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JUN 21 2011

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

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-10-431-11-CO01

CONSENT ORDER

ROCKWELL FINANCIAL INC, and BRETT J.
DAVIS, President and Owner,

Respondents.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and Rockwell Financial Inc, and Brett J. Davis, President and Owner, (collectively Respondents), 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 the 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 Respondents have agreed upon a basis for resolution of the matters alleged in Statement of Charges No. C-10-431-11-SC01 (Statement of Charges), entered March 21, 2011, (copy attached hereto). Pursuant to chapter 31.04 RCW, the Consumer Loan Act (Act) and RCW 34.05.060 of the Administrative Procedure Act, Respondents hereby agree to the Department's entry of this Consent Order and further agree 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.

1 Based upon the foregoing:

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

4 B. **Waiver of Hearing.** It is AGREED that Respondents have been informed of the right to a
5 hearing before an administrative law judge, and hereby waive their 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
7 herein.

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

10 D. **Revocation of License.** It is AGREED that Respondent Rockwell Financial Inc's license
11 to engage in the business of a consumer loan company is revoked.

12 E. **Prohibition from Industry.** It is AGREED that Respondents are prohibited from
13 participating, in any manner or capacity, in the conduct of the affairs of any mortgage broker or
14 consumer loan company licensed by the Department or any person subject to licensure or regulation
15 by the Department under chapter 19.146 RCW and chapter 31.04 RCW for eight (8) years from the
16 date of entry of this Consent Order.

17 F. **Application for Licensure.** It is AGREED that Respondents shall not apply to the
18 Department for any license issued pursuant to chapter 19.146 RCW and chapter 31.04 RCW, under
19 any name, for a period of years eight (8) years from the date of entry of this Consent Order. Should
20 Respondents apply to the Department for a mortgage broker or mortgage loan originator or consumer
21 loan license at any time later than eight (8) years from the date of entry of this Consent Order,
22 Respondents shall be required to meet any and all application requirements in effect at that time.

1 **G. Records Retention.** It is AGREED that Respondents shall maintain all records in
2 compliance with the Act and, prior to entry of this order, provide the Department with the location of
3 the books, records and other information relating to Respondents' consumer loan business, and the
4 name, address, and telephone number of the individual responsible for maintenance of such records
5 in compliance with the Act. *No activity / No records*

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

9 **I. Non-Compliance with Order.** It is AGREED that Respondents understand that failure to
10 abide by the terms and conditions of this Consent Order may result in further legal action by the
11 Director. In the event of such legal action, Respondents may be responsible to reimburse the Director
12 for the cost incurred in pursuing such action, including but not limited to, attorney fees.

13 **J. Voluntarily Entered.** It is AGREED that the undersigned Respondents have voluntarily
14 entered into this Consent Order, which is effective when signed by the Director's designee.

15 **K. Completely Read, Understood, and Agreed.** It is AGREED that Respondents have read
16 this Consent Order in its entirety and fully understand and agree to all of the same.

17 **RESPONDENTS:**

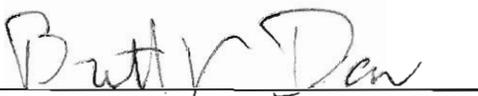
18 **Rockwell Financial Inc**

19 By:

20 

21 Brett J. Davis
21 President and Owner

20 
21 _____
21 Date

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23 Brett J. Davis
23 Individually

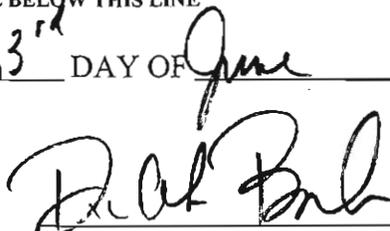
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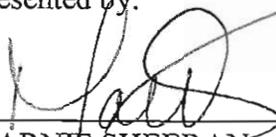
THIS ORDER ENTERED THIS 23rd DAY OF June, 2011





DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:



MARNIE SHEERAN
Financial Legal Examiner

Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief

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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:

ROCKWELL FINANCIAL INC, and BRETT
J. DAVIS, President and Owner,

Respondents.

NO. C-10-431-11-SC01

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE, PROHIBIT
FROM INDUSTRY, IMPOSE FINE, ORDER
AFFIRMATIVE ACTION, COLLECT
INVESTIGATION FEE, AND MAINTAIN
RECORDS

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

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Rockwell Financial (Respondent Rockwell) 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 October 25, 2007, and has continued to be licensed to date. Respondent Rockwell Financial is licensed to conduct the business of a consumer lender at 5440 Morehouse Drive, San Diego, California.

