

STATE OF ARIZONA
DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS

In the Matter of Consumer Lender
License(s) of:

AURA FINANCIAL LLC
(License No. 0936448)

Respondent

No. 21A-011-FIN

ORDER

On April 30, 2021, the Office of Administrative Hearings, through Administrative Law Judge Jenna Clark, issued an Administrative Law Judge Decision (“Recommended Decision”). The Director of the Arizona Department of Insurance and Financial Institutions (“Director”) received the Recommended Decision on May 4, 2021, a copy of which is attached and incorporated by reference. The Director has reviewed the Recommended Decision and enters the following:

1. The Director ADOPTS the Recommended Findings of Fact.
2. The Director ADOPTS the Recommended Conclusions of Law.
3. The Director ADOPTS the Recommended Order.
4. The Director orders that Aura Financial LLC’s Arizona consumer lender license 0936448 and its branch office consumer lender licenses 0122107; 0122108; 0122109; 0122110; 0122111; 0122112; 0122113; 0122114; 0122115; 0122116; 0122117; 0122119; 0122123; 0122124; 0122125; 0122126; 0122127; 0122128; 0122129; 0122130; 0122131; 0122132; 0122135; 0122309; 0122310; 0122312; 0123329 are revoked effective immediately.


NOTIFICATION OF RIGHTS

Pursuant to Arizona Revised Statutes (“A.R.S.”) § 41-1092.09, Respondent may request a rehearing or review with respect to this Order by filing a written motion with the

1 Director within 30 days after the date of this Order, setting forth the basis for relief under
2 Arizona Administrative Code R20-6-114(B). Pursuant to A.R.S. § 41-1092.09, it is not
3 necessary to request a rehearing before filing an appeal to the Superior Court.

4 Respondent may appeal the final decision of the Director to the Superior Court of
5 Maricopa County for judicial review, pursuant to A.R.S. § 6-139. A party filing an appeal
6 must notify the Office of Administrative Hearings of the appeal within ten days after filing
7 the complaint commencing the appeal, pursuant A.R.S. § 12-904(B).

8 DATED this 11th day of May, 2021.

9 

10 _____
11 Evan G. Daniels, Director
12 Arizona Department of Insurance and
13 Financial Institutions

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16
17
18 **COPY** of the foregoing electronically transmitted
19 this 12th day of May, 2021, to:

20 Jenna Clark, Administrative Law Judge
21 Office of Administrative Hearings
22 <https://portal.azoah.com/submission>

23 **COPY** of the foregoing mailed by U.S. Certified Mail,
24 Electronic Receipt Requested, same date to:

25 Aura Financial LLC
26 Attn: Daniel Patrick Sanford, VP Finance and Operations
303 2nd Street, North Tower, suite 550
San Francisco, CA 94107

9489 0090 0027 6155 1647 09

Respondent

1 CT Corporation System
2 3800 N Central Ave. Ste. 460
3 Phoenix, AZ 85012
4 Statutory Agent for Aura Financial LLC

9489 0090 0027 6155 1647 16

5 **COPY** of the foregoing electronically delivered same date to:

6 Deian Ousounov, Regulatory Legal Affairs Officer
7 Ana Starcevic, Paralegal Project Specialist
8 Steven Fromholtz, Division Manager
9 Michele Castaneda, Licensing Supervisor
10 Linda Lutz, Legal Assistant
11 Tammy Seto, Financial Services Division Manager
12 Arizona Department of Insurance and Financial Institutions
13 100 North 15th Avenue, Suite 261
14 Phoenix, Arizona 85007

15 Aura Financial LLC
16 Attn: Daniel Patrick Sanford, VP Finance and Operations
17 dsanford@myaura.com
18 Respondent

19 Alfred Giuliano
20 2301 E. Evesham Road
21 Pavilion, NJ 08043
22 atgiuliano@guilianomiller.com
23 Trustee, Chapter 7 bankruptcy proceedings

9489 0090 0027 6155 1646 93

24 James H. Rolstead, Assistant Attorney General
25 James.Rolstead@azag.gov
26 Attorney for the Arizona
Department of Insurance and Financial Institutions

Ana Starcevic

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of Consumer Lender
License(s) of:

No. 21A-011-FIN

AURA FINANCIAL LLC
(License No. 0936448)
Respondent.

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARING: April 14, 2021 at 9:00 AM.

