he received messages concerning his loan that were disrespectful in tenor and insinuated non-payment of a long overdue loan. To support his claim, Mr. Videña attached screen captures of the alleged messages[7] sent by the Respondent, some of which are quoted verbatim below:

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[1] In relation to the alleged violation of Section 4 of SEC Memorandum Circular No. 18, Series of 2021 for its failure to submit its Sworn Certification of compliance from the President/Chief Executive and Compliance Officer

[2] In relation to the complaint of Ms. Cristi Mary Veronica Ectobanez.

[3] In relation to the complaint of Mr. Garry Videña.

[4] In relation to the complaint of Ms. Jennifer M. Belda.

[5] In relation to the complaint of Mr. Sherwin Caraan.

[6] In relation to the complaint of Ms. Gellie Rodriguez.

[7] Sent from 0931 902 57xx.

"Kung di ho kayo sasagot, contact reference nyo nalang abalahin namin sir maraming salamat, ayaw namin ng maraming dahilan para Hindi lang makapag BAYAD

Pag ayaw, palaging may dahilan, gasgas na yan sir. Ilang beses na nagamit Yang dahilan nayan salamat nalang

We have the rights to call all of your contact references lalo na at hindi ka makausap on call."

The Respondent refuted the said allegations for two (2) reasons.

First, the Respondent claimed that its collection specialists all underwent training and are dutybound to observe the company rules and the relevant and existing laws of the Republic of the Philippines. It alleged that in the "Letter of Acknowledgement" signed by their collection specialists before engagement, a list of acts constituting violations of company rules was explicitly enumerated and that the breach of the said acts is grounds for termination of employment for the erring collection specialist. Lastly, the Respondent, attaching the Service Agreement, stated that similar conduct and practice are expected from their TPSP, Upright Recovery and Collections Management Services Inc. (Upright Recovery). The Respondent concluded that it ensures appropriate measures are in place in their transactions and dealing and firmly stated that it did not, does not, and will not sanction or tolerate any act violative of existing rules and regulations, particularly MC 18.

Second, the Respondent claimed that the mobile numbers provided were neither issued by nor registered under it, and the collection specialists it employs are not issued company phones or SIM cards. The Respondent stated that payment reminders and demands are made through system-generated messages under its name as a matter of procedure. It also attached a screenshot of their system-generated messages under the name SurityCash. The Respondent added that the messages received by said complainant did not come from it nor its employees, citing the difference in the manner and tenor of its official messages *vis-a-vis* the screen captures of the messages attached. It also stated that perusal of the Respondent's website shows no contact details other than its e-mail address, cs@suritycash.com, and Facebook account, www.facebook.com/suritycash. The Respondent added that this proves improper practices and/or conduct in its dealings or communications with clients were not resorted to.

Lastly, the Respondent emphasized that misrepresentations and scams are rampant and that it, being always compliant with the law, will not tolerate any damning allegations against its good name.

Following a series of communication from July to August 2023, the Respondent agreed to Mr. Videña's demand of P20,000 compensation, fully paid loan status and issuance of a clearance with it for the dropping of the latter's Complaint lodged before the Commission.

On 18 August 2023, an email thread together with a copy of the Notarized Agreement Letter was sent to the Commission by the Respondent using the email DPO@suritycash.com.

2. MS. CRISTI MARY VERONICA ECTOBANEZ

Ms. Ectobanez, alleging, among others, that she received various text messages containing hurtful words and that the Respondent threatened her sibling, supported her claims by attaching screen captures of the alleged messages[8], some of which are quoted verbatim below:

"Ang SURITYCASH ay nagviverify sa ngayon ng mga impormasyon patungkol sa iyoo at sa iyong account na possibleng matawagan para magkaroon ng report. Umaksyon ho tayo para sa ating obligasyon. DISREGARD IF PAID/UNDER AGREEMENT. - SURITYCASH

[8] Sent from 0931 902 5724, 0918 787 2971, 0930 468 4515, 0938 938 9977, 0970 327 7583.

ANO NA PO UPDATE SA INYONG SETTLEMENT KAY SURITYCASH? SUMAGOT PO TAYO SA MGA TAWAG AT TEXT REMINDERS, UPAND MAIWASAN ANG PAGTAWAG SA CONTACT REFERENCES NINYO, SALAMAT!

Still ignoring to pay? A DEMAND LETTER was prepared and ready to send in your company & home address. To avoid such action settle payment now.

