

**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-08-026-09-CO01

EQUITY ONE, INC.,

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 Equity One, Inc. (hereinafter Respondent), by and through its attorneys of record, K&L Gates, LLP, and finding that the issues raised in the above-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-08-026-08-SC01 (Statement of Charges), entered September 18, 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. Respondent is agreeing not to contest the Statement of Charges in consideration of the terms of this Consent Order.

Based upon the foregoing:

CONSENT ORDER  
C-08-026-09-CO01  
EQUITY ONE, INC.

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

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

7           **C. No Admission of Liability.** The parties intend this Consent Order to fully resolve the Statement of  
8 Charges and agree that Respondent does not admit to any wrongdoing by its entry.

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

11           **E. Examination Fee.** It is AGREED that Respondent shall pay to the Department an examination fee of  
12 \$23,810.86 in the form of a cashier's check made payable to the "Washington State Treasurer" upon entry of this  
13 Consent Order.

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

19           **G. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an investigation fee of  
20 \$3,484, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of this  
21 Consent Order.

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

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


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

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

9  
10 **RESPONDENT:**

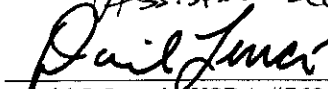
11 **Equity One, Inc.**

12 By:

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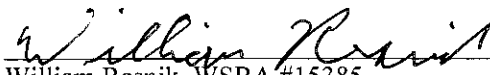
14 Individual Brian F. Doring  
Title(s) Director of Legal +  
Ass. Atty. Secretary

08/31/09  
Date

15   
16 David J. Lenci, WSBA #7688

9/2/09  
Date

17 Attorney at Law  
18 K&L Gates, LLP  
19 Attorney for Respondent

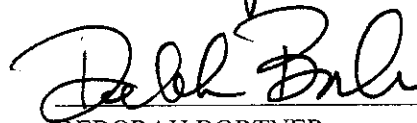
20   
21 William Resnik, WSBA #15385

9/3/09  
Date

22 Attorney at Law  
23 K&L Gates, LLP  
24 Attorney for Respondent  
25

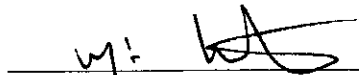
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THIS ORDER ENTERED THIS 11<sup>th</sup> DAY OF September, 2009.


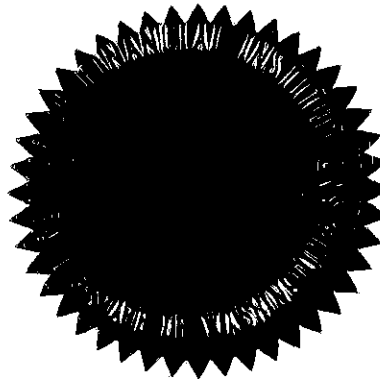


DEBORAH BORTNER  
Director  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

  
WILLIAM HALSTEAD  
Financial Legal Examiner

Approved by:

  
JAMES R. BRUSSELBACK  
Enforcement Chief

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

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

EQUITY ONE, INC.,

Respondent.

NO. C-08-026-08-SC01

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

**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 investigation pursuant to RCW 31.04.145, and based upon the facts available as of the date of this Statement of Charges, the Director institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1.1 Respondent Equity One, Inc. (Respondent Equity)** was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on December 31, 1998, and has continued to be licensed to date. Respondent Equity is wholly owned by Popular Financial Holdings, Inc. Respondent Equity has its main office in Marlton, New Jersey and has no licensed locations in Washington.

**1.2 Examination.** On July 16, 2007, through July 20, 2007, the Department conducted an on-site examination of Respondent Equity at its main office located at 301 Lippincott Drive in Marlton, New Jersey 08053. The examination included a review of the business practices of Respondent Equity as well as 97 loan files for the period of January 1, 2002, through February 28, 2007. As a result of the examination, the Department discovered 53 loan files that contained at least one violation of the Act, federal rules or federal regulations.

