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4 **STATE OF WASHINGTON**
5 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
6 **DIVISION OF CONSUMER SERVICES**

7 IN THE MATTER OF DETERMINING
8 Whether there has been a violation of the
9 Consumer Loan Act of Washington by:

POPULAR FINANCIAL SERVICES, LLC,

Respondent.

NO. C-07-012-09-CO01

CONSENT ORDER

10 COMES NOW the Director of the Department of Financial Institutions (Director), through his designee
11 Deborah Bortner, Division Director, Division of Consumer Services, and Popular Financial Services, LLC,
12 (hereinafter Respondent), by and through its attorneys of record, K&L Gates, LLP, and finding that the issues
13 raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent
14 Order. This Consent Order is entered pursuant to chapter 31.04 of Revised Code of Washington (RCW), and
15 RCW 34.05.060 of the Administrative Procedure Act, based on the following:

16 **AGREEMENT AND ORDER**

17 The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent
18 have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-07-012-08-SC01
19 (Statement of Charges), entered June 2, 2008, (copy attached hereto). Pursuant to chapter 31.04 RCW, the
20 Consumer Loan Act (Act), and RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees
21 to the Department's entry of this Consent Order and further agrees that the issues raised in the above captioned
22 matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent
23 Order to fully resolve the Statement of Charges. Respondent is agreeing not to contest the Statement of Charges
24 in consideration of the terms of this Consent Order.

25
CONSENT ORDER
C-07-012-09-CO01
Popular Financial Services, LLC

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 Based upon the foregoing:

2 A. **Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the
3 activities discussed herein.

4 B. **Waiver of Hearing.** It is AGREED that Respondent has been informed of the right to a hearing
5 before an administrative law judge, and has waived its right to a hearing and any and all administrative and
6 judicial review of the issues raised in this matter or of the resolution reached herein. Accordingly, Respondent
7 agrees to withdraw its appeal and to inform the Office of Administrative Hearings in writing of its withdrawal.

8 C. **No Admission of Liability.** It is AGREED that Respondent does not admit to any violations of
9 the Act by entry of this Consent Order.

10 D. **Fine.** It is AGREED that Respondent shall pay to the Department a fine of \$25,000 in the form of a
11 cashier's check made payable to the "Washington State Treasurer" upon entry of this Consent Order.

12 E. **Examination Fee.** It is AGREED that Respondent shall pay to the Department an examination fee of
13 \$ 13,516.80 in the form of a cashier's check made payable to the "Washington State Treasurer" upon entry of this
14 Consent Order.

15 F. **Investigation Fee.** It is AGREED that Respondent shall pay to the Department an investigation fee
16 of \$690 in the form of a cashier's check made payable to the "Washington State Treasurer" upon entry of this
17 Consent Order. The fine, examination fee, and investigation fee may be paid together in one cashier's check made
18 payable to the "Washington State Treasurer."

19 G. **Prohibition from Industry.** It is AGREED that Respondent is prohibited from participating in the
20 conduct of the affairs in Washington state, or involving loans to residents of Washington state, of any consumer
21 lender licensed by the Department or subject to licensure by the Department, in any capacity, including, but not
22 limited to: (1) any financial capacity whether active or passive or (2) any ownership, management, control, or
23 oversight capacity.

1 H. **Authority to Execute Order.** It is AGREED that the undersigned have represented and warranted
2 that they have the full power and right to execute this Consent Order on behalf of the parties represented.

3 I. **Non-Compliance with Order.** It is AGREED that Respondent understands that failure to abide
4 by the terms and conditions of this Consent Order may result in further legal action by the Director. In the
5 event of such legal action, Respondent may be responsible to reimburse the Director for the cost incurred in
6 pursuing such action, including but not limited to, attorney fees.


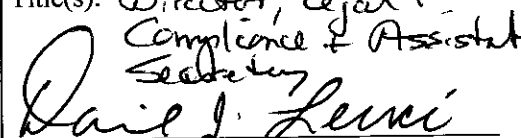
7 J. **Voluntarily Entered.** It is AGREED that the undersigned Respondent has voluntarily entered into
8 this Consent Order, which is effective when signed by the Director's designee.