BAKIT NYO HO BINABA ANG TAWAG ? PINAGTATAKPAN NYO BA YUNG KAPATID NYONG SI MA CRISTI MAY VERONICA GEVERA ECTOBAÑEZ? ?

PASABE SA KAPATID NYO BAYARAN NA NYA YUNG LOAN NYA SA COMPANY NAMIN"

In refuting these allegations, the Respondent used the same defenses against Mr. Videña's Complaint.

3. MS. JENNIFER M. BELDA (against Surity Cash)

Ms. Belda alleged, among others, that she continuously experienced depression and harassment due to the Respondent's manner of collection, particularly the Respondent's act of sending one of her named references a message disclosing her loan details. Ms. Belda added that the messages she received from the Respondent were "threatening which is invading my privacy and make a lot of emotional damage."

To support her claim, Ms. Belda attached screen captures of the alleged messages[9], one of which is quoted verbatim below:

"Magandang araw!

Ito ay mula sa SURITYCASH ONLINE LENDING APPLICATION company, kung sakali po na may kilala kayong JENIFER MEDEK BELDA 09327273274, mangyari lamang po na pakiabisuhan siya na bayaran niya ang kanyang loan mula sa amin. Ngayon po ay OVERDUE na sya at hindi po siya sumasagot sa aming mga tawag. Pakiabisuhan po siyang isettle ang kanyang loan hanggang 5:00pm lamang. Sa oras na ipasa ko ang kanyang account information sa CIC Department, maari siyang ma-blacklist sa ano mang online lending companies at mga institusyong pampinansyal gaya na lamang ng SSS/GSIS, Philhealth, at Pag-Ibig. Ang mga ID na kanyang ipinasa ay maaring maban. SUSPECTED FRAUD po ang ilalagay naming sa account nya dahil sa pag-utang na walang balak magbayad."

The Respondent refuted Ms. Belda's allegations with the same claims used against Mr. Videña's Complaint. The Respondent stated that Ms. Belda's Complaint mentions no similar experience in her previous transactions with SurityCash, proving that the Respondent did not resort to improper practices and/or conduct in dealings or communications with its clients.

4. MS. GELLIE RODRIGUEZ (against Surity Cash)

Ms. Rodriguez alleged, among others, that even with no delay in payment, the Respondent's agent had been harassing and threatening her that a case would be filed for her P9,000.00 loan and that it would be disclosed to her work and barangay, which is not included in the contract. One of the screen captures of the alleged messages[10] used by Ms. Rodriguez to support her claim is quoted verbatim below:

"WARNING!

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[9] Sent from 0920 341 4191, 0946 457 0280, 0948 360 4791, 0970 767 5128, 0920 341 3295, 0963 671 9936, 0931 902 5724, 0970 572 4120, 0948 360 5493.

[10] Sent from 0981 207 5552, 0970 216 4011.

We need your payment until 2PM TODAY (Jan. 23, 2023) or your account we'll be automatically transferred to Credit Information Corporation, and you will be blacklisted in all Financial Institutions and Lending Corporation. It may also effect 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 be effected in the future. I hope you understand all the terms and conditions including your contact references.

Thank you!
SURITYCASH"

The Respondent avered the same defenses in answer to the Complaint lodged by Mr. Videña.

5. MR. SHERWIN CARAAN

In his Complaint, Mr. Caraan alleged, among others, that he emailed the Respondent's customer service via email at cs@suritycash.com, informing the latter of his inability to make a full payment on the due date and proposing an alternative date to pay. Mr. Caraan added that from his due date onwards, he received text messages with varying degrees of rude threats and harassment. Mr. Caraan likewise alleged that he proposed 28 to 31 of March 2022 as alternative dates to pay his loan.

To support his claim, Mr. Caraan attached screen captures of the alleged messages[11], some of which are quoted verbatim below:

"WARNING WARNING

OVERDUE LOAN OBLIGATION

You will be possible BLACKLISTED to ALL ONLINE LENDING APPS and also to NBI and Police Clearance/Bad Debt Record

PAY TODAY BEFORE 4:00PM

do not DISREGARD this message if your NOT already settle.

We will send your name to your Barangay and Municipal Trial Court for the Record of SMALL CLAIMS for NOT PAYING your LOAN OBLIGATION.

