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

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

No.: C-10-012-11-FO01

ADVANTIX LENDING INC.,

FINAL ORDER

Respondent.

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I. DIRECTOR'S CONSIDERATION

A. Default. This matter has come before the Director of the Department of Financial Institutions of the State of Washington (Director), through his designee, Consumer Services Division Director Deborah Bortner (Director's designee), pursuant to RCW 34.05.440(1). On November 29, 2010, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Prohibit from Industry, Impose Fine, File Annual Reports, Collect Annual Assessments, Assess Late Penalty, Collect Investigation Costs, and Maintain Records (Statement of Charges) against Advantix Lending Inc. (Respondent). A copy of the Statement of Charges is attached and incorporated into this order by this reference. The Statement of Charges was accompanied by a cover letter dated November 30, 2010, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Respondent (collectively, accompanying documents).

On November 30, 2010, the Department served Respondent with the Statement of Charges and accompanying documents, sent by First-Class mail and Federal Express overnight delivery, to the Respondent's address of record. On December 7, 2010, the documents sent via Federal Express overnight delivery were returned to the Department by the United States Postal Service as

1 undeliverable. The documents sent via First-Class mail were returned to the Department as
2 undeliverable.

3 On November 30, 2010, the Department served the Statement of Charges and accompanying
4 documents on Respondent's Registered Agent (Larry Cerutti) as listed with the California Secretary
5 of State, by sending a package containing the documents to his place of business via First-Class mail
6 and Federal Express overnight delivery. On December 1, 2010, the documents set via Federal
7 Express overnight delivery were delivered. The documents sent via First-Class mail were not
8 returned to the Department by the United States Postal Service. On November 30, 2010, the
9 Department also served the Statement of Charges and accompanying documents on the President and
10 CEO of the Respondent, Joseph Sesso, by sending a package containing the documents to his
11 residence via First-Class mail and Federal Express Overnight Delivery. On December 2, 2010, the
12 documents set via Federal Express overnight delivery were delivered. The documents sent via First-
13 Class mail were not returned to the Department by the United States Postal Service.

14 Respondent did not request an adjudicative hearing within twenty calendar days after the
15 Department served the Notice of Opportunity to Defend and Opportunity for Hearing, as provided for
16 in WAC 208-08-050(2).

17 B. Record Presented. The record presented to the Director's designee for her review and
18 for entry of a final decision included the following: Statement of Charges, cover letter dated
19 November 30, 2010, Notice of Opportunity to Defend and Opportunity for Hearing, and blank
20 Application for Adjudicative Hearing for Advantix Lending Inc., with documentation of service.

21 C. Factual Findings and Grounds for Order. Pursuant to RCW 34.05.440(1), the
22 Director's designee hereby adopts the Statement of Charges, which is attached hereto.

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1 II. FINAL ORDER

2 Based upon the foregoing, and the Director's designee having considered the record and being
3 otherwise fully advised, NOW, THEREFORE:

4 A. IT IS HEREBY ORDERED, That:

- 5 1. Respondent Advantix Lending Inc.'s license to conduct business as a consumer
6 loan company is revoked.
- 7 2. Respondent Advantix Lending Inc. is prohibited from participation in the conduct
8 of the affairs of any consumer loan company subject to licensure by the Director,
9 in any manner, for a period of five (5) years.
- 10 3. Respondent Advantix Lending Inc. pay a fine of \$12,000.
- 11 4. Respondent Advantix Lending Inc. provide the Department with a completed
12 Consolidated Annual Assessment Report, including all required supporting
13 documentation, for each of the calendar years that ended December 31, 2008, and
14 December 31, 2009, respectively, and for the calendar year in which Advantix
15 Lending Inc. closed.
- 16 5. Respondent Advantix Lending Inc. pay an annual assessment for the calendar
17 years that ended December 31, 2008 and December 31, 2009, respectively, and for
18 the calendar year in which Advantix Lending Inc. closed, as calculated in
19 accordance with the instructions for the Annual Assessment Report for each of
20 these years.¹
- 21 6. Respondent Advantix Lending Inc. pay a \$5,000 penalty for failing to file a
22 Consolidated Annual Report and an Annual Assessment Report for each of the
23 calendar years that ended December 31, 2008, and December 31, 2009,
24 respectively, by March 1, 2009, and March 1, 2010, respectively.
7. Respondent Advantix Lending Inc. pay an investigation fee of \$2,146.21.
8. Respondent Advantix Lending Inc., its officers, employees, and agents maintain
records in compliance with chapter 31.04 RCW, the Consumer Loan Act (Act) and
provide the Director with the location of the books, records and other information
relating to Respondent Advantix Lending Inc.'s consumer loan business, and the
name, address and telephone number of the individual responsible for maintenance
of such records in compliance with the Act.