1 B. Brett J. Davis (Respondent Davis) is the President and an Owner of Respondent
2 Rockwell.

3 **1.5 Failure to Maintain Bond.** On or about May 18, 2009, the Department received notice from
4 Hartford Fire Insurance Company that Respondent Rockwell's surety bond would cancel, effective
5 June 27, 2009. To date, Respondents have not obtained or maintained proof of the required surety
6 bond or an approved alternative.

7 **1.6 Failure to Timely Submit Annual Reports and Assessments.** An annual report and annual
8 assessment fee is required to be submitted by each licensee by March 1st of each year for the preceding
9 calendar year. Respondents did not submit a completed annual report for the years 2009 or 2010, or
10 pay their annual assessment for 2009 or 2010, by March 1, 2010, and 2011, respectively, as required.
11 Additionally, Respondents submitted their 2008 annual report late, in that Respondents did not submit
12 the 2008 annual report until on or about August, 10, 2009. Respondents also submitted their 2007
13 annual report late, in that Respondent did not submit the 2007 annual report until on or about March
14 13, 2008.

15 **1.7 Failure to Respond to Directives.** Beginning on or about at least September 18, 2009, the
16 Department began sending directives via United States Postal Service First-Class mail (First-Class
17 mail) to Respondents requiring Respondents to submit documents to the Department. Directives were
18 sent on or about September 18, 2009, December 8, 2009, January 6, 2010, February 19, 2010, March
19 24, 2010, April 2, 2010 and May 5, 2010. While some directives were returned to the Department as
20 undeliverable, these were sent to alternate addresses, and at least one of the directives mailed on each
21 of the above-referenced dates was not returned to the Department by the United States Postal Service.
22 Respondents did not submit the required materials.
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24
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1 **1.8** On or about August 19, 2010, a directive was sent to Respondents' legal representative via
2 facsimile (fax) and email after a Department's representative's telephone discussion with the legal
3 representative. The fax was confirmed as delivered. Respondents did not submit the required
4 materials.

5 **1.9** On or about October 1, 2010, the Department served another directive requiring Respondents
6 to submit the required materials by close of business on October 22, 2010. Respondents did not do so.

7 **1.10** On or about March 4, 2010, the Department served yet another directive on Respondents by
8 First-Class mail. The directive required Respondents to submit the 2009 and 2010 annual reports or
9 properly surrender Respondent Rockwell's license by close of business on March 17, 2011. While
10 Respondent Davis contacted the Department in response to the directive, he did not submit any of the
11 required documents by the March 17, 2011, deadline. To date, Respondents have not submitted any of
12 the required documents.
13

14 **1.11 Failure to Timely Surrender License.** On or about March 8, 2011, Respondent Davis
15 reported to a Department representative that Respondent Rockwell was no longer in business, and had
16 gone bankrupt. Respondent Davis reported that the company had not been in business for over a year.
17 Respondents did not timely notify the Department of the closure of Respondent Rockwell or did not
18 timely surrender Respondent Rockwell's consumer loan license.

19 **1.12 On-Going Investigation.** The Department's investigation into the alleged violations of the
20 Act by Respondents continues to date.
21

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

23 **2.1 Requirement to Obtain or Maintain a Surety Bond.** Based on the Factual Allegations set
24 forth in Section I above, Respondents are in apparent violation of RCW 31.04.045(6), RCW
25

1 31.04.085(1), WAC 208-620-320, WAC 208-620-327, and WAC 208-620-340 for failure to obtain or
2 maintain the required surety bond or approved alternative meeting the requirements of the Director.

3 **2.2 Requirement to Submit Annual Report and Annual Assessment.** Based on the Factual
4 Allegations set forth in Section 1 above, Respondents are in apparent violation of RCW 31.04.085(1)
5 and WAC 208-620-430 for failing provide a completed annual report through the NMLSR or
6 providing an annual assessment to the Department by March 1st of each year.

7 **2.3 Requirement to Comply with Department Directives.** Based on the Factual Allegations set
8 forth in Section I above, Respondents are in apparent violation of RCW 31.04.145 for failure to
9 comply with the Director's investigatory authority by failure to timely or fully and completely comply
10 with the Department's Directives.

11 **2.4 Requirement to Timely Surrender License.** Based on the Factual Allegations set forth in
12 Section I above, Respondents are in apparent violation of WAC 208-620-460, WAC 208-620-475,
13 WAC 208-620-480, and WAC 208-620-500¹ for failure to timely comply with closure requirements.

14 **2.5 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above,
15 Respondents are in apparent violation of RCW 31.04.027(1) and (2) for directly or indirectly
16 employing a scheme, device or artifice to defraud or mislead borrowers or lenders or any person, or
17 engaging in an unfair or deceptive practice toward any person.