Surity Cash Lending Investors Corp.
Company Registration No. CS201910185
Certificate of Authority No. 3013"

"Good day! This is sir JANELA of Accounts Security Departments of SERITY CASH UPON CHECKING DITO SA SYSTEM NAMIN AT RECORDED CALLS AND TEXT KAYO AY NANGAKONG MABABAYAD NUNG NAKARAANG AT NGAUN ARAW. KAMUSTA NA HO ANG PAYMENT NILA? KASI NANGANGANIB NA PO ITONG ACCOUNT NINYO NA MA FORWARD PARA SA LEGAL ACTION AND VISITATION ANYTIME OF THE DAY SA HOUSE, BARANGAY OR SA WORK PLACE NYO. MAARI LAMANG MAG REPLY SA NUMBER NA TO IF WILLING KAYONG MAKIPAGCOOPERATE AT MARECOVER ANG IYONG ACCOUNT AT POSSIBLE MAPAG BIGYAN NG LOAN POSSIBLE UP TO 35,000 AT 28DAYS TO PAY!

ANG PAG SA WALANG BAHALA NG TEXT NA ITO AY IBIG SABIHIN LANG NA TINATALIKURAN NIYO ANG OBLIGATION NIYO!

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[11] Sent from numbers saved as Surity and Surity New.

SALAMAT!

-JAMES of Accounts SURITYCASH Department"

The Respondent refuted these allegations using the same claims against Mr. Videña's Complaint.

6. SHOW CAUSE LETTER DATED 19 OCTOBER 2021

On 19 October 2021, the Corporate Governance and Finance Department (CGFD) of the Commission issued an SCL against the Respondent for its failure to submit its Sworn Certification of compliance from the President/Chief Executive and Compliance Officer, directing the Respondent to submit the said Sworn Certification and show cause why it should not be held liable for the above violation within ten (10) days from receipt of the SCL.

On 5 May 2022, the Respondent, through its President, Ms. Ibarreta, filed its Sworn Certification in compliance with Section 4 of SEC MC 18, certifying that the "Company adopts policies and procedures requiring personnel handling the collection of accounts, whether these are in-house collectors or third-party service providers ("*TPSPs*"), to disclose his/her full name or true identity to the borrower."

PROCEEDINGS BEFORE FINLEND

In a Zoom Conference dated 12 April 2023, the Respondent was represented by its President, Ms. Mary Leabelle Ibarreta, and counsel, Atty. Katrin Jessica Distor-Guinigundo of Calleja Law Office. One of the Respondent's collection officers and staff, Ms. Precious Danel De Asis and Ms. Dana, were likewise present.

In the said Conference, the Respondent was informed of the One Hundred Ninety (190) Complaints received by FinLend through email. **Five (5)** of these complaints ripened into formal complaints, resulting in the issuance of the abovementioned SCLs, excluding the alleged violation of Section 4 of SEC MC 18. On 5 May 2023, all parties were directed to submit their respective *Position Papers*.

On 20 May 2023, the Respondent submitted its *Position Paper* through email, averring the same claims as its answer to the Complaints.

The Respondent averred its non-sanctioning or non-tolerance of unfair debt collection practices. Attaching its Service Agreements setting forth their obligations, the Respondent even added that these are expected of their TPSPs, Upright Recovery and Collections Management Services Inc. (Upright Recovery) and Goldendragon Call Center Services (GCCS).

The Respondent likewise contended that the mobile numbers and/or online accounts that allegedly sent the harassments were neither issued nor registered under it and that no company phones or sim cards were issued to its employed collection specialists. It even attached samples of its system-generated payment reminders and demands and emphasized the difference in the manner and tenor of the messages allegedly received by the complainant-borrowers, which implies that these harassments neither came from Respondent nor its collection specialists.

Lastly, the Respondent stated its actions upon receipt of notice from the Commission, namely: consultation of its management with its legal counsels on the best course of action to be taken; stringent internal investigation by its Data Privacy Officer ("*DPO*"), Mr. Richard King Revina, on the veracity of the allegations on complaints filed before the Commission; submission of certification and record of action outlining the measures taken by the Respondent in response to the complainants' allegations such as the handling of a notice to explain by management to collection specialists subject of complaint reports with some involving the complainants' cases and placing the concerned collection specialists under investigation. A copy of the Certification and Record of Action stating that the collection specialists who handled the accounts of the complainants before the Commission have either resigned, terminated after due investigation or are currently under investigation were attached. The Respondent then concluded that it cannot be faulted for inaction as "most if not all, complainants could have first contacted and reported the incident to SURITY's legitimate and authorized channels for the company to conduct the necessary investigation and/or take disciplinary measures against its erring collection specialists, if need be, at the earliest opportunity."

