

Terms Completed

ORDER SUMMARY – Case Number: C-07-298

Name(s): American General Financial Services

Order Number: C-07-298-09-CO01

Effective Date: August 11, 2009

License Number: DFI: 16799 [NMLS: 1056]
Or NMLS Identifier [U/L] (Revoked, suspended, stayed, application denied or withdrawn)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: n/a

Prohibition/Ban Until: n/a

Investigation Costs	\$15,872.30	Due	Paid <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date
Fine	\$26,000	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	\$33,111.73	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: Restitution provided Restitution provided to consumers per restitution schedule

RECEIVED

JUL 17 2009

ENFORCEMENT UNIT
DIVISION OF CONSUMER SERVICES
DEPT OF FINANCIAL INSTITUTIONS

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**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-07-298-08-CO01

AMERICAN GENERAL FINANCIAL SERVICES
INC.,

CONSENT AGREEMENT TO RESOLVE THE
STATEMENT OF CHARGES (CONSENT
AGREEMENT)

Respondent.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Deborah Bortner, Division Director, Division of Consumer Services, and American General Financial Services Inc. (a Washington Corporation) (hereinafter Respondent AGFS), by and through its attorney Frederick B. Rivera, and finding that the issues raised in the above-captioned matter may be economically and efficiently settled, agree to the entry of this Consent Agreement to Resolve Statement of Charges (Consent Agreement). This Consent Agreement 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

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-07-298-08-SC02 (Statement of Charges), entered May 1, 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 Agreement and further agrees that the issues raised in the above-captioned matter may be economically and efficiently settled by entry of this Consent Agreement. The parties intend this Consent Agreement to fully resolve the Statement of Charges.

Based upon the foregoing:

CONSENT AGREEMENT
C-07-298-08-CO02
American General Financial Services Inc

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
4 before an administrative law judge, and that it hereby waives its right to a hearing and any and all administrative
5 and judicial review of the issues raised in this matter, or of the resolution reached herein. Accordingly,
6 Respondent agrees to withdraw its appeal and to inform the Office of Administrative Hearings in writing of its
7 withdrawal.

8 C. **Allegations in Statement of Charges-Paragraphs 1.3 through 1.8, 1.10 and 1.11.** It is AGREED
9 that, for purposes of settlement, the allegations in paragraphs 1.3, 1.4, 1.8, 1.10 and 1.11 of the Statement of
10 Charges are withdrawn. The allegation in paragraph 1.5 of the Statement of Charges is reduced from 80 loans to
11 22 loans. The allegation in paragraph 1.6 of the Statement of Charges is reduced from 23 loans to 4 loans. The
12 allegation in 1.7 of the Statement of Charges is reduced from 7 loans to 4 loans.

13 It is further AGREED that, for purposes of settlement, because the allegations against American General
14 Financial Services Inc. dba American General Financial Services (DE) Inc. are withdrawn, American General
15 Financial Services Inc. dba American General Financial Services (DE) Inc. has been removed as a Respondent in
16 this matter.

17 D. **Fine.** It is AGREED that Respondent shall pay to the Department a fine of \$26,000, in the form of a
18 cashier's check made payable to the "Washington State Treasurer," upon entry of this Consent Agreement.

19 E. **Restitution.** It is AGREED that prior to the entry of this Consent Agreement, Respondent paid
20 restitution to the consumers identified in the attached Restitution Schedule. Such payments were made in the
21 form of a check and were sent to borrowers' last known address via the United States mail. Respondent included
22 a letter with each check notifying the borrower that the check was a refund and that the borrower had 30 days
23 to cash the check or the refund amount would be provided to the State Department of Revenue as unclaimed
24 property. Respondent provided the Department with a signed affidavit attesting to mailing the checks, and a copy

1 of the checks mailed (each with the accompanying explanatory cover letter). All checks that were not returned as
2 undeliverable, but were not cashed within 30 days of mailing, were immediately turned over to the State
3 Department of Revenue, pursuant to Department of Revenue procedures, as unclaimed property. A list of such
4 checks was provided to the Department. Further, Respondent notified the Department of all checks that were
5 returned as undeliverable and the Department attempted to locate a current address. Upon notification by the
6 Department that no new address was available, Respondent immediately sent the refund amounts to the State
7 Department of Revenue, pursuant to Department of Revenue procedures, as unclaimed property.

