

Terms Completed

ORDER SUMMARY – Case Number: C-07-343

Name(s): Impac Funding Corporation dba Impac Funding Group

Order Number: C-07-343-08-CO01

Effective Date: April 16, 2009

License Number: DFI: 23466

Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)
If applicable, you must specifically note the ending dates of terms.

License Effect: n/a

Not Apply Until: n/a

Not Eligible Until: _____

Prohibition/Ban Until: n/a

Investigation Costs	\$5,037.73	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$16,000	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Assessment(s)	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Restitution	\$15,641.43	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Judgment	\$	Due	Paid <input type="checkbox"/> Y <input type="checkbox"/> N	Date
Satisfaction of Judgment Filed?		<input type="checkbox"/> Y <input type="checkbox"/> N		
No. of Victims:				

Comments: Examination Fee: \$15,882

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

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

NO. C-07-343-08-CO01

IMPAC FUNDING CORPORATION dba IMPAC
LENDING GROUP,

CONSENT ORDER

Respondent.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Impac Funding Corporation dba Impac Lending Group (hereinafter Respondent Impac), and finding that the issues raised in the captioned matter may be economically and efficiently settled, agree to the entry of this Consent Order. This Consent Order is entered pursuant to chapter 31.04 of Revised Code of Washington (RCW), and RCW 34.05.060 of the Administrative Procedure Act, based on the following:

AGREEMENT AND ORDER

The Department of Financial Institutions, Division of Consumer Services (Department) and Respondent have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-07-343-08-SC01 (Statement of Charges), entered September 5, 2008, (copy attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondent hereby agrees to the Department's entry of this Consent Order and further agrees that the issues raised in the above-captioned matter may be economically and efficiently settled by entry of this Consent Order. The parties intend this Consent Order to fully resolve the Statement of Charges.

CONSENT ORDER
C-07-343-08-CO01
Impac Funding Corporation dba Impac Funding
Group

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 that Respondent hereby waives its right to a hearing and any and all
6 administrative and judicial review of the issues raised in this matter, or of the resolution reached herein.

7 Accordingly, Respondent agrees to withdraw its appeal and to inform the Office of Administrative Hearings in
8 writing of its withdrawal.

9 C. **Paragraphs 1.8 and 1.9 Allegations:** For purposes of settlement, it is AGREED that the allegations
10 in paragraphs 1.8 and 1.9 of the Statement of Charges are withdrawn.

11 D. **Fine.** It is AGREED that Respondent shall pay to the Department a fine of \$16,000, in the form of a
12 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Order.

13 E. **Restitution.** It is AGREED that prior to the entry of this Consent Order, Respondent paid restitution
14 to the consumers identified in the attached Restitution Schedule. Such payments were made in the form of a
15 check and were sent to borrowers' last known address via the United States mail. Respondent included a letter
16 with each check notifying the borrower that the check was a refund and that the borrower has 30 days to cash
17 the check or the refund amount would be provided to the State Department of Revenue as unclaimed property.
18 Respondent provided the Department with a signed affidavit attesting to mailing the checks, and a copy of the
19 checks mailed (each with the accompanying explanatory cover letter). All checks that were not returned as
20 undeliverable, but were not cashed within 30 days of mailing, were immediately turned over to the State
21 Department of Revenue, pursuant to Department of Revenue procedures, as unclaimed property. A list of such
22 checks was provided to the Department. Further, Respondent notified the Department of all checks that were
23 returned as undeliverable and the Department attempted to locate a current address. Upon notification by the
24 Department that no new address was available, Respondent immediately sent the refund amounts to the State

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1 Department of Revenue, pursuant to Department of Revenue procedures, as unclaimed property. As noted
2 above, Respondent refunded to the consumers referenced in paragraph 1.5 of the Statement of Charges any and
3 all prepayment penalty fees actually paid in regard to the loans in question, and refunded to the consumers
4 referenced in paragraph 1.7 of the Statement of Charges the difference between the finance charge actually paid
5 by the consumer and the correct finance charge. (See Restitution Schedule)

6 **F. Examination Fee.** It is AGREED that Respondent shall pay to the Department an examination fee of
7 \$15,882, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this
8 Consent Order.

9 **G. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an investigation fee
10 of \$5,037.73, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of
11 this Consent Order.

12 **H. Authority to Execute Order.** It is AGREED that the undersigned Respondent has represented and
13 warranted that it has the full power and right to execute this Consent Order on behalf of the parties represented.