While Ms. Torcende submitted her *Position Paper* on 22 May 2023, FinLend is not precluded from and will resolve the issues arising from the complaints submitted based on available records.

SEC ISSUED CEASE AND DESIST ORDER DATED 26 JUNE 2023

On 26 June 2023, the Commission issued a Cease and Desist Order (CDO) against Surity Cash Lending Investors Corporation after finding a compelling reason to issue a CDO without the necessity of conducting a prior hearing to prevent the Respondent from committing unfair debt collection practices which, if unrestrained, will cause grave or irreparable injury or prejudice to financial consumers.

On 16 November 2023, the Office of the General Counsel, through a Resolution[12], denied the Respondent's Motion to Lift the Cease and Desist Order for lack of merit and made the Cease and Desist Order permanent.

ISSUE

Whether the Respondent violated Sections 1 and 4 of SEC Memorandum No. 18, series of 2019, and should be held administratively liable.

HELD

We rule in the affirmative.

Taking into consideration the agreement to settle supported by the Notarized Letter of Agreement executed by and between Mr. Videña and the Respondent and all other documents pertaining to it, FinLend found no need to decide on the merits of the case despite the said withdrawal, under Rule II, Section 2-5[13] of Part II of the SEC ROP.

Respondent committed unfair debt collection practices in violation of SEC MC 18, Series of 2019.

a. The Respondent failed to specifically deny the allegations of its complainant-borrowers.

Suppletory application[14] of Rule 8, Section 11[15] of the 2019 Rules of Court (2019 ROC) provides that the material allegations in pleadings asserting claims, when not specifically denied, shall be deemed admitted. In the case of Fernando Medical Enterprises, Inc. v. Wesleyan University Phils., Inc.[16], the Supreme

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[12] SEC En Banc Case No. 07-23-002 (FLCD CDO Case No. 24, series of 2023).

[13] SEC. 2-5. Effects of Withdrawal of a Complaint. - Withdrawal of a complaint under Part II does not automatically result in the outright dismissal of the investigation, nor discharge the person subject of the investigation from a possible imposition of any administrative sanction or penalty when there is merit to the charges, or where there is documentary evidence which would tend to establish a prima facie case warranting the continuation of the investigation.

[14] Rule 1, SEC.1-6. Suppletory Application of the Rules of Court. - The pertinent provisions of the Rules of Court may, in the interest of expeditious dispensation of justice and whenever practicable, be applied by analogy or in a suppletory character and effect.

[15] Section 11. Allegations not specifically denied deemed admitted. - Material averments in a pleading asserting a claim or claims, other than those as to the amount of unliquidated damages, shall be deemed admitted when not specifically denied.

[16] G.R. No. 207970, 20 January 2016.

Court ruled that "the controversion of the ultimate facts must only be by specific denial" and enumerated the three recognized modes by which the denial in the answer raises an issue of fact[17].

In using both defenses, the Respondent failed to submit any evidence to support them. Its mere statement of non-sanctioning and non-tolerance of any unfair collection practices and submission of its Service Agreements does not ensure the Respondent and all its collection agents' compliance with the law, particularly that of SEC MC 18. Further, the "Letter of Acknowledgement" signed before their engagement is merely a document in which the collection specialist acknowledges acts constituting a violation of the Respondent's rules and their possible consequent termination for such violations. Presentation of said documents is an assurance by the Respondent of its effort to incorporate reasonable collection practices. However, it cannot support the Respondent's contention that it fully complied with SEC MC 18 and the non-subjection of their complaint-borrowers to said harassment for this matter. Also, it does render its collection agents, or any of its employees who handled the complainant-borrowers' loan accounts inept from employing abusive collection practices.

Moreover, notwithstanding the Respondent's alleged defense, its consumers still experienced unfair debt collection practices from the former collection agents, a possibility and admission made by the Respondent in item 35 of its *Position Paper*. Said paragraph stated that "the possible termination of employment is not a mere empty threat, as there have been cases where SURITY collection specialists and employees were meted out with this disciplinary measure." Also, the simple fact that the Respondent imposed sanctions, including termination, for possibly erring employees reveals its awareness of possible employment of abusive collection practices. It further implies that, regardless of its non-sanctioning and non-tolerance of any unfair debt collection practices and willingness to resort to reasonable collection practices, the tendency of its collection specialists and/or employees to employ abusive collection practices remains.