8 **F. Investigation Fee.** It is AGREED that Respondent shall pay to the Department an investigation fee
9 of \$15,872.30, in the form of a cashier's check made payable to the "Washington State Treasurer," upon entry of
10 this Consent Agreement.

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

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

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

20 //
21 //
22 //
23 //

24
25

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

3 **RESPONDENT:**
4 **AMERICAN GENERAL FINANCIAL SERVICES INC.**

5 By: [Redacted Signature]

4/13/09
Date

6 JAMES R. SIMMERMAN
7 President
8 American General Financial Services Inc.
(A Washington Corporation)

9 [Redacted Signature]
10 FREDERICK B. RIVERA, WSBA No.23008
11 Attorney at Law
12 Attorney for Respondent

4/16/09
Date

13 **DO NOT WRITE BELOW THIS LINE**

14 THIS CONSENT AGREEMENT ENTERED THIS 11th DAY OF August, 2009.

15 [Redacted Signature]

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

20 Pre [Redacted Signature]

21 MARNIE SHEERAN
22 Financial Legal Examiner

23 Approved by:
[Redacted Signature]

24 JAMES R. BRUSSELBACK
25 Enforcement Chief



1
2
3
4
5
6
7
8
9
10
11

**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-07-298-08-SC02

AMERICAN GENERAL FINANCIAL
SERVICES INC and AMERICAN
GENERAL FINANCIAL SERVICES INC
dba AMERICAN GENERAL FINANCIAL
SERVICES (DE) INC

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

Respondents.

12
13
14
15
16
17
18
19
20

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:

21
22
23
24
25

I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. American General Financial Services Inc (AGFS) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on March 20, 2001, and has continued to be licensed to date. Respondent AGFS is licensed to conduct the business of a consumer lender at forty-two (42) different locations.

1 B. American General Financial Services Inc dba American General Financial Services
2 (DE) Inc (AGFS-DE) was licensed by the Department to conduct business as a Consumer Loan
3 Company on March 20, 2001, and has continued to be licensed to date. Respondent AGFS-DE is
4 licensed to conduct the business of a consumer lender at seven (7) locations.

5 C. Respondents are both wholly owned subsidiaries of American International Group, Inc.

6 **1.2 Report of Examination.** From June 12, 2006 through June 29, 2006, the Department conducted
7 an examination of the books and records of Respondent AGFS and AGFS-DE for the period of
8 December 1, 2003 through March 31, 2006. The Department reviewed 474 loan files as part of the
9 examination and found the violations as outlined in the paragraphs below.

10 **1.3 Unlicensed DBA.** Between at least December 1, 2003 and March 31, 2006, Respondent
11 AGFS used the unlicensed name of American General Home Equity in its branch locations. The name
12 American General Home Equity also appeared as the funding lender on all of Respondent AGFS's
13 first lien mortgages. To date, the Department has not issued a license to any person or entity to
14 conduct the business of a consumer lender under this name.

15 **1.4 Interest Rates in Excess of the Statutory Maximum.** In over seventy (70) loans involving
16 Washington consumers, which originated at out-of-state branches and closed between March 31, 2005
17 and April 18, 2006, Respondent AGFS-DE charged interest in excess of twenty-five (25) percent.

18 **1.5 Untimely Provision of Truth in Lending Disclosures or Disclosure of APR and**
19 **Prepayment Penalty.** In at least eighty (80) loans, Respondents did not maintain records sufficient to
20 establish that truth in lending (TIL) disclosures or the APR or prepayment penalty were disclosed to
21 borrowers within three days of the borrowers' loan application or Respondents did not provide TIL
22 disclosures or disclose the APR or prepayment penalty within three days of the borrowers' loan
23
24
25

1 application. Most of these loans in question were either first and second closed-end refinance
2 mortgages or first and second lien purchases or refinance open-end mortgages.

3 **1.6 Misrepresented Loan Fees as Discount Points.** Respondents miscategorized or
4 misrepresented loan origination fees as discount points on the HUD1/1A Settlement Statement or
5 equivalent in at least twenty-three (23) loans.

6 **1.7 Untimely Disclosure of Costs and Fees.** In at least six (6) loans, Respondent AGFS did not
7 maintain records sufficient to establish that Good Faith Estimate (GFE) disclosures or an itemization
8 and explanation of all costs and fees were provided to borrowers or Respondent AGFS did not provide
9 GFE disclosures or an itemization and explanation of all costs and fees that borrowers were required to
10 pay in connection with obtaining a residential mortgage loan or home equity line of credit (HELOC),
11 within three days of receipt of a loan application.