APPEARANCES: Assistant Attorney General James Rolstead, Esq. appeared on behalf of the Arizona Department of Insurance and Financial Institutions ("Department") with Deian Ousounov, Regulatory Legal Affairs Officer, as a witness. No appearance(s) by or on behalf of Aura Financial LLC ("Respondent") Lynette Evans and Susan Hack observed.

ADMINISTRATIVE LAW JUDGE: Jenna Clark.

Having heard the evidence and testimony and having considered the record in this matter, the undersigned Administrative Law Judge hereby makes the following Findings of Fact and Conclusions of Law and issues the following RECOMMENDED ORDER to the Director of the Department.

FINDINGS OF FACT

BACKGROUND AND PROCEDURE

1. The Department was created and enabled by the State of Arizona to administer enumerated State laws by protecting the public interest through licensure and regulation of the consumer lender profession.¹

2. Respondent is domiciled in Delaware. On January 09, 2017, the Department issued License No. 0936448 to Respondent for consumer lending.² On June

¹ See Arizona Revised Statutes ("ARIZ. REV. STAT.") §§6-121 and 6-601 *et seq.*

² See Department Exhibit 1.

1 30, 2021, Respondent's license is scheduled to expire.³ Respondent also holds the
2 following twenty-seven (27)⁴ branch office consumer lending licenses:

- 3 a. Phoenix, AZ Branch License No. CL-BR-0122107.
- 4 b. Phoenix, AZ Branch License No. CL-BR-0122108.
- 5 c. Glendale, AZ Branch License No. CL-BR-0122109.
- 6 d. Mesa, AZ Branch License No. CL-BR-0122110.
- 7 e. Phoenix, AZ Branch License No. CL-BR-0122111.
- 8 f. Glendale, AZ Branch License No. CL-BR-0122112.
- 9 g. El Mirage, AZ Branch License No. CL-BR-0122113.
- 10 h. Phoenix, AZ Branch License No. CL-BR-0122114.
- 11 i. Mesa, AZ Branch License No. CL-BR-0122115.
- 12 j. Mesa, AZ Branch License No. CL-BR-0122116.
- 13 k. Tempe, AZ Branch License No. CL-BR-0122117.
- 14 l. Phoenix, AZ Branch License No. CL-BR-0122119.
- 15 m. Phoenix, AZ Branch License No. CL-BR-0122123.
- 16 n. Phoenix, AZ Branch License No. CL-BR-0122124.
- 17 o. Phoenix, AZ Branch License No. CL-BR-0122125.
- 18 p. Phoenix, AZ Branch License No. CL-BR-0122126.
- 19 q. Mesa, AZ Branch License No. CL-BR-0122127
- 20 r. Chandler, AZ Branch License No. CL-BR-0122128
- 21 s. Glendale, AZ Branch License No. CL-BR-0122129.
- 22 t. Phoenix, AZ Branch License No. CL-BR-0122130.
- 23 u. Phoenix, AZ Branch License No. CL-BR-0122131.
- 24 v. Phoenix, AZ Branch License No. CL-BR-0122132.
- 25 w. Phoenix, AZ Branch License No. CL-BR-0122135.
- 26 x. Chandler, AZ Branch License No. CL-BR-0122309.
- 27 y. Phoenix, AZ Branch License No. CL-BR-0122310.
- 28 z. Phoenix, AZ Branch License No. CL-BR-0122312.

29 ³ *Id.*

30 ⁴ See Department Exhibit 2.

1 aa. Phoenix, AZ Branch License No. CL-BR-0122329.

2 These branch office consumer lender licenses are scheduled to expire on June 30, 2021.

3 3. Respondent also holds the following twelve (12)⁵ expired branch office
4 consumer lending licenses:

- 5 a. Mesa, AZ Branch License No. CL-BR-0123339.
- 6 b. Phoenix, AZ Branch License No. CL-BR-0123438.
- 7 c. Phoenix, AZ Branch License No. CL-BR-0123442.
- 8 d. Tucson, AZ Branch License No. CL-BR-0122120.
- 9 e. Phoenix, AZ Branch License No. CL-BR-0122133.
- 10 f. Phoenix, AZ Branch License No. CL-BR-0123338.
- 11 g. Glendale, AZ Branch License No. CL-BR-0123340.
- 12 h. Phoenix, AZ Branch License No. CL-BR-0123439.
- 13 i. Phoenix, AZ Branch License No. CL-BR-0123440.
- 14 j. Phoenix, AZ Branch License No. CL-BR-0123441.
- 15 k. Mesa, AZ Branch License No. CL-BR-0123443.
- 16 l. Mesa, AZ Branch License No. CL-BR-0123444.

