



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

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

LIBERTY LENDING INC., and
LUIGI GHILARDI, Owner, President, and CEO,

Respondents.

NO. C-09-225-09-FO01

FINAL ORDER

I. DIRECTOR'S CONSIDERATION

A. Procedural History. 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, pursuant to RCW 34.05.440(1). On October 7, 2009, the Director, through Consumer Services Division Director Deborah Bortner, entered a Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Prohibit from Industry, Impose Fine, Collect Annual Assessment, Collect Late Penalty, and Collect Investigation Fees (Statement of Charges). 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 October 13, 2009, a Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Liberty Lending Inc. and Ghilardi Luigi. The Department served the Statement of Charges, cover letter dated October 13, 2009, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative Hearing for Liberty Lending Inc. and Ghilardi Luigi on Respondents on October 13, 2009, by First-Class mail and Federal Express overnight delivery. On October 14, 2009, the documents sent via Federal Express overnight delivery

1 were delivered to the Respondent's registered agent. The documents sent via First-Class mail were
2 returned to the Department as undeliverable.

3 On November 10, 2009, the Department re-sent the documents, via First-Class mail and
4 Federal Express overnight delivery, to a forwarding address provided by the U.S. Postal Service. On
5 November 11, 2009, the documents sent via Federal Express overnight delivery were delivered. The
6 documents sent via First-Class mail were not returned to the Department.

7 Respondents did not request an adjudicative hearing within twenty calendar days after the
8 Department served them with the Notice of Opportunity to Defend and Opportunity for Hearing, as
9 provided for in WAC 208-08-050(2).

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11 B. Record Presented. The record presented to the Director's designee for her review and
12 for entry of a final decision included the Statement of Charges, cover letter dated October 13, 2009,
13 Notice of Opportunity to Defend and Opportunity for Hearing, and blank Applications for Adjudicative
14 Hearing for Liberty Lending Inc. and Ghilardi Luigi, with documentation of service.

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

17 II. FINAL ORDER

18 Based upon the foregoing, and the Director's designee having considered the record and
19 being otherwise fully advised, NOW, THEREFORE:
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21 A. IT IS HEREBY ORDERED, That:

- 22 1. Respondent Liberty Lending Inc's license to conduct the business of a Consumer
23 Lender is revoked;
- 24 2. Respondent Liberty Lending Inc. is banned from participation in the conduct of the
25 affairs of any consumer lender subject to licensure by the Director, in any manner, for
a period of 5 years;

3. Respondent Luigi Ghilardi is banned from participation in the conduct of the affairs of any consumer lender subject to licensure by the Director, in any manner, for a period of 5 years;
4. Respondents Liberty Lending Inc. and Luigi Ghilardi jointly and severally pay a fine of \$12,000;
5. Respondents Liberty Lending Inc. and Luigi Ghilardi jointly and severally pay the cumulative delinquent Annual Assessments due for 2008 and 2009, totaling \$3,000;
6. Respondents Liberty Lending Inc. and Luigi Ghilardi provide to the Director a completed Consolidated Annual Report and Annual Assessment Worksheet for the year ending December 31, 2008 and from January 1, 2009 to office closure.
7. Respondents Liberty Lending Inc. and Luigi Ghilardi jointly and severally pay a late penalty of \$15,000.
8. Respondents Liberty Lending Inc. and Luigi Ghilardi jointly and severally pay an investigation fee of \$552.08.

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

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

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

1 D. Judicial Review. Respondents have the right to petition the superior court for
2 judicial review of this agency action under the provisions of chapter 34.05 RCW. For the requirements
3 for filing a Petition for Judicial Review, see RCW 34.05.510 and sections following.

4 E. Non-compliance with Order. If you do not comply with the terms of this order, the
5 Department may seek its enforcement by the Office of Attorney General to include the collection of the
6 fines, fees and restitution imposed herein.

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

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11 DATED this 7th day of December, 2009.



12 STATE OF WASHINGTON
13 DEPARTMENT OF FINANCIAL INSTITUTIONS

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16 DEBORAH BORTNER
17 DIRECTOR
18 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:

LIBERTY LENDING INC., and
LUIGI GHILARDI, Owner, President, and CEO,

Respondents.

NO. C-09-225-09-SC01

STATEMENT OF CHARGES and NOTICE OF
INTENTION TO ENTER AN ORDER TO REVOKE
LICENSE, PROHIBIT FROM INDUSTRY, IMPOSE
FINE, COLLECT ANNUAL ASSESSMENT,
COLLECT LATE PENALTY, AND COLLECT
INVESTIGATION FEES

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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)¹. The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. 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:

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I. FACTUAL ALLEGATIONS

1.1 Respondents.

A. Liberty Lending Inc. (Respondent Liberty) was licensed by the Department of Financial Institutions of the State of Washington (Department) to conduct business as a Consumer Loan Company on November 27, 2007, and has continued to be licensed to date.

B. Luigi Ghilardi (Respondent Ghilardi) is the Owner, President, and CEO of Liberty Lending Inc.

1.2 Licensed Location: Respondent Liberty is licensed to conduct the business of a Consumer Lender at 233 Wilshire Blvd, Ste 230, Santa Monica, California 90401.