12 **1.8 Collecting Fees in Excess of the Maximum Amount Allowed.** In at least six (6) loans
13 Respondent AGFS-DE charged loan origination fees in excess of statutory maximum allowed.

14 **1.9 Unable to Provide Records.** Respondents were directed to provide numerous loan files for
15 review. Respondents were unable to produce loan files or complete loan files for at least eight (8)
16 loans. Respondents were unable to produce complete loan records for an additional for (4) loan files
17 when subpoenaed for these records on December 12, 2007

18 **1.10 Inaccurate Truth in Lending Disclosures.** In at least five (5) loans, Respondent AGFS either
19 understated the finance charge by more than \$100 or understated the APR by more than 1/4th of a
20 percentage point in TIL disclosures provided to consumers.
21

22 **1.11 Failure to Provide Affiliated Business Disclosures.** Respondent AGFS did not provide or
23 did not maintain mandatory affiliated business disclosures that explained the relationship between
24

25

1 American General Financial Services, Inc. and American General Home Equity in the loan files
2 referenced in paragraph 1.3 above.

3 **1.12 Untimely Provision of Adverse Action Notifications.** In at least seven (7) loan application
4 files, Respondent AGFS did not provide consumers' Adverse Action Notifications within thirty (30)
5 days from the date Respondent AGFS received a completed application.

6 **1.13 Failure to Provide Notice of Right to Rescind.** In at least three (3) loan files, Respondent
7 AGFS either did not provide a Notice of Right to Rescind to the borrower or the Notice of Right to
8 Rescind was missing from the loan file or was incomplete.

9 **1.14 On-Going Investigation.** The Department's investigation into the alleged violations of the
10 Act by Respondents continues to date.
11

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

13 **2.1 Unlicensed Activity.** Based on the Factual Allegations set forth in Section I above,
14 Respondent AGFS is in apparent violation of RCW 31.04.035, WAC 208-620-210(2) recodified as
15 WAC 208-620-420 (effective 1/27/2006) for transacting the business of a consumer lender under a
16 name other than the name on Respondents' licenses.
17

18 **2.2 Interest Rate in Excess of Maximum Allowed.** Based on the Factual Allegations set forth in
19 Section I above, Respondent AGFS-DE is in apparent violation of RCW 31.04.105(1) for lending
20 money at a rate that exceeds twenty-five (25) percent per annum.

21 **2.3 GFE and TIL Disclosures.** Based on the Factual Allegations set forth in Section I above,
22 Respondents are in apparent violation of RCW 31.04.027(6) and (10) and RCW 31.04.102(1) through
23 (3) for failure to provide required GFE and TIL disclosures within three business days of receiving a
24 loan application.
25

1 **2.4 Misrepresentation of Loan Origination Fees:** Based on the Factual Allegations set forth in
2 Section I above, Respondents are in apparent violation of RCW 31.04.027(6) and (10) for
3 miscategorizing or misrepresenting loan origination fees as discount points on the HUD1/1A
4 Settlement Statement.

5 **2.5 Collecting Loan Origination Fees in Excess of Amount Allowed.** Based on the Factual
6 Allegations set forth in Section I above, Respondent AGFS-DE is in apparent violation of RCW
7 31.04.105(2) for charging loan origination fees in excess of four percent of the first twenty thousand
8 dollars of the principal amount of the loan and two percent thereafter.

9 **2.6 Record Keeping.** Based on the Factual Allegations set forth in Section I above, Respondents
10 are in apparent violation of RCW 31.04.155 for failing to maintain certain records to enable the
11 Director to determine whether the licensee is complying with the Consumer Loan Act. In the
12 alternative, Respondents are in apparent violation of RCW 31.04.145 for failure to comply with the
13 Director's investigatory authority by failure to fully and completely comply with the Department's
14 Directives.

15 **2.7 Inaccurate TIL Disclosures.** Based on the Factual Allegations set forth in Section I above,
16 Respondent AGFS is in apparent violation of RCW 31.04.027(6) and (10) and RCW 31.04.102(1)
17 through (3) for failure to provide accurate TIL disclosures to consumers.