STATEMENT OF CHARGES  
EQUITY ONE, INC.  
C-08-026-08-SC01

- 1 **1.3 Untimely Good Faith Estimate Disclosures.** Respondent Equity did not provide a Good Faith  
2 Estimate (GFE) to 3 borrowers (4 loans) within 3 business days of receiving the loan applications.
- 3 **1.4 Untimely APR and Prepayment Penalty Disclosures.** Respondent Equity did not provide a timely  
4 estimate of the annual percentage rate (APR) and prepayment penalty disclosures, within three business days of  
5 receiving a loan application, to 9 different borrowers (11 loans).
- 6 **1.5 Failure to Provide APR and Prepayment Penalty Disclosures.** Respondent Equity did not provide  
7 an estimate of the annual percentage rate (APR) and prepayment penalty disclosure to 2 borrowers (4 loans).
- 8 **1.6 Charging Fees Not Allowed on Junior Lien Mortgages.** Respondent Equity charged 4 borrowers (4  
9 loans) with discount fees on junior lien mortgage loans not allowed by the Act. This is a repeat violation from  
10 Respondent's 2000 and 2001 examinations which were previously provided to Respondent.
- 11 **1.7 Excessive Loan Origination Fees.** Respondent Equity charged 4 borrowers (4 loans) with loan fees on  
12 junior lien mortgages that exceeded the allowable limit (4%) established under the Act.
- 13 **1.8 Prepayment Penalties on Junior Lien Mortgages.** Respondent Equity required prepayment penalties  
14 on 8 junior lien mortgages. Prepayment penalties on junior lien mortgages are not allowed under the Act.
- 15 **1.9 Failing to Re-disclose Increased Fees.** Respondent Equity charged 3 borrowers (4 loans) fees<sup>1</sup> which  
16 were either undisclosed to the borrower or increased between the initial GFE and the final HUD-1 without  
17 providing subsequent disclosures of the fee increase. This is a repeat violation from Respondent's 2000  
18 examination which was previously provided to Respondent.
- 19 **1.10 Unlicensed Activity.** Respondent Equity brokered two mortgage loans to a resident of Washington  
20 from an unlicensed location at 9115 SW Oleson Road #301, Portland, Oregon 97223. This is a repeat violation  
21 from Respondent's 2000 examination which was previously provided to Respondent.
- 22 **1.11 Failing to Maintain Records.** During the examination outlined in paragraph 1.2, Respondent Equity  
23 provided the Department with 15 loan files that were missing required documents, including but not limited to,  
24 GFEs, TILs, servicing disclosures and variable rate disclosures. This is a repeat violation from Respondent's  
25 2000 and 2001 examinations which were previously provided to Respondent.

<sup>1</sup> Loan origination fees, loan discount fees and processing fees.  
STATEMENT OF CHARGES  
EQUITY ONE, INC.  
C-08-026-08-SC01

1 **1.12 Failing to Pay Required Annual Assessments:** An annual report is due to the Department on or  
2 before the first day of March of each year, concerning the business and operations of each licensed place of  
3 business conducted during the preceding calendar year. The annual report must be made under oath and must be  
4 in the form prescribed by the Director. Respondent Equity was obligated to file accurate annual reports and pay  
5 the required annual assessment. Respondent Equity incorrectly calculated its loan volume which resulted in  
6 Respondent Equity submitting inaccurate annual reports and not paying the required assessment fees for 2004,  
7 2005, and 2006. Respondent Equity owes additional assessments of \$3,306.73, \$5,464.47 and \$3,244.60 for  
8 2004, 2005, and 2006, respectfully.

9 **1.13 Failing to Disclose Yield Spread Premium.** Respondent Equity did not disclose the Yield Spread  
10 Premium (YSP) on the GFE to 5 borrowers (7 loans). Respondent Equity was paid YSP fees for the 7 loans,  
11 from the lenders, in the amount of \$4,695.50.