17 4. On January 05, 2021, Respondent notified the Department that “Aura
18 Financial LLC (“Aura”), Consumer Lender License Number CL0936448, will cease
19 lending operations on January 6, 2021. Aura is no longer originating new loans and has
20 ceased accepting loan applications and disbursements. The servicing of Aura’s existing
21 loan portfolio will continue through the arrangement made with a successor servicer. The
22 appointed successor will continue to process future collections.”⁶

23 5. On January 09, 2021, the Department obtained a portion of Respondent’s
24 Chapter 7 bankruptcy filings from the United States Bankruptcy Court for the District of
25 Delaware.⁷ Respondent failed to provide notice of its bankruptcy filing, or provide copies
26 of any documents related to its bankruptcy petition, to the Department.

27
28 ⁵ *Id.*

29 ⁶ See Department Exhibit 3.

30 ⁷ See Department Exhibit 4.

1 6. On January 22, the Department asked Respondent to provide the following
2 information on or before January 29, 2021: its plans for transferring its loan portfolio, its
3 consumer notification plan for the transfer of its loans to a successor servicer, and its
4 wind-down operations plan.⁸ Respondent did not comply with the Department's request.

5 7. On February 03, 2021, the Department issued an ORDER SUMMARILY
6 SUSPENDING CONSUMER LENDER LICENSE AND NOTIFICATION OF RIGHTS ("ORDER") to
7 Respondent pursuant to ARIZ. REV. STAT. § 41-1092.11(B).⁹ Copies of the ORDER were
8 sent via certified mail to Respondent's address of record, and to Respondent's statutory
9 agent's address on record with the Arizona Corporate Commission. No response was
10 received by or on behalf of Respondent.

11 8. On February 03, 2021, the Department received a NOTICE from the Clerk of
12 the Court of the United States Bankruptcy Court, District of Delaware for Case No. 21-
13 100016-BLS, regarding the possibility of Respondent's assets being available for
14 distribution as dividends to creditors.¹⁰

15 9. On February 16, 2021, the Department referred this matter to the Office of
16 Administrative Hearings ("OAH"), an independent state agency, for an evidentiary hearing
17 on April 14, 2021. Per the NOTICE OF HEARING issued on February 26, 2021, the issue to
18 be determined is whether the Department has cause to revoke Respondent's consumer
19 lender license based on the foregoing alleged conduct.

20 **HEARING EVIDENCE**

21 10. The Department called Deian Ousounov as a witness and submitted
22 Exhibits 1-7. The NOTICE OF HEARING was also admitted as its own exhibit. The
23 substantive evidence of record is as follows:

- 24 a. A Consumer Lender is defined as a person or entity that advertises to make
25 or procure, solicits, or holds themselves out as willing to loan members of
26 the public \$10,000.00 or less, subject to a finance charge. Consumer
27 Lenders must be licensed by the Department. Subsequent licenses issued

28 ⁸ See Department Exhibit 5.
29 ⁹ See Department Exhibit 6.
30 ¹⁰ See Department Exhibit 7.

1 to a licensee are branch office licenses that are held under the originally
2 issued primary license.

3 b. Respondent's January 05, 2021, operational notification to the Department
4 was deficient because it was missing critical information, such as their
5 successor's contact information and who the debt holder will be, the date(s)
6 of assignments and transfers of existing loans from Respondent to the
7 successor, Respondent's total loan portfolio, and whether Respondent
8 provided notice to its closure and successor information to its consumers.

9 c. Neither Respondent nor Respondent's statutory agent responded to any of
10 the Department's correspondence, which they both unquestionably
11 received.

12 11. In closing, the Department argued that because Respondent was still a
13 licensee that it was still subject to the regulation of the Department, and conversely,
14 because Respondent was still licensed the Department was still obligated to ensure that
15 the public was protected from Respondent's conduct. The Department opined that
16 because Respondent failed to provide the Department with the information it requested,
17 or respond to any of its correspondence; the ORDER in particular, that Respondent had
18 acquiesced to the suspension and revocation of its license.

