

FINAL ORDER SUMMARY – Case Number: C-11-008

Name(s): Sydion Financial, LLC

Order Number: C-11-008-11-FO01

Effective Date: September 20, 2011

License Number: CL-2328 NMLS 2328
(Revoked, suspended, stayed, application denied or withdrawn)
 If applicable, you must specifically note the ending dates of terms.

License Effect: Revoked

Not Apply Until: N/A

Prohibition/Ban Until: N/A

Investigation Costs	\$2,760.40	Due NOW	Paid NO	Date
Fine	\$10,000	Due NOW	Paid NO	Date
Assessment(s)	\$62,867.72	Due NOW	Paid: Yes	Date 9/21/2011
Restitution	\$618.30	Due NOW	Paid NO	Date
	No. of Victims:	1		

Other: Respondent has not provided DFI with the location of its records.
 Restitution is owed to borrower B.B., borrower has been given information
 with which to make a bond claim

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**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-11-008-11-FO01

SYDION FINANCIAL, LLC,

FINAL ORDER

Respondent.

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 August 18, 2011, the Director, through the Director's designee, issued a Statement of Charges and Notice of Intention to Enter an Order to Revoke License, Pay Restitution, Impose Fine, Collect Annual Assessments, Collect Cost of Investigation, and Maintain Records (Statement of Charges) against Sydion Financial, LLC (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 August 18, 2011, a Notice of Opportunity to Defend and Opportunity for Hearing, and a blank Application for Adjudicative Hearing for Respondent (collectively, accompanying documents).

On August 18, 2011, the Department served Respondent with the Statement of Charges and accompanying documents, sent by First-Class mail and Federal Express overnight delivery. On August 19, 2011, the documents sent via Federal Express overnight delivery were delivered. The documents sent via First-Class mail were not returned to the Department by the United States Postal Service.

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

4 B. Record Presented. The record presented to the Director's designee for her review and
5 for entry of a final decision included the following: Statement of Charges, cover letter dated August
6 18, 2011, Notice of Opportunity to Defend and Opportunity for Hearing, and blank Application for
7 Adjudicative Hearing for Respondent, with documentation for service.

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

10 II. FINAL ORDER

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

13 A. IT IS HEREBY ORDERED, That:

- 14 1. Respondent Sydion Financial, LLC's license to conduct business as a Consumer
15 Loan Company is revoked.
- 16 2. Respondent Sydion Financial, LLC pay restitution to consumer B.B. in the amount
17 of \$618.30, as discussed in paragraph 1.2 of the Statement of Charges.
- 18 3. Respondent Sydion Financial, LLC pay a fine of \$10,000.
- 19 4. Respondent Sydion Financial, LLC pay an annual assessment of \$62,140.72 for
20 2010.
- 21 5. Respondent Sydion Financial, LLC pay a closure annual assessment of \$727.00.
- 22 6. Respondent Sydion Financial, LLC pay an investigation fee of \$2,760.40.
- 23 7. Respondent Sydion Financial, LLC, its officers, employees, and agents maintain
24 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 Sydion Financial, LLC's consumer loan

1 company business, and the name, address and telephone number of the individual
2 responsible for maintenance of such records in compliance with the Act.

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

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

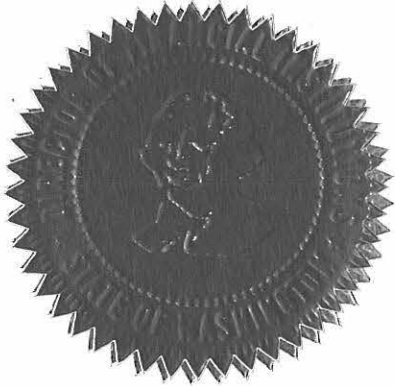
13 C. Stay of Order. The Director's designee has determined not to consider a Petition to
14 Stay the effectiveness of this order. Any such requests should be made in connection with a Petition
15 for Judicial Review made under chapter 34.05 RCW and RCW 34.05.550.

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

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

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

4 DATED this 20th day of September, 2011



7 STATE OF WASHINGTON
8 DEPARTMENT OF FINANCIAL INSTITUTIONS

9 [Redacted Signature]
10 DEBORAH BORTNER
11 Director
12 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-11-008-11-SC01

SYDION FINANCIAL, LLC,

STATEMENT OF CHARGES and
NOTICE OF INTENTION TO ENTER
AN ORDER TO REVOKE LICENSE,
PAY RESTITUTION, IMPOSE FINE,
COLLECT ANNUAL ASSESSMENTS,
COLLECT COST OF INVESTIGATION,
AND MAINTAIN RECORDS

Respondent.

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:

I. FACTUAL ALLEGATIONS

1.1 Respondent Sydion Financial, LLC (Respondent) 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 June 7, 2008. As of the date of this Statement of Charges, Respondent's Nationwide Mortgage Licensing System and Registry (NMLSR) MU1 form indicates the following ownership information:

Spencer John Richardson	99% owner
Sydion Management, Inc.	1% owner

In or around March 2011, Respondent submitted closure/surrender documents to the Department indicating Respondent closed effective January 31, 2011.