Most important of all is the fact that the attached samples of its system-generated payment reminders and demands were but templated messages informing the receiver of his payment details, such as his name, repayment amount, contract number or reference code, and the real-time payment channels available, as well as of a promotion of the Respondent's loan offerings. Nothing in the attached samples shows the Respondent's system-generated templates used for demanding payment from their financial consumers. Hence, FinLend cannot, even begrudgingly, believe the Respondent's claims.

Additionally, while the Respondent intended to differentiate the tenor and nature of the messages submitted by the complainant-borrowers from the system-generated messages it attached, it failed to support its defense of non-issuance and non-registration of the mobile numbers and/or online accounts that allegedly sent the harassments, and its conclusion of non-employment of the complained abusive collection practices by it nor its collection specialists. Again, no conclusion can be made out of the system-generated messages alone. Moreover, while the Respondent stated that the numbers used to send the harassment messages were neither issued nor registered under it, the Respondent has not submitted any document to support this.

Further, while its closing statement is present in its pleadings, there was nothing for FinLend to infer that the allegations of complainant-borrowers were misrepresentations or that the same were made based on scams. These are mere assumptions and conjectures from which no conclusions can be drawn. The most that FinLend can do is evaluate the allegations and the corresponding supporting documents to ensure that the Respondent was neither misrepresented nor sued based on scams.

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[17] xxx Section 10, Rule 8 of the Rules of Court recognizes only three modes by which the denial in the answer raises an issue of fact. The first is by the defending party specifying each material allegation of fact the truth of which he does not admit and, whenever practicable, setting forth the substance of the matters upon which he relies to support his denial. The second applies to the defending party who desires to deny only a part of an averment, and the denial is done by the defending party specifying so much of the material allegation of ultimate facts as is true and material and denying only the remainder. The third is done by the defending party who is without knowledge or information sufficient to form a belief as to the truth of a material averment made in the complaint by stating so in the answer. Any material averment in the complaint not so specifically denied are deemed admitted except an averment of the amount of unliquidated damages. xxx

As for the other series of actions taken by the Respondent, FinLend lauds its efforts; these, however, do not weigh enough to make it imperative for the latter to conclude that such efforts can prove the Respondent's non-sanctioning and non-tolerance of unfair collection practices and non-remiss in ensuring that its TPSPs are in observation of lawful debt collection practices.

All the complainant-borrowers alleged having loan accounts with the Respondent. The latter admitted these allegations in its *Position Paper* and provided the loan contract reference number for all the complainant-borrowers' loans.

In the Respondent's denial of relation to any of the numbers or the accounts averred in the complaints, only the said relationship and not the complainant-borrowers' experience of abusive collection practices were denied. Applying the ruling[18] in Republic v. Manalo[19], the Respondent admitted the material allegations pertaining to complainant-borrowers' experience of abusive collection practices when it failed to deal with them.

The Respondent's non-denial of the allegations from the different complainant-borrowers is likewise admitted.

1. Ms. Ectobanez and Ms. Belda's allegation that they received messages violative of SEC MC 18 from the mobile number +63931 902 5724 were substantiated by the screen captures of text messages attached to their Complaints. Other than acknowledging this allegation in its separate Answers to Complaints by claiming non-issuance or non-registration of this number by or under it, the Respondent failed to deal with it.

   Applying the ruling[20] in the Office of the Deputy Ombudsman for the Military and Other Law Enforcement Offices v. Butlay[21], the above-stated allegations of Ms. Ectobanez and Ms. Belda are deemed admitted despite the Respondent's general denial of their claims.

2. Mr. Caraan's allegation that he proposed an alternative date to pay his loan on 28 to 31 of March 2022 was substantiated with screenshots of the email with proposed dates were not only undenied but ultimately left unaddressed by the Respondent.

   Also, his allegation that he informed the Respondent through its e-mail, cs@suritycash.com, of the threatening messages he received on the day his loan became due and that the Respondent replied that Mr. Caraan's account had been escalated to the Collection Department and someone would be calling him within the next two (2) days was supported by a screenshot of the email thread. The screenshot substantiated the allegation that Mr. Caraan informed the Respondent of the threats he received. The Respondent failed to deny this nor deal with it in any way.

   The Respondent also left unaddressed Mr. Caraan's allegation that from his due date onwards, he received text messages with varying degrees of rude threats and harassment, which he supported.