¹ In or around May, 2010, the Department received \$13,904.08 from Hartford Fire Insurance Company pursuant to a claim made on Respondent Advantix Lending Inc.'s surety bond for the 2008 Annual Assessment, calculated at \$3,304.08 pursuant to WAC 208-620-430(3)(b), and a late penalty calculated at \$10,600 pursuant to WAC 208-620-430(2). The late penalty was calculated from March 4, 2009 through the surety bond cancellation date of June 18, 2009.

1 B. Reconsideration. Pursuant to RCW 34.05.470, Respondent has the right to file a
2 Petition for Reconsideration stating the specific grounds upon which relief is requested. The Petition
3 must be filed in the Office of the Director of the Department of Financial Institutions by courier at
4 150 Israel Road SW, Tumwater, Washington 98501, or by U.S. Mail at P.O. Box 41200, Olympia,
5 Washington 98504-1200, within ten (10) days of service of the Final Order upon Respondent. The
6 Petition for Reconsideration shall not stay the effectiveness of this order nor is a Petition for
7 Reconsideration a prerequisite for seeking judicial review in this matter.

8 A timely Petition for Reconsideration is deemed denied if, within twenty (20) days from the
9 date the petition is filed, the agency does not (a) dispose of the petition or (b) serve the parties with a
10 written notice specifying the date by which it will act on a petition.

11 C. Stay of Order. The Director's designee has determined not to consider a Petition to
12 Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
13 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

14 D. Judicial Review. Respondent has the right to petition the superior court for judicial
15 review of this agency action under the provisions of chapter 34.05 RCW. For the requirements for
16 filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

17 E. Non-compliance with Order. If you do not comply with the terms of this order, the
18 Department may seek its enforcement by the Office of the Attorney General to include the collection
19 of the fines, assessments, late penalties, and fees imposed herein. The Department also may assign
20 the amounts owed to a collection agency for collection.

21 F. Service. For purposes of filing a Petition for Reconsideration or a Petition for Judicial
22 Review, service is effective upon deposit of this order in the U.S. mail, declaration of service
23 attached hereto.

1 DATED this 10th day of May, 2011



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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A handwritten signature in cursive script, appearing to read 'Deborah Bortner', is written over a horizontal line.

DEBORAH BORTNER
Director
Division of Consumer Services

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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:

NO. C-10-012-10-SC01

ADVANTIX LENDING INC.,

Respondent.

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER AN
ORDER TO REVOKE LICENSE, PROHIBIT FROM
INDUSTRY, IMPOSE FINE, FILE ANNUAL
REPORTS, COLLECT ANNUAL ASSESSMENTS,
ASSESS LATE PENALTY, COLLECT
INVESTIGATION COSTS, AND MAINTAIN
RECORDS

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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, by and through his designee, Division of Consumer Services Director Deborah Bortner, institutes this proceeding and finds as follows:

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I. FACTUAL ALLEGATIONS

1.1 Respondent Advantix Lending Inc. (Respondent Advantix Lending Inc.) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on or about August 25, 2005, and continues to be licensed to date. Respondent Advantix Lending Inc. is licensed to conduct business as a consumer loan company at the following location:
240 Commerce, Irvine, California, 92602.

1.2 Ceasing Operations. On or around July 27, 2009, September 3, 2009, and December 15, 2009, based on information that Respondent Advantix Lending Inc. may have ceased operations, the Department sent letters to the principal of Respondent Advantix Lending Inc. and to Respondent Advantix Lending Inc.'s registered agent, directing Respondent Advantix Lending Inc. to comply with the Act's requirements for licensees that

1 cease operations. As of the date of this Statement of Charges, Respondent Advantix Lending Inc. has not
2 complied with the closure requirements under the Act.