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

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

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MAR 26 2009

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

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

3 **RESPONDENT:**

4 Impac Funding Corporation dba Impac Funding Group

5 By:

6
7 _____
8 RONALD MORRISON
9 General Counsel

_____ Date

10 
11 _____
12 MELISSA L. RICHARDS
13 Attorney at Law
14 Attorney for Respondent

_____ Date
3/25/2009

15 **DO NOT WRITE BELOW THIS LINE**

16 THIS ORDER ENTERED THIS _____ DAY OF _____, 2008.

17 _____
18 DEBORAH BORTNER
19 Director
20 Division of Consumer Services
21 Department of Financial Institutions

22 Presented by:

23 _____
24 MARNIE SHEERAN
25 Financial Legal Examiner

Approved by:

_____ Approved by:
23 JAMES R. BRUSSELBACK
24 Enforcement Chief

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

3 **RESPONDENT:**

4 Impac Funding Corporation dba Impac Funding Group

5 By:

6 

7 RONALD MORRISON
General Counsel

1/16/09
Date

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11 MELISSA L. RICHARDS
Attorney at Law
Attorney for Respondent

Date

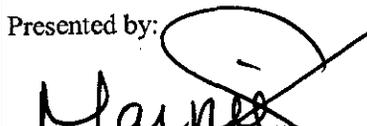
12 DO NOT WRITE BELOW THIS LINE

13 THIS ORDER ENTERED THIS 16th DAY OF April, 2008. ^{9 P.M.}

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16 DEBORAH BORTNER
17 Director
18 Division of Consumer Services
19 Department of Financial Institutions

18 Presented by:

19 

20 MARNIE SHEERAN
Financial Legal Examiner

21 Approved by:

22 

23 JAMES R. BRUNELBACK
24 Enforcement Chief



Restitution Schedule Impac Funding Corporation

Name	Loan Number	Refund amount
K.A.		\$143.79
K.A.		\$3,470.59
J.B.		\$511.17
L.B. (1st)		\$209.40
L.B. (2nd)		\$282.54
J.C.		\$105.32
K.C. (1st)		\$1,688.20
K.C. (2nd)		\$763.04
J.H. (2nd)		\$301.43
M.K.		\$455.58
T.R.		\$257.24
C.T. (1 st)		\$7,221.66
C.T. (2nd)		\$231.47

Total \$15, 641.43

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

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

NO. C-07-343-08-SC01

IMPAC FUNDING CORPORATION dba
IMPAC LENDING GROUP,

Respondent.

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE OR SUSPEND LICENSE,
IMPOSE FINE, ORDER RESTITUTION, AND
COLLECT EXAMINATION AND INVESTIGATION
FEES

INTRODUCTION

Pursuant to RCW 31.04.093 and RCW 31.04.165, the Director of the Department of Financial Institutions of the State of Washington (Director) is responsible for the administration of chapter 31.04 RCW, the Consumer Loan Act (Act). After having conducted an examination and investigation pursuant to RCW 31.04.145, and based upon the facts available as of the date of this Statement of Charges, the Director, through his designee Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

I. FACTUAL ALLEGATIONS

1.1 Respondent.

A. Impac Funding Corporation dba Impac Lending Group (Respondent) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on May 21, 2002. Respondent continued to be licensed as a Consumer Loan Company in the State of Washington until Respondent surrendered its license on or about September 10, 2007. Respondent was licensed to conduct the business of a consumer lender at three locations.

1 B. Respondent is a wholly owned subsidiary of Impac Mortgage Holdings.

2 **1.2 Examination.** On or about December 14, 2007, the Department conducted an examination of
3 the books and records of Respondent for the period of August 1, 2005 through June 30, 2007. The
4 Department reviewed 65 loan files as part of its examination. The Department found violations of the
5 Act as outlined below.

6 **1.3 Failure to Provide Loan Servicing Disclosures.** In at least forty loan files, Respondent did
7 not maintain records sufficient to establish that loan servicing disclosures were provided to borrowers
8 within three business days of the borrower's loan application, or Respondent did not provide loan
9 servicing disclosures to borrowers within three business days of the borrowers' loan application.
10

11 **1.4 Untimely Disclosure of Costs and Fees.** In at least thirty-seven loan files, Respondent did not
12 maintain records sufficient to establish that Good Faith Estimate (GFE) disclosures or an itemization
13 of all fees and costs were provided to borrowers within three business days of receipt of a loan
14 application, or Respondent did not provide GFE disclosures or an itemization of all fees and costs to
15 borrowers within three business days of receipt of a loan application.