1.2 Consumer Complaint. The Department received a complaint from consumer B.B. (Complainant) regarding a residential mortgage loan Complainant obtained from Respondent in or around December 2009.

1 Complainant alleged Respondent increased the closing costs of Complainant's loan without explanation and
2 without disclosure until the closing of the loan. Respondent provided the Department with a copy of the loan
3 file for Complainant's transaction (loan file) and an explanation of the increase in closing costs. After a review
4 of the loan file, the Department determined:

- 5 • From the time of initial application to the time of closing, Complainant's principal loan amount
6 increased approximately 7% (from \$126,000 to \$135,000) and Complainant's discount point fee
7 increased \$675.90 (\$618.30 due to increases in the discount point fee percentage and \$57.60 due to
8 the increase in the principal loan amount).
- 9 • The loan file contained an initial one-page disclosure and three one-page redisclosures, but did not
10 contain evidence that these disclosures were provided to Complainant.
- 11 • The one-page disclosures in the loan file did not disclose \$1,337 in "other fees" (\$725
12 administration fee, \$595 processing fee, \$17 document preparation fee) that Respondent collected
13 at closing.¹

14 On or about May 23, 2011, the Department requested that Respondent refund to Complainant \$618.30 of the
15 increased closing costs by June 7, 2011. To date, Respondent has not made a refund to Complainant.

16 **1.3 Use of Trade Name Alone.** In its review of the loan file discussed above, the Department also noted
17 that nearly all disclosures identified Respondent solely as "Arivian Financial Group" and did not include
18 Respondent's licensed name or license number. While "Arivian Financial Group" was an authorized trade
19 name for Respondent with the Department at the time of Complainant's transaction, a licensee may not use an
20 authorized trade name alone to transact business.

21 **1.4 Failure to Pay Annual Assessment Timely.** Payment of an annual assessment based on a licensee's
22 business during the preceding calendar year, as calculated on an Annual Assessment Report (AAR), is due to
23 the Department on or before the first day of March of each year or within 30 days of closure. Payment of
24 Respondent's annual assessment for the calendar year 2009, totaling \$95,599.82 per Respondent's AAR for that
25 year, was due to the Department on or before March 1, 2010. Respondent did not pay this annual assessment
until on or about September 1, 2010. On or about November 24, 2010, the Department notified Respondent that

¹ These "other fees" were disclosed on all copies of the Good Faith Estimate disclosures in the loan file.

1 Respondent's late-payment of the 2009 annual assessment was a violation of the Act and that Respondent was
2 expected to implement a system of controls designed to prevent future violations of the Act.

3 **1.5 Failure to Pay Annual Assessments.** Payment of Respondent's annual assessment for the calendar
4 year 2010, totaling \$62,140.72 per Respondent's AAR for that year, was due on or before March 1, 2011.

5 Payment of Respondent's annual assessment for the calendar year 2011, totaling \$727.00 per Respondent's
6 closure AAR, was due on or before March 2, 2011 (30 days after closure). As of the date of this Statement of
7 Charges, Respondent has not paid either of these annual assessments.

8 **1.6 Records Location.** As of the date of this Statement of Charges, Respondent's NMLSR MU1 form
9 continues to indicate Respondent's records are located at 33400 8th Avenue, Suite 205, Federal Way,
10 Washington (Federal Way location), Respondent's formerly licensed main office. In or around August 2011,
11 the Department confirmed with the current tenant of the Federal Way location, a different consumer loan
12 company licensed by the Department, that Respondent's records are not located at the Federal Way location.

13 **1.7 On-Going Investigation.** The Department's investigation into the alleged violations of the Act by
14 Respondent continues to date.

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

2 **2.1 Requirement to Pay Annual Assessment.** Based on the Factual Allegations set forth in Section I
3 above, Respondent is in apparent violation of RCW 31.04.085, WAC 208-620-430(1), WAC 208-620-460(1),
4 and WAC 208-620-499(2) for failing to pay an annual assessment, as calculated on the Annual Assessment
5 Report, to the Director on or before the first day of March of each year, or within thirty days of closure.

6 **2.2 Requirement to Provide Accurate and Timely One-Page Disclosure Summary.** Based on the
7 Factual Allegations set forth in Section I above, Respondent is in apparent violation of RCW 19.144.020, WAC
8 208-600-200(3), RCW 31.04.102(4), and WAC 208-620-511(1), for failing to provide a borrower with the one-
9 page disclosure summary required in RCW 19.144.020.