12 **1.14 Charging Origination Fees as a Broker.** Respondent Equity assessed loan origination fees while  
13 acting as the broker on 12 loans. Respondent Equity listed the fees of the 12 loans as origination fees on line  
14 801 of the HUD-1, when they were broker fees that should have been listed on lines 808-811 of the HUD-1.

15 **1.15 Improper HUD-1 Completion.** Respondent Equity charged a loan origination fee on line 812 of the  
16 HUD on 6 loans, when the loan origination fees should have been listed on line 801 of the HUD.

17 **1.16 Failure to Disclose Variable Rates.** Respondent Equity did not timely disclose to 6 borrowers (6  
18 loans), the initial variable rate loan program disclosures, within 3 days of receiving a loan application. Two  
19 additional borrowers (2 loans) were not provided the variable rate loan program disclosure.

20 **1.17 Failure to Provide Servicing Statement.** Respondent Equity did not provide the initial servicing  
21 disclosure statements to 4 borrowers (4 loans), within 3 days of receiving a loan application.

22 **1.18 Failure to Provide Notice of Action Taken.** Respondent Equity did not provide timely Notice of  
23 Action Taken to 3 borrowers (3 loans). This is a repeat violation from Respondent's 2000 examination which  
24 was previously provided to Respondent.

25 **1.19 Examination Fee:** As a result of the July 16, 2007, through July 20, 2007, examination, the

Department has accrued examination fees in the amount of \$23,810.86 (staff time plus travel costs). The

Respondent is hereby notified of the examination fee and is required to pay the fee within 30 days of notification.

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

## II. GROUNDS FOR ENTRY OF ORDER

**2.1 Fraudulent Activity.** Based upon the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(1) and (3) for directly or indirectly employing any scheme, device or artifice to defraud or mislead any borrower, to defraud or mislead a lender, or to defraud or mislead any person and directly or indirectly obtain property by fraud or misrepresentation.

**2.2 Unfair and Deceptive Practices.** Based upon the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(2) and (7) for directly or indirectly engaging in any unfair or deceptive practice toward any person and for making any false or deceptive statement or representation with regard to the rates, points, or other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising.

**2.3 Disclosures.** Based upon the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(6), RCW 31.04.102 (2), (3), and WAC 208-620-510 for failure to provide GFE and TIL disclosures within three business days of receiving a loan application, for failure to disclose APR and prepayment penalties, and for failing to properly disclose YSP fees.

**2.4 Requirement to Obtain License.** Based upon the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.04.075 for maintaining an unlicensed place of business.

**2.5 Prohibited Practices.** Based upon the Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 31.04.027(10) for failing to comply with any requirement of the Truth in Lending Act, 15 U.S.C. Sec. 1601 and Regulation Z, 12 C.F.R. Sec. 226, the Real Estate Settlement Procedures Act, 12 U.S.C. Sec. 2601 and Regulation X, 24 C.F.R. Sec. 3500, or the Equal Credit Opportunity Act, 15 U.S.C. Sec. 1691 and Regulation B, 12 C.F.R. Sec. 202.9, or any other applicable federal statute.



1 **2.6 Requirement to Calculate and Pay Annual Assessments.** Based on the Factual Allegations set forth  
2 in Section I above, Respondent is in apparent violation of RCW 31.04.085, RCW 31.04.027(1)(2)(3) and (8),  
3 WAC 208-620-430(1) and WAC 208-620-440 (prior versions WAC 208-620-190(3) and WAC 208-620-  
4 220(1)) for failing to report total loan volumes, for failing to pay to the Department the associated annual  
5 assessment fees, for directly or indirectly employing any scheme, device or artifice to defraud or mislead any  
6 lender, or to defraud or mislead any person, for directly or indirectly engaging in any unfair or deceptive  
7 practice toward any person, for directly or indirectly obtaining property by fraud or misrepresentation, and for  
8 negligently making any false statement or knowingly and willingly making any omission of material fact in  
9 connection with any reports filed with the department by a licensee or in connection with any investigation  
conducted by the department.