1.3 Failure to Maintain Bond. On February 24, 2009, the Department received notice from Great American Insurance Company (Great American) that Respondents' surety bond would be cancelled, effective April 6, 2009. To date, Respondents have failed to provide the Department the required surety bond or an approved alternative.

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¹ RCW 31.04 (2001)

1 **1.4 Failure to Submit 2008 and 2009 Consolidated Annual Reports and Worksheets and Pay Annual**
2 **Assessment Fees and Late Penalty.** Respondents were required to submit their 2008 Consolidated Annual
3 Report and worksheet, and pay any resulting annual assessment fee to the Department on or before the first day
4 of March 2009. To date, Respondents have not submitted the 2008 report of worksheet or paid an annual
5 assessment for 2008. When a licensee ceases business, an annual report is due to the Department, within 30
6 days of closure concerning the business and operations conducted during the current calendar year. The annual
7 report must be made under oath and must be in the form prescribed by the Director. To date, Respondents have
8 not provided the annual report relating to the 2009 calendar year, due within 30 days of closure. As a result, a
9 \$100 late penalty has accrued, and continues to accrue, from the due dates of the 2008 and 2009 reports.

10 **1.5 Failure to Comply with Directive and Investigative Authority.** On May 8, 2009, the Department
11 sent a directive to the Respondents directing them to provide a surety bond or acceptable alternative by May 19,
12 2009. On June 29, 2009, the Department sent a directive to the Respondents directing them to provide a surety
13 bond or acceptable alternative by July 12, 2009. On July 6, 2009, the Department sent a directive to the
14 Respondents directing them to provide the Department with a 2008 annual report, 2008 assessment report, remit
15 its 2008 annual assessment, pay the late filing penalties for 2008, and file the proper closure forms for 2009
16 along with any reports and assessments due. The July 6, 2009, directive was to be complied with by July 20,
17 2009. On July 16, 2009, the Department sent a directive (with the same conditions as the July 6, 2009,
18 directive) to the Respondents at another known address for Respondents. The July 16, 2009, directive was to be
19 complied with by July 30, 2009. To date, the Respondents have not responded to the directives issued by the
20 Department. All attempts by the Department to contact the Respondents via phone and email have been
21 unsuccessful.

22 **1.6 Office Closure.** Based upon Paragraphs 1.1 through 1.5 and the Respondents' failure to respond to the
23 Department's directives and the unsuccessful attempts to contact the Respondents, it appears the Respondents have
24 ceased operations in the state of Washington.

25 **1.7 Annual Report Upon Closure.** When a licensee ceases business, an annual report is due to the
Department, within 30 days of closure concerning the business and operations conducted during the current

1 calendar year. The annual report must be made under oath and must be in the form prescribed by the Director.
2 To date, Respondents have not provided the annual report relating to the 2009 calendar year, due within 30 days
3 of closure.

4 **1.8 Failing to Report Significant Developments to the Department.** Respondents did not notify the
5 Department within 20 days of ceasing operations in the State of Washington.

6 **1.9 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
7 Respondents continues to date.

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

9 **2.1 Requirement to Maintain Surety Bond.** Based on the Factual Allegations set forth in Section I
10 above, Respondents are in apparent violation of RCW 31.04.045(3) and WAC 208-620-320 for failing to file
11 and maintain a surety bond or approved alternative with the Director.

12 **2.2 Requirement to File Annual Report.** Based on the Factual Allegations set forth in Section I above,
13 Respondents are in apparent violation of RCW 31.04.155 and WAC 208-620-430 for failing to provide an
14 annual report to the Director, under oath and in the form prescribed by the Director, on or before the first day of
15 March, concerning the business and operations of each licensed place of business conducted during the
16 preceding calendar year.

17 **2.3 Requirement to Calculate and Pay Annual Assessment.** Based on the Factual Allegations set forth
18 in Section I above, Respondents are in apparent violation of RCW 31.04.085, and WAC 208-620-430 and 460
19 for failing to provide to the Director a completed annual assessment calculation worksheet and failing to pay to
20 the Director an annual assessment fee by March 1, 2009, and within 30 days of ceasing operations.

21 **2.4 Requirement to File Proper Closure Forms.** Based on the Factual Allegations set forth in Section I
22 above, Respondents are in apparent violation of WAC 208-620-475 for failing to notify the Department it
23 closed its business by filing the Consumer Loan Office Closure Form along with the Consolidated Annual
24 Report and worksheet, and any assessment fees due.

1 **2.5 Requirement to Respond to Directives.** Based on the Factual Allegations set forth in Section I above,
2 Respondents are in apparent violation of WAC 208-620-570 for failing to comply with directives and
3 requirements of the Department.

4 **2.6 Accounting and Record Retention Requirements.** Based on the Factual Allegations set forth in
5 Section I above, Respondents are in apparent violation of RCW 31.04.155 for failing to make accurate and
6 current books and records readily available to the Department until at least twenty-five months have elapsed
7 following the effective period to which the books and records relate.