3 **1.3 Failure to Maintain Bond.** On or about May 6, 2009, the Department received a notice from Hartford
4 Fire Insurance Company that Respondent Advantix Lending Inc.'s surety bond would be cancelled, effective
5 June 16, 2009. From on or about June 16, 2009, through the date of this Statement of Charges, Respondent
6 Advantix Lending Inc. has not maintained the required surety bond or permitted substitute.

7 **1.4 Failure to File Reports.** A Consolidated Annual Report and an Annual Assessment Report,
8 concerning the business and operations of each licensed place of business conducted during the preceding
9 calendar year, are due to the Department on or before the first day of March or within 30 days of closure. A
10 licensee is subject to a penalty of \$50 per report for each day's delay in filing required reports. As of the date of
11 this Statement of Charges, Respondent Advantix Lending Inc. has not filed a Consolidated Annual Report and
12 an Annual Assessment Report for each of the calendar years 2008 and 2009, due to the Department on or before
13 March 1, 2009, and March 1, 2010, respectively. If Respondent Advantix Lending Inc. has closed, it did not
14 file a Consolidated Annual Report and Annual Assessment Report within 30 days of closure.

15 **1.5 Failure to Pay Annual Assessments.** Payment of an annual assessment, as calculated on the Annual
16 Assessment Report, is due to the Department on or before the first day of March or within 30 days of closure.
17 As of the date of this Statement of Charges, Respondent Advantix Lending Inc. has not paid an annual
18 assessment for each of the calendar years 2008 and 2009, due to the Department on or before March 1, 2009,
19 and March 1, 2010, respectively. If Respondent Advantix Lending Inc. has closed, it did not pay an annual
20 assessment within 30 days of closure.

21 **1.6 Failure to Notify Department of Significant Developments.**

- 22 • Correspondence sent by the Department to Respondent Advantix Lending Inc.'s licensed location
23 has been returned as "undeliverable" since at least in or around July 2009. As of the date of this
24 Statement of Charges, Respondent Advantix Lending Inc. has not notified the Department of a
25 change in its principal place of business or a change in its mailing address. As of at least in or
around June 2009, the Department has been unable to reach Respondent Advantix Lending Inc. by
telephone as its telephone number of record had been disconnected.

- 1 • As discussed in paragraph 1.3, Respondent Advantix Lending Inc.'s surety bond was cancelled in
2 2009. As of the date of this Statement of Charges, Respondent Advantix Lending Inc. has not
3 notified the Department of receipt of notification of cancellation of Respondent's surety bond.
- 4 • Respondent Advantix Lending Inc.'s corporate license expired on or about June 30, 2008. As of
5 the date of this Statement of Charges, Respondent Advantix Lending Inc. has not notified the
6 Department of this expiration of its Washington state master business license and this change in
7 standing with the state of Washington Secretary of State.
- 8 • If Respondent Advantix Lending Inc. has closed, it has not notified the Department of such closure
9 as of the date of this Statement of Charges.

10 **1.7 Failure to Obtain Approval to Maintain Records at an Out-Of-State Location.** As discussed in
11 paragraph 1.5, Respondent Advantix Lending Inc. appears to no longer be located at its licensed location. As of
12 the date of this Statement of Charges, Respondent Advantix Lending Inc. has not requested approval in writing
13 to maintain Respondent Advantix Lending Inc.'s records at any out-of-state location other than its licensed
14 location.

15 **1.8 Failure to Comply with Director's Authority.** On or around July 27, 2009, the Department served a
16 directive on Respondent Advantix Lending Inc. at its licensed location address, requesting it to provide certain
17 documents and information more specifically set forth therein on or before August 12, 2009. This directive
18 was returned by Federal Express as undeliverable. On or around September 3, 2009, the Department served
19 another directive on Respondent Advantix Lending Inc. at the address of its registered agent and at the last
20 known residential address of its president, requesting Respondent Advantix Lending Inc. to provide certain
21 documents and information more specifically set forth therein on or before September 18, 2009. The directive
22 sent to the registered agent was delivered by Federal Express on or around September 8, 2009, and signed for
23 by J. Marks; the directive sent to the president's address was returned as undeliverable by Federal Express. On
24 or around December 15, 2009, the Department served another directive on Respondent Advantix Lending Inc.
25 at a different residential address for its president, requesting Respondent Advantix Lending Inc. to provide
certain documents and information more specifically set forth therein on or before December 31, 2009. The
directive was returned as undeliverable by Federal Express.