   Mr. Caraan also alleged receiving a message containing Facebook links allegedly containing his selfie photo and ID. Again, the Respondent ignored this allegation in its Answer and *Position Paper*. Thus, these allegations of Mr. Caraan are deemed admitted.

To reiterate, a faithful and fair reading of the Answers and *Position Paper* clearly shows Respondent's mere hypothesis that if the complainant-borrowers are proven to have been subjected to unfair debt collection practices, then it would still not be liable because it neither sanctions nor tolerates

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[18] xxx the answer admits the material allegations of ultimate facts of the adverse party's pleadings not only when it expressly confesses the truth of such allegations but also when it omits to deal with them at all xxx

[19] G.R. No. 220072 (Notice), 23 March 2022.

[20] xxx each party in an administrative case must prove his affirmative allegation with substantial evidence; thus, complainant has to prove the affirmative allegations in his complaint while respondent has to prove the affirmative allegations in his affirmative defenses and counterclaims xxx

[21] G.R. No. 219713 (Notice), 19 February 2018.

any act violative of SEC MC 18, S. 2019, employ abusive practices in dealing with their clients and enforcing payments of their loans, or issue or register the mobile numbers and online accounts that allegedly sent the harassment to the complainant-borrowers. This means that the Respondent, having made neither admission nor denial that the complainant-borrowers suffered harassment, deems the same admitted.

b. The complainant-borrowers were able to prove their allegations against the Respondent substantially.

In collecting the amount due them, financing companies, lending companies and their TPSPs must observe good faith and reasonable conduct and refrain from engaging in unscrupulous and untoward acts under Section 1, SEC MC 18. While the said section listed acts constituting unfair collection practices, the list is not exclusive, to wit:

> *"SECTION 1. Unfair Collection Practices. xxx 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:*
>
> *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 amounts 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 has been 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."*

After carefully evaluating the contentions and documents of the Respondent and all the complainant-borrowers, FinLend finds them adequate to sustain a finding of administrative culpability. The Respondent's defenses were general denials, bereft of any compelling reasons to disregard the positive statements of the complainant-borrowers.

On the Complaint of Ms. Ectobanez

The text message received from the mobile number 0931 902 5724 introduced the sender to be from SURITYCASH LENDING and told Ms. Ectobanez that it was verifying information about her and her account "na pwedeng Matawan para magkaroon ng report." The sender went as far as threatening Ms. Ectobanez to answer the calls and text reminders to avoid calling her contact references. In the same message thread, Ms. Ectobanez informed the sender of her inability to pay and asked if it was all right to pay for the principal amount, which the sender rejected. From this message thread alone, both Ms. Ectobanez and the said sender understood that the subject of their communication refers to the same loan transaction provided by Surity Cash, the Respondent. Even Ms. Ectobanez's sibling was contacted in relation to the former's loan. The Respondent, in sending the messages, was clearly in violation of Section 1 (b), (d), (e) and (h) of SEC MC 18.

On the Complaint of Ms. Belda

Among the screen capture attached by Ms. Belda, not only was her loan information disclosed, but threats of passing her information to the "CIC Department," which may lead to her being blacklisted from online lending companies and financial institutions and banning of her submitted identification card likewise contained therein. The sender went as far as to state that her account would be tagged "SUSPECTED FRAUD" for non-payment of the availed loan.

Ms. Belda's allegations, together with the supporting documents attached to her Complaint, are sufficient to conclude that the Respondent violated Section 1 (b), (c), (d), (e), (f) and (h) of SEC MC 18.

On the Complaint of Ms. Rodriguez

Both numbers which sent text messages violative of SEC MC 18 to Ms. Rodriguez, clearly identified the sender to be from SUIRITY CASH. In one of the screen captures of messages attached to her Complaint, the Respondent expressly threatened Ms. Rodriguez with transferring her account to Credit Information Corporation (CIC), blacklisting all financial institutions and lending corporations.

Also notable is the fact that her reference, one named Oliver, received a very similar harassment message. Based on the above-stated acts, Section 1 (b), (d), (e) and (f) of SEC MC 18 were violated by the Respondent.

On the Complaint of Mr. Caraan

The Respondent violated Section 1 (b), (c), (e), and (f) of SEC MC 18.

Although the mobile numbers that sent the harassing messages to Mr. Caraan cannot be seen but instead saved as Surity and Surity New, the sender identified itself to be from SURITYCASH, SURITYCASH LENDING, SURITY CASH and SURITY CASH LENDING CORP. As the numbers were only saved as either Surity or Surity New, said messages attached by Mr. Caraan imply that they can only belong to two (2) message threads.