9 K. **Completely Read, Understood, and Agreed.** It is AGREED that Respondent has read this Consent
10 Order in its entirety and fully understands and agrees to all of the same.

11 **RESPONDENTS:**

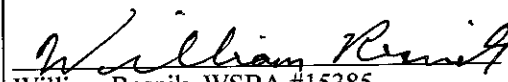
12 **Popular Financial Services, LLC**

13 By:

14 
15 Name: Brian F. Doren
16 Title(s): Director, Legal +
Compliance & Assistant
Secretary
17 
18 David J. Lenci, WSBA #7688
19 Attorney at Law
K&L Gates, LLP
Attorney for Respondent

04/06/09
Date

4/9/09
Date

20
21 
22 William Resnik, WSBA #15385
23 Attorney at Law
K&L Gates, LLP
Attorney for Respondent

04/08/09
Date

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 10th DAY OF APRIL, 2009.



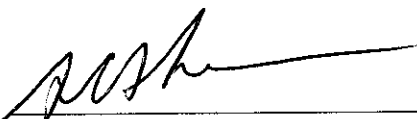
DEBORAH BORTNER

Director

Division of Consumer Services

Department of Financial Institutions

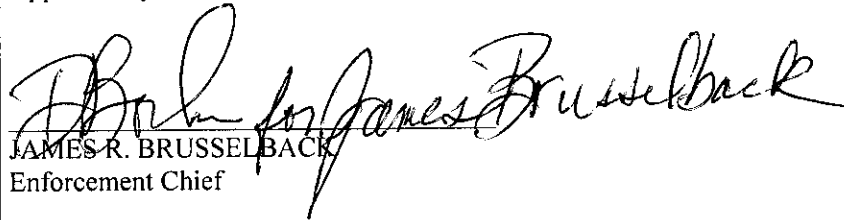
Presented by:



STEVEN C. SHERMAN
Financial Legal Examiner



Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief

CONSENT ORDER
C-07-012-09-CO01
Popular Financial Services, LLC

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8703

1 Drive, Marlton, New Jersey until July 29, 2004, and at 301 Lippincott Drive, Marlton, New Jersey
2 until June 1, 2007, and from three branch offices located in Federal Way, Washington, from
3 September 18, 2001, to June 5, 2007; Sioux Falls, South Dakota, from September 28, 2006, to May 1,
4 2007; and Canonsburg, Pennsylvania, from May 25, 2006, to November 28, 2006.

5 **1.3 Examination Fees.** In September 2006 the Department conducted an on-site examination of
6 the Respondent's business practices for the period of January 1, 2002, through September 30, 2006.¹
7 The Department's costs for this examination total \$12,274.80.

8 In March 2008 the Department conducted an off-site examination of the Respondent's business
9 practices for the period of September 30, 2006, through June 1, 2007. The Department's costs for this
10 examination total \$1,242.

11 **1.4 Underpaid Annual Assessment Fees.** Respondent incorrectly calculated its annual
12 assessment fees for 2004 and 2005. As a result, Respondent underpaid its 2004 annual assessment fee
13 by \$621.29, and underpaid its 2005 annual assessment by \$776.74.

14 **1.5 Unlicensed Activity.** Respondent made 229 residential mortgage loans from four unlicensed
15 branch locations.²

16 **1.6 Failure to Maintain a Sufficient Bond.** Based upon Respondent's origination of residential
17 mortgage loans from its main office and four branch locations, Respondent was required to post a
18 bond in the amount of \$800,000. At all times relevant to this Statement of Charges, however,
19 Respondent's bond coverage was no more than \$600,000.

20 **1.7 Imposing Unlawful Prepayment Penalties.** In seven of the fourteen subordinate lien
21 mortgage loans reviewed, Respondent imposed a prepayment penalty fee. This is a repeat violation
22 from Respondent's 2002 examination, which was previously provided to Respondent on May 3, 2002.

23 ¹ All violations of the Act set forth in this Statement of Charges are from the 2006 examination.

24 ² Some of these loans were from licensed branch locations either prior to licensing or after a license had been surrendered.