16 **1.5 Failure to Timely Provide Truth in Lending Disclosures or to Disclose the Annual**
17 **Percentage Rate and Prepayment Penalty.** In at least thirty-seven loan files, Respondent did not
18 maintain records sufficient to establish that truth in lending (TIL) disclosures or the Annual Percentage
19 Rate (APR) or prepayment penalty were disclosed to borrowers within three business days of the
20 borrowers' loan application, or Respondent did not provide TIL disclosures or did not disclose the
21 APR or prepayment penalty to borrowers within three business days of the borrowers' loan
22 application.
23

24 **1.6 Failure to Provide Initial Variable Rate Loan Program Disclosures.** In at least fifteen loan
25 files, Respondent did not maintain records sufficient to establish that initial variable rate loan program

1 disclosures were provided to borrowers within three business days of the borrowers' loan application
2 or Respondent did not provide initial variable rate loan program disclosures to borrowers within three
3 business days of the borrowers' loan application.

4 **1.7 Inaccurate Truth in Lending Disclosures.** In at least seventeen loan files, Respondent
5 understated the finance charge by more than \$100.

6 **1.8 Use of Line 801 of the HUD 1/1A Settlement Statement for Mortgage Broker Fees.** In at
7 least ten loans, Respondent used line 801 of the HUD 1/1A Settlement Statement to record mortgage
8 broker fees.

9 **1.9 Unauthorized Fees.** In at least four junior lien loans, Respondent charged fees other than loan
10 origination fees or charged loan origination fees in excess of the statutory maximum.

11 **1.10 Repeat Violations.** Respondent did not correct procedures and internal controls as noted in
12 the prior examination, which was conducted in July 2004. The conduct noted in paragraphs 1.4, 1.5
13 and 1.7 through 1.9 are repeat findings from the July 2004 examination, the report of which was
14 previously provided to Respondent in or about December 2004.

15 **1.11 On-Going Investigation.** The Department's investigation into the alleged violations of the
16 Act by Respondent continues to date.

17 **II. GROUNDS FOR ENTRY OF ORDER**

18
19 **2.1 Disclosures Other than GFE and TIL.** Based on the Factual Allegations set forth in Section I
20 above, Respondent is in apparent violation of RCW 31.04.027(6) and (10), WAC 208-620-505, WAC
21 208-620-510(2) and (3) [prior versions WAC 208-620-120], Regulation X, 24 C.F.R. Section
22 3500.21(b)(1) (1996), and Regulation Z, 12 C.F.R Section 226.19(b) (2001) for failure to provide loan
23 servicing disclosures or initial variable rate loan-program disclosures to consumers.
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1 **2.2 GFE and TIL Disclosures.** Based on the Factual Allegations set forth in Section I above,
2 Respondent is in apparent violation of RCW 31.04.027(6) and (10), RCW 31.04.102(2) and (3), and
3 WAC 208-620-505, WAC 208-620-510(1) through (3)[prior versions WAC 208-620-120], WAC 208-
4 620-512 (2006), Regulation Z, 12 C.F.R. Section 226.18(d) (2001)¹ for failure to provide required
5 GFE and TIL disclosures within three business days of receiving a loan application or for failure to
6 provide accurate TIL disclosures to consumers.

7 **2.3 Use of Line 801 of the HUD 1/1A Settlement Statement:** Based on the Factual Allegations
8 set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(6) and (10), WAC
9 208-620-505 [prior versions WAC 208-620-120] and Regulation X, 24 C.F.R Section 3500 and
10 Appendix A (1996) for using line 801 to record mortgage broker fees.

11 **2.4 Unauthorized Fees.** Based on the Factual Allegations set forth in Section I above,
12 Respondent is in apparent violation of RCW 31.04.105(2) for charging unauthorized fees on junior
13 lien mortgages.

14 **2.5 Record Keeping.** Based on the Factual Allegations set forth in Section I above, Respondent is
15 in apparent violation of RCW 31.04.155 and WAC 208-620-520(1) [prior versions WAC 208-620-
16 120] for failing to maintain sufficient records to enable the Director to determine whether the licensee
17 is complying with the Consumer Loan Act. In the alternative, Respondent is in apparent violation of
18 RCW 31.04.145 for failing to comply with the Director's investigatory authority by not fully and
19 completely complying with the Department's directives.