1 **1.9 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
2 Respondent Advantix Lending Inc. continues to date.

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

4 **2.1 Requirement to Maintain Surety Bond.** Based on the Factual Allegations set forth in Section I
5 above, Respondent Advantix Lending Inc. is in apparent violation of RCW 31.04.045(6)¹ for failing to maintain
6 in effect a surety bond or permitted substitute.

7 **2.2 Requirement to File Annual Reports.** Based on the Factual Allegations set forth in Section I above,
8 Respondent Advantix Lending Inc. is in apparent violation of RCW 31.04.155, WAC 208-620-430(1), WAC
9 208-620-460(1), and WAC 208-620-499(2) for failing to file a Consolidated Annual Report and an Annual
10 Assessment Report with the Director on or before the first day of March of each year, or within thirty days of
11 closure, giving such relevant information as the Director may reasonably require concerning the business and
12 operations of each licensed place of business conducted during the preceding calendar year.

13 **2.3 Requirement to Pay Annual Assessment.** Based on the Factual Allegations set forth in Section I
14 above, Respondent Advantix Lending Inc. is in apparent violation of RCW 31.04.085, WAC 208-620-430(1),
15 WAC 208-620-460(1), and WAC 208-620-499(2) for failing to pay an annual assessment, as calculated on the
16 Annual Assessment Report, to the Director on or before the first day of March of each year, or within thirty
17 days of closure.

18 **2.4 Requirement to Report Significant Developments.** Based on the Factual Allegations set forth in
19 Section I above, Respondent Advantix Lending Inc. is in apparent violation of:

- 20 ● RCW 31.04.075 and WAC 208-620-490(1)(a) for failing to notify the Department in writing at
21 least ten days prior to a change in Respondent Advantix Lending Inc.'s principal place of business.
- 22 ● WAC 208-620-490(1)(f) for failing to notify the Department in writing at least ten days prior to
23 ceasing operations.

24 ¹ Codified as RCW 31.04.045(3) prior to January 1, 2010.

- WAC 208-620-490(2) for failing to notify the Department in writing within ten days of: a change in Respondent Advantix Lending Inc.'s mailing address, telephone number, fax number, or e-mail address; cancellation or expiration of Respondent Advantix Lending Inc.'s Washington state master business license; a change in Respondent Advantix Lending Inc.'s standing with the state of Washington Secretary of State, including the resignation or change of the registered agent; and receipt of a notification of cancellation of Respondent Advantix Lending Inc.'s surety bond.

2.5 Requirement to comply with Director's Authority. Based on the Factual Allegations set forth in Section I above, Respondent Advantix Lending Inc. is in apparent violation of RCW 31.04.145 for failing to fully and timely respond to Department directives and subpoenas. Pursuant to RCW 31.04.145, for the purpose of investigating violations arising from the Act, the Director, either personally or by designee, may subpoena the books, accounts, records, files, and any other documents the Director or designated person deems relevant to the inquiry. No person subject to investigation under the Act may knowingly withhold any books, records, or other information.

2.6 Requirement to Maintain Records. Pursuant to RCW 31.04.155 and WAC 208-620-520, a licensee shall preserve the books, accounts, records papers, documents, files, and other information relevant to a loan for at least twenty-five months after making the final entry on any loan. Pursuant to WAC 208-620-380, an out-of-state licensee must request approval from the Department in writing to maintain a licensee's records at an out-of-state location and must agree to provide the Department access to the records.

III. AUTHORITY TO IMPOSE SANCTIONS

3.1 Authority to Revoke License. Pursuant to RCW 31.04.093(3) and WAC 208-620-570, the Director may revoke a license if a licensee: has failed to pay any fee due the state of Washington; has failed to maintain in effect the bond or permitted substitute; or, either knowingly or without the exercise of due care, has violated any provision of the Act or any rule adopted under the Act.

3.2 Authority to Prohibit from the Industry. Pursuant to RCW 31.04.093(6), the Director may issue orders removing from office or prohibiting from participation in the conduct of the affairs of a consumer loan

1 company, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or
2 consumer loan company, or any person subject to licensing under the Act for any violation of RCW 31.04.027.