1 **1.8 Failure to Provide Timely Disclosures.** In fifteen of thirty-nine loans reviewed, Respondent
2 was unable to provide evidence that Good Faith Estimate or Truth in Lending disclosures were
3 provided to the borrower within three business days of receiving the borrower's application. In two of
4 the loans reviewed, there was no evidence that Respondent had provided adjustable rate mortgage
5 disclosures within three business days of receiving the borrower's application.

6 **1.9 Charging Unlawful Fees.** In five of the thirty-nine loans reviewed, Respondent had charged
7 unauthorized fees. This is a repeat violation from Respondent's 2002 examination, which was
8 previously provided to Respondent on May 3, 2002.

9 **1.10 Failure to Properly Maintain Records.** Five of the thirty-nine loans reviewed did not
10 contain a copy of the final HUD-1 or HUD-1A in the file. Respondent was the lender for each loan.
11 Two loan files did not contain evidence that the borrowers had been notified of their right to rescind
12 the transaction.

13 **1.11 Operating Under an Unregistered Trade Name.** During all times relevant to this Statement
14 of Charges, Respondent was an independently licensed subsidiary of Equity One, Inc.³ However,
15 seven documents in three loan files identified Equity One, Inc., as the lender, when the lender was
16 actually Respondent. This is a repeat violation from Respondent's 2002 examination, which was
17 previously provided to Respondent on May 3, 2002.

18 **1.12 Failure to Accurately Disclose Finance Charges.** In three of the thirty-nine loans reviewed,
19 Respondent understated finance charges by more than \$100. This is a repeat violation from
20 Respondent's 2002 examination, which was previously provided to Respondent on May 3, 2002.

21 **1.13 On-Going Investigation.** The Department's investigation into the alleged violations of the
22 Act by Respondent continues to date.

23 ³ Equity One, Inc., was at all time relevant to this Statement of Charges independently licensed as a consumer loan
24 company in Washington.

II. GROUNDS FOR ENTRY OF ORDER

2.1 Requirement to Calculate and Pay Annual Assessment. Based on the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(8), RCW 31.04.085, and WAC 208-620-440 [prior versions WAC 208-620-190(3), and WAC 208-620-220(1)] for failing to report the total loan volumes, for failing to pay the Department the associated annual assessments and for negligently making any false statement or knowingly and willfully making any omission of material fact in connection with any reports filed with the Department.

2.2 Requirement to License Branch Locations. Based on the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(2) and RCW 31.04.075 for making consumer loans from unlicensed locations.

2.3 Requirement to Maintain Sufficient Bond. Based on the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(2), RCW 31.04.045, and WAC 208-620-320(2) for failing to maintain a sufficient bond.

2.4 Imposing an Unlawful Prepayment Penalty. Based on the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(2) and WAC 208-620-130(7) for imposing a prepayment penalty on a subordinate lien mortgage loan.

2.5 Requirement to Provide Accurate Truth in Lending Disclosures and Good Faith Estimate Disclosures. Based on the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(2), (6), (7), and (10), RCW 31.04.102(2) and (3), WAC 208-620-505, WAC 208-620-510, 24 C.F.R. Section 3500.21(b)(1) [Regulation X], and 12 C.F.R. Section 226.5b [Regulation Z] for failing to provide timely Good Faith Estimate disclosures, Annual Percent Rate and Prepayment Penalty disclosures, and adjustable rate disclosures, and for failing to comply with federal and state laws and regulations.

1 **2.6 Unlawful Fees.** Based on the Factual Allegations set forth in Section I above, Respondent is
2 in apparent violation of RCW 31.04.027(1), (2), and (3), RCW 31.04.105(2), WAC 208-620-130, and
3 WAC 208-620-560 for charging and collecting fees which are not authorized by the Act.

4 **2.7 Requirement to Properly Maintain Records.** Based on the Factual Allegations set forth in
5 Section I above, Respondent is in apparent violation of RCW 31.04.155 for failing to properly
6 maintain records.

7 **2.8 Requirement to Register Trade Name.** Based on the Factual Allegations set forth in Section
8 I above, Respondent is in apparent violation of RCW 31.04.027(2) and WAC 208-620-420 for
9 operating under an unregistered trade name.