8 **2.7 Requirement to Report Significant Developments to Department.** Based on the Factual Allegations
9 set forth in Section I above, Respondents are in apparent violation of WAC 208-620-475 for failing to notify the
10 Department within 20 days after ceasing business in the state of Washington.

11 **III. AUTHORITY TO IMPOSE SANCTION**

12 **3.1 Authority to Revoke License:** Pursuant to RCW 31.04.093(3)(a) and (b), the Director may revoke a
13 license if a licensee fails to pay any fee due the state of Washington, fails to maintain in effect the required bond
14 or permitted substitute, or fails to comply with any specific order or demand of the Director, or violates any
15 provision of the Act or any rule adopted under the Act.

16 **3.2 Authority to Prohibit from the Industry:** Pursuant to RCW 31.04.093(6)(d) and (e), the Director
17 may issue an order removing from office or prohibiting from participation in the affairs of any licensee, or both,
18 any officer, principal, employee, or loan originator, or any person subject to the Act, for failure to comply with
19 any order or subpoena issued under the Act, or for a violation of RCW 31.04.027.

20 **3.3 Authority to Impose Fine:** Pursuant to RCW 31.04.093(4), the Director may impose fines of up to one
21 hundred dollars per day upon the licensee for any violation of the Act or failure to comply with any order or
22 subpoena issued by the Director under the Act.

23 **3.4 Authority to Collect Annual Assessments.** Pursuant to WAC 208-620-430 every licensee is required
24 to pay a fee based upon the amount of business conducted during the prior calendar year.

1 **3.5 Authority to Impose Late Penalties:** Pursuant to RCW 31.04.155 and WAC 208-620-430, a licensee
2 that fails to file a report required to be filed by the Act within the time required is subject to a penalty of fifty
3 dollars per day, per report, for each day's delay.

4 **3.6 Authority to Charge Investigation Fees:** Pursuant to RCW 31.04.145(3) and WAC 208-620-590,
5 every licensee investigated by the Department shall pay for the cost of the examination or investigation,
6 calculated at the rate of \$69.01 per staff hour.

7 **3.7 Authority to Issue Orders Directing Action:** Pursuant to RCW 31.04.093(5)(b), the Director may issue
8 an order directing a licensee to take such affirmative action as is necessary to comply with the Act.

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

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

13 **4.1** Respondent Liberty Lending Inc's license to conduct the business of a Consumer Loan Company be
14 revoked;

15 **4.2** Respondent Liberty Lending Inc. be prohibited from participation in the conduct of the affairs of any
16 licensed consumer loan company, in any manner, for a period of five (5) years;

17 **4.3** Respondent Luigi Ghilardi be prohibited from participation in the conduct of the affairs of any licensed
18 consumer loan company, in any manner, for a period of five (5) years;

19 **4.4** Respondents Liberty Lending Inc. and Luigi Ghilardi, jointly and severally pay a fine, which as of the
20 date of these charges totals \$12,000;

21 **4.5** Respondents Liberty Lending Inc. and Luigi Ghilardi, jointly and severally pay the delinquent Annual
22 Assessment due for the year ending December 31, 2008, which totals \$1,500;

23 **4.6** Respondents Liberty Lending Inc. and Luigi Ghilardi, jointly and severally pay the delinquent Annual
24 Assessment due since office closure in 2009, which totals \$1,500;

25 **4.7** Respondents Liberty Lending Inc. and Luigi Ghilardi, provide to the Director completed a
Consolidated Annual Report and Annual Assessment Worksheet, including all required supporting
documentation, for the year ending December 31, 2008, and from January 1, 2009, to office closure;

4.8 Respondents Liberty Lending Inc. and Luigi Ghilardi, jointly and severally pay a late penalty which as
of the date of this document totals \$15,000, calculated at \$50 per day per report, which continues to
accrue daily, for failing to timely file Consolidated Annual Reports and Annual Assessment
Worksheets;

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4.9 Respondents Liberty Lending Inc. and Luigi Ghilardi, jointly and severally pay an investigation fee, which as of the date of these charges totals \$552.08, calculated at \$69.01 per hour for 8 staff hours devoted to the investigation; and

4.10 Respondents maintain records in compliance with the Act and provide the Director with the location of the books, records and other information relating to Respondent Best Rate Funding Corp.'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.

V. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Prohibit from Industry, Impose Fine, Collect Annual Assessment, Collect Late Penalty and Collect Investigation Fees 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). Respondents 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.

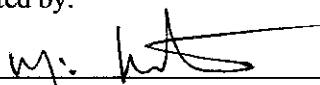
Dated this 7th day of September, 2009.

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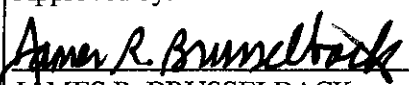
DEBORAH BORTNER
Director and Enforcement Chief
Division of Consumer Services
Department of Financial Institutions

Presented by:



WILLIAM HALSTEAD
Financial Legal Examiner

Approved by:



JAMES R. BRUSSELBACK
Enforcement Chief