10 **2.7 Fees.** Based upon the Factual Allegations set forth in Section I above, Respondent is in apparent  
11 violation of RCW 31.04.105(2) for charging origination fees exceeding four percent of the first twenty thousand  
12 dollars loaned and two percent thereafter of the principal amount of the loan and for charging loan discount fees  
13 on junior lien mortgages.

14 **2.8 Records.** Based upon the Factual Allegations set forth in Section I above, Respondent is in apparent  
15 violation of RCW 31.04.155 for failing to keep business records that would enable the Director to determine  
16 whether the licensee is complying with the Act.

17 **2.9 Prepayment Penalty on Junior Liens.** Based upon the Factual Allegations set forth in Section I  
18 above, Respondent is in apparent violation of WAC 208-620-560(7)(b) for requiring a prepayment penalty on  
19 any junior lien mortgage loan made at rates authorized by the Act.

### III. AUTHORITY TO IMPOSE SANCTION

20 **3.1 Authority to Revoke or Suspend License:** Pursuant to RCW 31.04.093(3)(a) and (b), the Director  
21 may revoke or suspend a license if a licensee fails to pay any fee due the state of Washington, fails to maintain  
22 in effect the required bond or permitted substitute, or fails to comply with any specific order or demand of the  
23 Director, or violates any provision of the Act or any rule adopted under the Act.

- 1 **3.2 Authority to Impose Fine:** Pursuant to RCW 31.04.093(4)(a), the Director may impose fines of up to  
2 one hundred dollars per day upon the licensee for any violation of the Act.
- 3 **3.3 Authority to Issue Orders to Pay Restitution.** Pursuant to RCW 31.04.093(5)(c), the Director may  
4 issue an order directing a licensee, its employee, or any other person, subject to the Act to make restitution to a  
5 borrower or other person who is damaged as a result of a violation of the Act.
- 6 **3.4 Authority to Charge Examination and Investigation Fees:** Pursuant to RCW 31.04.145(3) and  
7 WAC 208-620-590, every licensee examined or investigated by the Director or the Director's designee shall  
8 pay for the cost of the examination or investigation, calculated at the rate of \$69.01 per staff hour devoted to the  
9 examination or investigation, and shall pay travel costs if the licensee maintains its records outside the state.
- 10 **3.5 Authority to Collect Annual Assessment.** Pursuant to RCW 31.04.085, WAC 208-620-430(1) and  
11 WAC 208-620-440, a licensee shall pay to the director an annual assessment
- 12 **3.6 Authority to Issue Orders Directing Action:** Pursuant to RCW 31.04.093(5)(b), the Director may issue  
13 an order directing a licensee to take such affirmative action as is necessary to comply with the Act.

#### 14 **IV. NOTICE OF INTENTION TO ENTER ORDER**

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

- 18 4.1 Respondent Equity One, Inc's license to conduct the business of a Consumer Loan Company be  
19 revoked or suspended;
- 20 4.2 Respondent Equity One, Inc. pay a fine which as of the date of this document totals \$50,000 for the  
21 violations set forth above;
- 22 4.3 Respondent Equity One, Inc. pay restitution to the persons injured by Respondent's violations of the  
23 Act, in an amount to be determined at hearing;
- 24 4.4 Respondent Equity One, Inc. pay an examination fee in the amount of \$23,810.86 consisting of  
25 \$19,613.25 calculated at \$69.01 per hour for 284.25 staff hours devoted to the examination and  
\$4,197.61 for travel expenses devoted to the examination, plus interest calculated at 12.00% per annum  
30 days from the date this Statement of Charges is issued;
- 4.5 Respondent Equity One, Inc. pay the delinquent annual assessments of \$3,533.59, \$5,501.34 and  
\$6,143.35 (total of \$12,015.80) due for the years ended December 31, 2004, 2005 and 2006,

STATEMENT OF CHARGES  
EQUITY ONE, INC.  
C-08-026-08-SC01