10 **2.9 Requirement to Accurately Disclose Finance Charges.** Based on the Factual Allegations set
11 forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(2), (6), and (10),
12 RCW 31.04.102(2), and (3), WAC 208-620-505, and WAC 208-620-510 for disclosing a finance
13 charge that was understated by more than \$100.

14 **III. AUTHORITY TO IMPOSE SANCTIONS**

15 **3.1 Authority to Prohibit from the Industry.** Pursuant to RCW 31.04.093(6)(e), the Director
16 may issue an order removing from office or prohibiting from participation in the affairs of any
17 licensee, or both, any officer, principal, employee, or loan originator, or any person subject to the Act,
18 for any violation of RCW 31.04.027.

19 **3.2 Authority to Order Restitution.** Pursuant to RCW 31.04.093(5), the Director may issue an
20 order directing a licensee, its employee or loan originator, or other person subject to the Act to make
21 restitution to a borrower or other person who is damaged as a result of a violation of the Act.

22 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of
23 up to one hundred dollars per day upon the licensee for any violation of the Act.

1 **3.4 Authority to Charge Examination and Investigation Fees.** Pursuant to RCW 31.04.145(3)
2 and WAC 208-620-590, every licensee examined or investigated by the Director or the Director's
3 designee shall pay for the cost of the examination or investigation, calculated at the rate of \$69.01 per
4 staff hour for time incurred, plus expenses.

5 **IV. NOTICE OF INTENTION TO ENTER ORDER**

6 Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as
7 set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose
8 Sanctions, constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, and RCW
9 31.04.205. Therefore, it is the Director's intention to ORDER that:

10 **4.1** Respondent Popular Financial Services, LLC, be prohibited from participation in the conduct of
11 the affairs of any consumer loan company licensed or required to be licensed, in any manner, for a period
of five years; and

12 **4.2** Respondent Popular Financial Services, LLC, pay restitution to injured borrowers in the amount
of \$2,557.24 as set forth in appendix A; and

13 **4.3** Respondent Popular Financial Services, LLC, pay a fine of \$200,000; and

14 **4.4** Respondent Popular Financial Services, LLC, pay total unpaid annual assessment fees of
15 \$1,448.03; and

16 **4.5** Respondent Popular Financial Services, LLC, pay total examination fees in the amount of
17 \$13,516.80, consisting of \$9,135.60 calculated at \$69 per hour for one hundred thirty-two and four tenths
staff hours devoted to the 2006 examination and \$3,139.20 for related expenses, and \$1,336.20 calculated
at \$69 per hour for twenty-one staff hours devoted to the 2008 examination; and

18 **4.6** Respondent Popular Financial Services, LLC, pay an investigation fee in the amount of \$690
19 calculated at \$69 per hour for ten staff hours devoted to the investigation to date; and

20 **4.7** Respondent Popular Financial Services, LLC, maintain records in compliance with the Act and
21 provide the Director with the location of the books, records and other information relating to Respondent
Popular Financial Services, LLC's consumer loan company business, and the name, address, and
22 telephone number of the individual responsible for maintenance of such records in compliance with the
Act.

23 //

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Prohibit from Industry,
3 Order Restitution, Impose Fines, Collect Unpaid Annual Assessment Fees, Collect Costs of
4 Examination, and Collect Costs of Investigation is entered pursuant to the provisions of RCW
5 31.04.093, RCW 31.04.165, RCW 31.04.202, and RCW 31.04.205, and is subject to the provisions of
6 chapter 34.05 RCW (The Administrative Procedure Act). Respondent may make a written request for
7 a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR
8 HEARING accompanying this Statement of Charges.

9
10 Dated this 2nd day of June, 2008.


11
12 
13 DEBORAH BORTNER

14 Director
15 Division of Consumer Services
16 Department of Financial Institutions

17 Presented by:

18 
19 Steven C. Sherman
20 Financial Legal Examiner

21 Approved by:

22 
23 James R. Brusselback
24 Enforcement Chief



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RESTITUTION

Borrower	Loan Number	Amount
G.K.	452262	\$650
J.G.	442663	\$650
R.Q.	451741	\$650
T.G.	300299	\$ 45
T.M.	303652	\$145
E.M.	372830	\$150
B.D.	300912	\$120.14
C.O.	306756	\$147.10