3 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of up to one
4 hundred dollars per day upon the licensee for any violation of the Act.

5 **3.4 Authority to Issue Order to Take Affirmative Action.** Pursuant to RCW 31.04.093(5), the Director
6 may issue an order directing the licensee, its employee or loan originator, or other person subject to the Act, to
7 take such affirmative action as is necessary to comply with the Act.

8 **3.5 Authority to Assess Report Late Penalties.** Pursuant to RCW 31.04.155 and WAC 208-620-430(2), a
9 licensee that fails to file a report that is required to be filed by the Act, within the time frame required under the Act,
10 is subject to a penalty of fifty dollars per report for each day of delay. The maximum late penalty that will be
11 assessed is five thousand dollars per year.

12 **3.6 Authority to Collect Cost of Investigation.** Pursuant to RCW 31.04.145(3) and WAC 208-620-590,
13 every licensee examined or investigated by the Director or the Director's designee shall pay to the Director the cost
14 of the investigation, calculated at the rate of \$69.01 per staff hour spent on the investigation. Pursuant to RCW
15 43.17.240, interest at the rate of one percent per month, or fraction thereof, shall accrue on debts owed to the state,
16 starting on the date the debts become past due.

16 IV. NOTICE OF INTENTION TO ENTER ORDER

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

- 21 **4.1** Respondent Advantix Lending Inc.'s license to conduct business as a consumer loan company be revoked.
22 **4.2** Respondent Advantix Lending Inc. be prohibited from participation in the conduct of the affairs of any
23 consumer loan company subject to licensure by the Director, in any manner, for a period of five years.
24 **4.3** Respondent Advantix Lending Inc. pay a fine, which as of the date of this Statement of Charges totals
25 \$12,000.

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- 4.4 Respondent Advantix Lending Inc. provide the Department with a completed Consolidated Annual Report and a completed Annual Assessment Report, including all required supporting documentation, for each of the calendar years that ended December 31, 2008, and December 31, 2009, respectively, and for the calendar year in which Respondent Advantix Lending Inc. closed.
- 4.5 Respondent Advantix Lending Inc. pay an annual assessment for the calendar years that ended December 31, 2008, and December 31, 2009, respectively, and for the calendar year in which Respondent Advantix Lending Inc. closed, as calculated in accordance with the instructions for the Annual Assessment Report for each of those years².
- 4.6 Respondent Advantix Lending Inc. pay a \$5,000 penalty for failing to file a Consolidated Annual Report and an Annual Assessment Report for each of the calendar years that ended December 31, 2008, and December 31, 2009, respectively, by March 1, 2009, and March 1, 2010, respectively.
- 4.7 Respondent Advantix Lending Inc. pay the cost of the Department's investigation. As of the date of this Statement of Charges, the cost of the investigation totals \$2,146.21, calculated at \$69.01 per hour for 31.1 staff hours.
- 4.8 Respondent Advantix Lending Inc. maintain records in compliance with the Act and provide the Director with the location of the books, records and other information relating to Respondent Advantix Lending Inc.'s consumer loan company business, and the name, address and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

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² In or around May 2010, the Department received \$13,904.08 from Hartford Fire Insurance Company pursuant to a claim made on Respondent Advantix Lending Inc.'s surety bond for the 2008 Annual Assessment, calculated at \$3,304.08 pursuant to WAC 208-620-430(3)(b), and a late penalty calculated at \$10,600 pursuant to WAC 208-620-430(2). The late penalty was calculated from March 4, 2009 through the surety bond cancellation date of June 18, 2009.

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Prohibit From
3 Industry, Impose Fine, File Annual Reports, Collect Annual Assessments, Assess Late Penalty, Collect
4 Investigation Costs, and Maintain Records is entered pursuant to the provisions of RCW 31.04.093, RCW
5 31.04.165, RCW 31.04.202, and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW (The
6 Administrative Procedure Act). Respondent may make a written request for a hearing as set forth in the
7 NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
8 Statement of Charges.

9 Dated this 29th day of November, 2010.



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11 DEBORAH BORTNER
12 Director
13 Division of Consumer Services
14 Department of Financial Institutions

15 Presented by:

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17 MARISA E. BROGGEL
18 Financial Legal Examiner

19 Approved by:

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21 JAMES R. BRUSSELBACK
22 Enforcement Chief