Moreover, based on the email thread with the Respondent's customer service, cs@suritycash.com, Mr. Caraan's offer of paying from March 28 to 30 was known to the Respondent's employees or specialists assigned to collect his loan.

c. The Respondent cannot deny liability over the acts of its Third-Party Service Providers.

In item 38 of its *Position Paper*, the Respondent, in arguing its non-remiss in ensuring that its TPSPs observe lawful debt collection practices, cited the case of Metro Manila Transit Corporation v. Court of Appeals and Nenita Custodia.[22], stated that it had satisfactorily complied with the due diligence required under the law when it mentioned pertinent company rules and regulations and demonstrated how compliance is ensured.

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[22] G.R. No. 104408, 21 June 1993.

While FinLend agrees that its TPSPs' collection agents are not under its direct employment, control, and supervision, the provision on the degree of diligence required of employers is not applicable in cases of unfair debt collection practices committed by third-party service providers and their employees under SEC MC 18.

The Lending Company Regulation Act of 2007 (LCRA), a special law that governs the establishment, operation, and regulation of lending companies, granted the Commission its regulatory and supervisory authority over lending companies, and from the exercise thereof, SEC MC 18 was issued. Between the LCRA provisions and that of the Civil Code, as amended, a general law, the former necessarily prevails. In the case of Commissioner of Internal Revenue v. Philippine Airlines, Inc.[23], the Supreme Court has held that "this is in accordance with the rule that on a specific matter, the special law shall prevail over the general law, which shall be resorted only to supply deficiencies in the former."

Moreover, the prefatory statements[24] SEC MC 18 stated that its issuance was anchored in the LCRA, that its application should not in any way limit the general application of the said law, and that the New Civil Code may still be applied.

Section 3[25] of SEC MC 18 expressly provides that lending or financing companies are responsible for complying with the said memorandum circular despite outsourcing the collection of their loans to another entity.

Hence, the Respondent's defense cannot hold water.

d. The Respondent waived its right to raise objections to the documents attached in the multiple complaints.

In item 47 of its *Position Paper*, despite admitting to its inaction on the complaints, it denied responsibility because "most, if not all, complainants could have first contacted and reported the incident to SURITY's legitimate and authorized channels for the company to conduct the necessary investigation and/or take disciplinary measures against its erring collection specialists, if need be, at the earliest opportunity."

Moreover, despite the various SCLs issued, the Respondent only submitted their answers to FinLend on 27 April 2023, a date past the given ten-day period for filing. Without the directive during the Conference held on 12 April 2023, the Respondent would not be compelled to file their Answers. FinLend also found it striking that the Respondent failed to provide any response to the four (4) SCLs issued in 2022 during the almost nine (9) months before the said Conference.

Also, having made no objections to the attachments of the complaints during the nine months and in its Answers, the Respondent waived the right to assail the pieces of evidence in this case in its *Position Paper*. The right to object to the admissibility of evidence, as held in the case of Catuira vs. Court of Appeals[26], is a mere privilege that can be waived. The Supreme Court added, "Necessarily, the objection must be made at the earliest opportunity, lest silence when there is opportunity to speak may operate as a waiver of objections."

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[23] G.R. Nos. 236343-45 & 236372-74 (Notice), 17 January 2023.

[24] xxx

WHEREAS, the Commission exercises regulatory and supervisory authority over FCs and LCs by virtue of Republic Act No. 8556, or the Financing Company Act of 1998, as amended, and Republic Act No. 9474 or the Lending Company Regulation Act of 2007.

IN VIEW OF THE FOREGOING, without limiting the general application of the foregoing and without prejudice to the application of the New Civil Code, Revised Penal Code, Revised Corporation Code of the Philippines, Data Privacy Act, and other applicable laws and regulations, the Commission hereby issues this Memorandum Circular.

[25] SECTION 3. Outsourcing of Collection. FCs and LCs may outsource the conduct of collection to a TPSP which shall be regarded as agent of the FCs and LCs. The ultimate responsibility for collection practice and compliance with this Circular remain with the FCs and LCs.

[26] G.R. No. 105813, 12 September 1994.