- 10 • Pursuant to WAC 208-600-200(4), the disclosure summary must provide: the loan fees that are charged
11 and retained by the broker or lender (for example, processing, underwriting, or document preparation
12 fees), these fees go on the form under "Other Fees;" discount points the borrower will pay to reduce the
13 interest rate; and broker fee or lender's origination fee.
- 14 • Pursuant to WAC 208-600-200(6) and WAC 208-620-511(2) & (3), a licensee must: provide the initial
15 disclosure summary to the borrower within three business days following receipt of a complete loan
16 application; and, redisclose material loan terms within three days of a significant change, or at least
17 three days before closing, whichever is earlier.
- 18 • Pursuant to WAC 208-600-200(8), a "significant change" is any change which results in an increase in
19 the borrower's loan amount or fees, including: any increase in the principal loan amount by five percent
20 or more from the most recently disclosed loan amount; and, any increase in the discount point fees by
21 five hundred dollars or more.
- 22 • Pursuant to WAC 208-620-510(7), a licensee must maintain in its files sufficient information to show
23 compliance with state and federal law. Pursuant to WAC 208-620-510(2), a licensee must be able to
24 prove that all disclosures required under federal and state law were provided within the required time
25 frames. In most cases, proof of mailing is sufficient evidence of delivery. If the licensee has an
established system of disclosure tracking that includes a disclosure and correspondence log, checklists,
and a reasonable system for determining if a borrower did receive the documents, the licensee will be
presumed to be in compliance.

20 **2.3 Use of Trade Name Alone.** Based on the Factual Allegations set forth in Section I above, Respondent
21 is in apparent violation of WAC 208-620-420 and WAC 208-620-620 for transacting business using a trade
22 name without also using the main office license number or main office license name with the trade name.

23 **2.4 Requirement to Maintain Records.** Pursuant to RCW 31.04.155 and WAC 208-620-520, a licensee
24 shall keep and use in the business such books, accounts, records, papers, documents, files, and other
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1 information as will enable the director to determine whether the licensee is complying with the Act and with the
2 rules adopted by the director under the Act. The director shall have free access to such books, accounts,
3 records, papers, documents, files, and other information wherever located. Every licensee shall preserve the
4 books, accounts, records papers, documents, files, and other information relevant to a loan for at least twenty-
5 five months, or the period of time required by federal law, whichever is longer, after making the final entry on
6 the loan at a location approved by the director.

7 **III. AUTHORITY TO IMPOSE SANCTIONS**

8 **3.1 Authority to Revoke License.** Pursuant to RCW 31.04.093(3) and WAC 208-620-570, the Director
9 may revoke a license if a licensee: has failed to pay any fee due the state of Washington; or, either knowingly or
10 without the exercise of due care, has violated any provision of the Act or any rule adopted under the Act.

11 **3.2 Authority to Order Restitution.** Pursuant to RCW 31.04.093(5), the Director may issue an order
12 directing the licensee, its employee or loan originator, or other person subject to the Act, to make restitution to a
13 borrower or other person who is damaged as a result of a violation of the Act.

14 **3.3 Authority to Impose Fine.** Pursuant to RCW 31.04.093(4), the Director may impose fines of up to one
15 hundred dollars per day upon the licensee for any violation of the Act.

16 **3.4 Authority to Issue Order to Take Affirmative Action.** Pursuant to RCW 31.04.093(5), the Director
17 may issue an order directing the licensee, its employee or loan originator, or other person subject to the Act, to
18 take such affirmative action as is necessary to comply with the Act.

19 **3.5 Authority to Collect Cost of Investigation.** Pursuant to RCW 31.04.145(3) and WAC 208-620-590,
20 every licensee investigated by the Director or the Director's designee shall pay to the Director the cost of the
21 investigation, calculated at the rate of \$69.01 per hour.

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IV. NOTICE OF INTENTION TO ENTER ORDER

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

- 4.1 Respondent Sydion Financial, LLC's license to conduct business as a consumer loan company be revoked.
- 4.2 Respondent Sydion Financial, LLC pay restitution to consumer B.B. in the amount of \$618.30, as discussed in paragraph 1.2 of this Statement of Charges.
- 4.3 Respondent Sydion Financial, LLC pay a fine. As of the date of this Statement of Charges, the fine totals \$10,000.
- 4.4 Respondent Sydion Financial, LLC pay an annual assessment of \$62,140.72 for 2010.
- 4.5 Respondent Sydion Financial, LLC pay a closure annual assessment of \$727.00.
- 4.6 Respondent Sydion Financial, LLC pay the cost of the Department's investigation. As of the date of this Statement of Charges, the cost of the investigation totals \$2,760.40.
- 4.7 Respondent Sydion Financial, LLC, its officers, employees, and agents maintain records in compliance with the Act and keep the Department apprised of the location of the books, records and other information relating to Respondent Sydion Financial, LLC'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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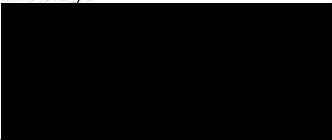
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V. AUTHORITY AND PROCEDURE


This Statement of Charges 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). Respondent 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 18th day of August, 2011.


DEBORAH BORTNER
Director
Division of Consumer Services
Department of Financial Institutions

Presented by:

MARK T. OLSON
Financial Legal Examiner



Approved by:

JAMES R. BRUSSELBACK
Enforcement Chief