20 **2.6 Unfair and Deceptive Practices.** Based on the Factual Allegations set forth in Section I
21 above, Respondent is in apparent violation of RCW 31.04.027(1) and (2) for directly or indirectly
22
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25 ¹ RCW 31.04.027(6) and (10) and Regulation Z, 12 C.F.R Section 226.18(d) as referenced in this paragraph apply only to the allegations related to inaccurate TIL disclosures, and not to the allegations related to untimely disclosures.

1 employing any scheme, device or artifice to defraud or mislead any borrower or any person or
2 engaging in any unfair or deceptive practice toward any person.

3 **III. AUTHORITY TO IMPOSE SANCTIONS**

4 **3.1 Authority to Revoke or Suspend License:** Pursuant to RCW 31.04.093(3)(a) and (b), the
5 Director may revoke a license if a licensee fails to pay any fee due the State of Washington, or fails to
6 comply with any specific order or demand of the Director lawfully made and directed to the licensee
7 in accordance with the Act, or violates any provision of the Act or any rule adopted under the Act
8 either knowingly or without exercise of due care.

9
10 **3.2 Authority to Impose Fine:** Pursuant to RCW 31.04.093(4), the Director may impose fines of
11 up to one hundred dollars per day upon the licensee, its employee, or any other person subject to the
12 Act for any violation of the Act or failure to comply with any order or subpoena issued by the Director
13 under the Act.

14 **3.3 Authority to Issue Orders to Pay Restitution:** Pursuant to RCW 31.04.093(5), the Director
15 may issue an order directing a licensee, its employee, or any other person subject to the Act to make
16 restitution to a borrower or other person who is damaged as a result of a violation of the Act.

17 **3.4 Authority to Charge Examination Fee and Investigation Fee:** Pursuant to RCW
18 31.04.145(3) and WAC 208-620-590, every licensee examined or investigated by the Director or the
19 Director's designee shall pay for the cost of the examination or investigation, calculated at the rate of
20 sixty-nine dollars and one cent (\$69.01) per staff hour devoted to the examination or investigation, and
21 shall pay travel costs if the licensee maintains its records outside the state.
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1 **IV. NOTICE OF INTENTION TO ENTER ORDER**

2 Respondent's violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as
3 set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions
4 constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, and RCW 31.04.205.

5 Therefore, it is the Director's intention to ORDER that:

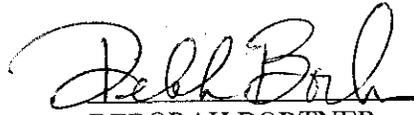
- 6 4.1 Respondent Impac Funding Corporation's license to conduct the business of a Consumer
7 Loan Company be suspended or revoked;
- 8 4.2 Respondent Impac Funding Corporation pay a fine, which as of the date of this Statement of
9 Charges is \$100,000 for the violations set forth above;
- 10 4.3 Respondent Impac Funding Corporation refund all fees that inured to Respondent's benefit on
11 the HUD 1/1A settlement statement or equivalent on all loans referred to in paragraphs 1.3
12 through 1.6 and 1.9 above;
- 13 4.4 Respondent Impac Funding Corporation refund to the consumers referenced in paragraph 1.7
14 the difference between the finance charge disclosed and the actual finance charge on the loan;
- 15 4.5 Respondent Impac Funding Corporation pay an examination fee totaling \$15,882.53 for the
16 December 2007 examination, which consists of a \$11,455.66 for staff hours and \$4,426.87 in
17 travel fees devoted to the examination;
- 18 4.6 Respondent Impac Funding Corporation pay an investigation fee which as of the date of this
19 Statement of Charges totals \$5,037.73 calculated at \$69.01 per hour for seventy staff hours
20 devoted to the investigation;
- 21 4.7 Respondent Impac Funding Corporation maintain records in compliance with the Act and
22 provide the Director with the location of the books, records, and other information relating to
23 Respondent FMC and Respondent Middleman consumer loan company business, and the
24 name, address, and telephone number of the individual responsible for maintenance of such
25 records in compliance with the Act.

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V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke or Suspend License, Impose Fine, Order Restitution, and Collect Examination and Investigation Fees (Statement of Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202 and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

Dated this 5th day of September, 2008.



DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:


MARNIE SHEERAN
Financial Legal Examiner

Approved by:


JAMES R. BRUSSELBACK
Program Manager and Enforcement Chief