Furthermore, the technical rules of evidence are not strictly adhered to in administrative proceedings, as stressed in the case of Sibayan v. Alda[27]. As discussed in the same case, the rationale and purpose for their summary nature are "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 based on 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." Hence, it is proper for FinLend to ensure that there is substantial evidence to prove the Respondent's guilt, even if there is no strict adherence to the Rules of Electronic Evidence[28] was made.

Respondent violated Section 4 of SEC MC 18, Series of 2019.

It was only on 5 May 2022 that the Respondent, through its President, Ms. Ibarreta, filed its Sworn Certification in compliance with Section 4[29] of SEC MC 18, in violation of the prescribed submission period until 8 October 2019, or thirty (30) days from the effectivity of said Memorandum Circular. The Respondent undoubtedly failed to comply with said Section as it submitted the required sworn certification nine hundred forty-one (941) days or two years six months and twenty-eight days late from 8 October 2019.

Through its submitted Sworn Certification, the Respondent certified that the "Company adopts policies and procedures requiring personnel handling the collection of accounts, whether these are in-house collectors or third-party service providers (TPSPs), to disclose his/her full name or true identity to the borrower." While the contents of the sworn certification were compliant with that required under Section 4, albeit late, perusal of all the complaints and the supporting documents attached showed no disclosure of full names or true identities of the Respondent's employees and collection specialists to the borrower. At most, the Respondent identified itself as SurityCash or SURITY CASH.

Respondent's multiple violations of SEC MC 18 warrant the revocation of its Certificates of Registration and Authority to operate as a lending company.

In an order[30] issued by FinLenD, it was discussed that primarily, the Company Registration and Monitoring Department ("CRMD"), which is in charge of suspending or revoking the company's registration or primary license and the CGFD, where FinLend was previously attached, were given the authority of suspending or revoking the CA or secondary licenses of erring corporations under its jurisdiction. However, by virtue of the Commission *En Banc* Resolution dated 15 February 2022, the authority to suspend or revoke the primary and secondary registration was given to the CGFD.

On 20 April 2023 and 18 July 2023, the Commission *En Banc* approved and confirmed FinLenD's authority to suspend or revoke the primary registration and secondary license of erring LCs and FCs.

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[27] G.R. No. 233395, 17 January 2018.

[28] Administrative Matter No. 01-7-01-SC, 17 July 2001.

[29] SECTION 4. Handling of Collection Accounts and Customer Service. FCs and LCs shall adopt policies and procedures to require personnel handling the collection of accounts, whether these are in-house collectors or TPSPs, to disclose his/her full name or true identity to the borrower.

FCs and LCs shall also establish a Customer Service Department/Unit or designate personnel who shall be responsible for promptly addressing complaints, questions and concerns of borrowers. The President/Chief Executive and Compliance Officer of FCs and LCs shall submit, within thirty (30) days from effectivity of this Circular, a sworn certification stating the company's compliance with the provisions of this section.

[30] In the matter of: Fast Coin Lending Corp. FLCD Order No. 01, series of 2023.

Section 5 of SEC MC 18 not only provides the penalties imposed on erring entities but also makes no distinction as to which SEC MC 18 provision was violated to determine the number of violations and the imposition of the appropriate sanctions. The pertinent portion of the provision reads:

	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 (P1,000,000) Persons; 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*	

xxx

The foregoing penalties shall be without prejudice to any other penalties that may be imposed by the Commission pursuant to Presidential Decree No. 902-A, Republic Act No. 11232, otherwise known as the Revised Corporation Code of the Philippines, and all other relevant laws, rules and regulations being implemented by the Commission, which may include the suspension or revocation of the FC/LC's primary license and/or disqualification of its directors and officers; and further, to the penalties that may be imposed by the courts or other government agencies in the exercise of their respective mandates."

Applying the above, the Respondent committed five (5) violations of SEC MC 18, specifically for (four) violations of Section 1 and one (1) violation of Section 4. Considering the number, nature, and gravity of Respondent's violations, the revocation of its Certificates of Registration and Authority to operate as a lending company is warranted.

WHEREFORE, in view of the foregoing, the **Certificate of Incorporation (SEC REG. No. CS201910185) AND Certificate of Authority to Operate as a Lending Company (CA No. 3013)**, including its **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.**

Let a copy of this Order be furnished to the CRMD and the Information and Communications Technology Department for their information and appropriate action.

SO ORDERED.

14 January 2025. Makati City, Philippines.

Kenneth Joy A. Quimio

ATTY. KENNETH JOY A. QUIMIO
OIC-Director

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