19 **CONCLUSIONS OF LAW**

20 1. The Director of the Department is vested with the authority to regulate
21 entities engaged in business as consumer lenders and has the duty to enforce statutes
22 and rules relating to consumer lending.¹¹ The matter was properly brought before OAH
23 pursuant to ARIZ. REV. STAT. §§ 41-1092 *et seq.*

24 2. The NOTICE OF HEARING the Department mailed to Respondent's address of
25 record is sufficient, and Respondent is deemed to have received notice of the hearing in
26 this matter.¹² Because the Department mailed all correspondence to Respondent in the
27 same manner and failed to receive any mail returned as undeliverable, Respondent is

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29 ¹¹ See ARIZ. REV. STAT. § 6-601 *et seq.*

¹² See ARIZ. REV. STAT. §§ 41-1092.04, 41-1092.05(D), and 41-1061(A).

1 deemed to have received all correspondence regarding this matter from the Department
2 as well.

3 3. The Department bears the burden of proof to establish that cause to sanction
4 Respondent's license by a preponderance of the evidence.¹³ Respondent bears the burden
5 to establish factors in mitigation of the penalty and affirmative defenses by the same
6 evidentiary standard.¹⁴

7 4. "A preponderance of the evidence is such proof as convinces the trier of fact
8 that the contention is more probably true than not."¹⁵ A preponderance of the evidence is
9 "[t]he greater weight of the evidence, not necessarily established by the greater number of
10 witnesses testifying to a fact but by evidence that has the most convincing force; superior
11 evidentiary weight that, though not sufficient to free the mind wholly from all reasonable
12 doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than
13 the other."¹⁶

14 5. ARIZ. REV. STAT. § 6-605(A)(6) provides, in pertinent part, that the Director
15 may suspend or revoke a license if the licensee has either knowingly or without the
16 exercise of due care to prevent a violation, violated any provision of this title or any rule
17 or order adopted or made pursuant to this title.

18 6. ARIZ. ADMIN CODE R20-4-106 provides that a consumer lender licensee shall
19 immediately deliver written notice to the Department if it files a voluntary bankruptcy
20 petitioner, and must provide copies of the (1) petitioner for relief; (2) schedule of assets
21 and liabilities; (3) statement of financial affairs; (4) list of creditors, and (5) plan of
22 reorganization.

23 7. Here, the material facts are not in dispute.

24 8. The credible evidence of record reflects that Respondent failed to provide
25 the Department with notice of its bankruptcy petition, failed to provide copies of
26

27 ¹³ See ARIZ. REV. STAT. § 41-1092.07(G)(2); ARIZ. ADMIN. CODE R2-19-119; see also *Vazzano v. Superior*
28 *Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).

¹⁴ See Arizona Administrative Code ("ARIZ. ADMIN. CODE") R2-19-119(B)(2).

29 ¹⁵ MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

¹⁶ BLACK'S LAW DICTIONARY at page 1220 (8th ed. 1999).

1 documents requested by the Department, and generally failed to respond to the
2 Department's correspondence after January 05, 2021.

3 9. Therefore, the only issue remaining is whether Respondent raised a
4 sufficient justification or excuse for failing to comply with the Department's requests or
5 correspond in a timely manner. This is an affirmative defense that Respondent bears the
6 burden to establish. Because Respondent failed to appear and provide testimony, this
7 burden has not been sustained. Respondent's absence is a factor in aggravation. The
8 record reflects that Respondent had no affirmative defense(s) for its in/action.

9 10. Because the Department established by a preponderance of the evidence
10 that Respondent violated ARIZ. REV. STAT. § 6-605(A)(6) and ARIZ. ADMIN CODE R20-4-
11 106, the Department has also established that grounds exist for discipline to be taken
12 against Respondent's consumer lender license, up to and including revocation.

13 **RECOMMENDED ORDER**

14 Based on the aforementioned Findings of Fact and Conclusions of Law,
15 **IT IS RECOMMENDED** that on the effective date of the FINAL ORDER in this
16 matter, Respondent Aura Financial LLC, License No. 0936448 et al., be revoked.

17 *In the event of certification of the Administrative Law Judge Decision by the*
18 *Director of the Office of Administrative Hearings, the effective date of the FINAL ORDER*
19 *will be 40 days from the date of that certification.*

20 Done this day, April 30, 2021.

21 **Office of Administrative Hearings**

22
23 /s/ Jenna Clark
24 Administrative Law Judge

25
26 Transmitted electronically to:

27 Evan Daniels, Director
28 Arizona Department of Insurance and Financial Institutions
29