18 **2.6 Record Keeping.** Based on the Factual Allegations set forth in Section I above, Respondents
19 are in apparent violation of RCW 31.04.155 and WAC 208-620-520 for failing to maintain certain
20 records to enable the Director to determine whether the licensee is complying with the Consumer Loan
21 Act.
22
23

24 III. AUTHORITY TO IMPOSE SANCTIONS

25 ¹ WAC 208-620-475 and WAC 208-620-500, collectively amended and recodified as WAC 208-620-490 and WAC 208-620-490 (effective January 1, 2010).

1 **3.1 Authority to Revoke:** Pursuant to RCW 31.04.093(3)(a) and (b), the Director may revoke a
2 license if a licensee fails to pay any fee due the state of Washington, or violates any provision of the
3 Act or any rule adopted under the Act either knowingly or without exercise of due care.

4 **3.2 Authority to Prohibit from Industry:** Pursuant to RCW 31.04.093(6), the Director may issue
5 orders removing from office or prohibiting from participation in the affairs of any licensee, or both,
6 any officer, principal, employee or loan originator, or any person subject to this Act for failure to
7 comply with any order or subpoena issued under this Chapter or a violation of RCW 31.04.027.

8 **3.3 Authority to Impose Fine:** Pursuant to RCW 31.04.093(4), the Director may impose fines of
9 up to one hundred dollars per day upon the licensee, its employee, or any other person subject to the
10 Act for any violation of the Act or failure to comply with any order or subpoena issued by the Director
11 under the Act.
12

13 **3.4 Authority to Take Affirmative Action:** Pursuant to RCW 31.04.093(5)(b), the Director may
14 issue an order directing a licensee, its employee, or any other person subject to the Act to make take
15 such affirmative action as is necessary to comply with this chapter.

16 **3.5 Authority to Charge Investigation Fee:** Pursuant to RCW 31.04.145(3) and WAC 208-620-
17 590, every licensee investigated by the Director or the Director's designee shall pay for the cost of the
18 investigation, calculated at the rate of sixty-nine dollars and one cent (\$69.01) per staff hour devoted
19 to the examination or investigation, and shall pay travel costs if the licensee maintains its records
20 outside the state
21

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

23 Respondents' violations of the provisions of chapter 31.04 RCW and chapter 208-620 WAC, as
24 set forth in the above Factual Allegations, Grounds for Entry of Order, and Authority to Impose Sanctions
25

1 constitute a basis for the entry of an Order under RCW 31.04.093, RCW 31.04.165, and RCW 31.04.205.

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

- 3
- 4 4.1 Respondent Rockwell Financial Inc's license to conduct the business of a consumer loan company be revoked;
- 5
- 6 4.2 Respondents Rockwell Financial Inc be prohibited from the conduct of the affairs of any consumer loan company subject to licensure by the Director, in any manner, for a period of five (5) years;
- 7
- 8 4.3 Respondent Brett J. Davis be prohibited from the conduct of the affairs of any consumer loan company subject to licensure by the Director, in any manner, for a period of five (5) years;
- 9
- 10 4.4 Respondents Rockwell Financial Inc and Brett J. Davis jointly and severally pay a fine, which as of the date of these charges totals \$9,000;
- 11
- 12 4.5 Respondents Rockwell Financial Inc and Brett J. Davis submit a fully completed closure report to the Department, and submit required annual reports and assessments as applicable;
- 13
- 14 4.6 Respondents Rockwell Financial Inc and Brett J. Davis jointly and severally pay \$1,500 in 2010 annual assessments;
- 15
- 16 4.7 Respondents Rockwell Financial Inc and Brett J. Davis jointly and severally pay an investigation fee, which as of the date of these charges totals \$1,104.16 calculated at \$69.01 per hour for sixteen (16) staff hours devoted to the investigation;
- 17
- 18 4.8 Respondents Rockwell Financial Inc and Brett J. Davis maintain records in compliance with the Act and provide the Director with the location of the books, records, and other information relating to Respondent Rockwell Financial 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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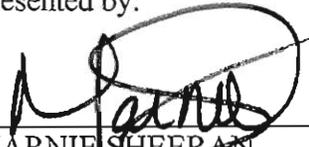
1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges is entered pursuant to the provisions of RCW 31.04.093, RCW
3 31.04.165, RCW 31.04.202 and RCW 31.04.205, and is subject to the provisions of chapter 34.05
4 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as
5 set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING
6 accompanying this Statement of Charges.
7

8 Dated this 21st day of March, 2011.
9

10 
11 DEBORAH BORTNER
12 Director
13 Division of Consumer Services
14 Department of Financial Institutions

15 Presented by:

13 
14 MARNIE SHEERAN
15 Financial Legal Examiner



16 Approved by:

17
18 
19 JAMES R. BRUSSELBACK
20 Enforcement Chief