18 **2.8 Disclosures Other than GFE and TIL.** Based on the Factual Allegations set forth in Section
19 I above, Respondent AGFS is in apparent violation of RCW 31.04.027(6) and (10) for failure to
20 provide an accurate or complete Notice of Right to Rescind or failure to provide a Notice of Right to
21 Rescind, Adverse Action Notification or Affiliated Business disclosures to consumers.

22 **2.9 Prohibited Practices.** Based on the Factual Allegations set forth in Section I above,
23 Respondents are in apparent violation of RCW 31.04.027(1) and (2) for directly or indirectly
24
25

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

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

13 **3.4 Authority to Issue Orders to Pay Restitution:** Pursuant to RCW 31.04.093(5), the Director
14 may issue an order directing a licensee, its employee, or any other person subject to the Act to make
15 restitution to a borrower or other person who is damaged as a result of a violation of the Act.

16 **3.5 Authority to Charge Examination Fee and Investigation Fee:** Pursuant to RCW
17 31.04.145(3) and WAC 208-620-590, every licensee examined or investigated by the Director or the
18 Director's designee shall pay for the cost of the examination or investigation, calculated at the rate of
19 sixty-nine dollars and one cent (\$69.01) per staff hour devoted to the examination or investigation, and
20 shall pay travel costs if the licensee maintains its records 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 4.1 Respondent AGFS and Respondent AGFS-DE licenses to conduct the business of a
4 Consumer Loan Company be revoked;
- 5 4.2 Respondents AGFS and AGFS-DE jointly and severally pay a fine of \$500,000 for the
6 violations set forth above,
- 7 4.3 Respondent AGFS-DE recalculate the interest rate on all loans referred to in paragraph 1.4,
8 including those which have since been paid off, to bring the interest rates into compliance
9 with the Act. Respondent shall either refund the amount owed by applying it to the remaining
10 principal balance of the loan and/or refund the excess to the borrowers.
- 11 4.4 Respondent AGFS-DE provide a list of loans to the Department of all loans closed between
12 March 31, 2006 to present with interest rates in excess of twenty-five (25) percent and provide
13 proof to the Department that Respondent has recalculated the interest rate so that it is in
14 compliance with the Act and that Respondent has either refunded the amount owed to the
15 borrower by applying it to the remaining principal balance of the loan and/or refunding the
16 excess to the borrowers.
- 17 4.5 Respondents AGFS and AGFS-DE jointly and severally refund to borrowers all fees that
18 inured to Respondents' benefits on the HUD 1/1A settlement Statement or equivalent on all
19 loans referred to in paragraphs 1.5 and 1.6 above.
- 20 4.6 Respondent AGFS refund to borrowers all fees that inured to Respondent's benefits on the
21 HUD 1/1A settlement Statement or equivalent on all loans referred to in paragraphs 1.7 and
22 1.10 above.
- 23 4.7 Respondent AGFS-DE refund to borrowers all fees that inured to Respondent's benefits on
24 the HUD 1/1A settlement Statement or equivalent on all loans referred to in paragraph 1.8
25 above.
- 4.8 Respondents AGFS and AGFS-DE jointly and severally pay an investigation fee in the
amount of \$14,492.10 calculated at \$69.01 per hour for two hundred and ten (210) staff hours
devoted to the investigation;
- 4.9 Respondents AGFS and AGFS-DE maintain records in compliance with the Act and provide
the Director with the location of the books, records, and other information relating to
Respondent AGFS and Respondent AGFS-DE 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.

1 **V. AUTHORITY AND PROCEDURE**

2 This Statement of Charges and Notice of Intention to Enter an Order to Revoke License,
3 Impose Fine, Order Restitution, and Collect Examination and Investigation Fee (Statement of
4 Charges) is entered pursuant to the provisions of RCW 31.04.093, RCW 31.04.165, RCW 31.04.202
5 and RCW 31.04.205, and is subject to the provisions of chapter 34.05 RCW (The Administrative
6 Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF
7 OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this
8 Statement of Charges.
9

10 Dated this 1st day of May, 2008.

[Redacted Signature]

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

16 Presented by:

[Redacted Signature]

17 MARNIE SHEERAN
18 Financial Legal Examiner

19 Approved by:

20 [Redacted Signature]

21 JAMES R. BRUSSELBACK
22 Enforcement Chief

