STATE OF NORTH CAROLINA

Department of The Secretary of State

THE NORTH CAROLINA SECURITIES DIVISION,	)	
Petitioner,	)	**ADMINISTRATIVE FINAL ORDER BY CONSENT**
vs.	)	
PROSPER MARKETPLACE, INC.	)	**FILE NO. 08-SEC-058**
Respondent.	)	

THIS CAUSE coming on to be heard and being heard before the Secretary of State of the State of North Carolina as Administrator (the "Administrator") of the North Carolina Securities Act (the "Act"); and

IT APPEARING to the Administrator that the undersigned Respondent is the subject of the above-captioned administrative proceeding and that the Respondent desires to resolve the contentions of the Petitioner arising from the application of North Carolina law to its business

activities, without further controversy or the full use of the procedural rights available to Respondent under North Carolina law, and that Respondent, by its written consent to this Administrative Final Order by Consent (the "Final Order" or "this Order"), does not object to the making of Findings of Fact and Conclusions of Law and the entry of a Final Order in conformity therewith in this proceeding;

FINDINGS OF FACT

PARTIES

(1) Petitioner, the Securities Division of the North Carolina Department of the Secretary of State (the "Division"), as an agency of the State of North Carolina, carries out the administrative and enforcement functions that the Act imposes on the Administrator.

(2) Respondent, **Prosper Marketplace, Inc.** ("Prosper"), is a Delaware corporation (Delaware Division of Corporations #3943799) that was incorporated on March 22, 2005. Its principal place of business is located at 111 Sutter Street, 22nd Floor, San Francisco, California 94104. Prosper registered as a foreign business corporation in North Carolina on September 23, 2005, (North Carolina Secretary of State ID number 0804179).

JURISDICTION

(3) The Administrator has jurisdiction over the subject matter of this proceeding and over the person of Prosper pursuant to the Act.

(4) Prosper neither admits nor denies the Findings of Fact and Conclusions of Law contained herein and has agreed to resolve the proceedings relating to its offers and sales of unregistered securities through this Final Order to avoid protracted and expensive proceedings in numerous states. Prosper, as evidenced by the authorized signature on the consent to the Order below, admits the jurisdiction of the Administrator, voluntarily consents to the entry of this

Order and elects to permanently waive any and all rights under the Act and Chapter 150B, N.C.G.S., the North Carolina Administrative Procedure Act, to a Notice of Hearing, a hearing, all further proceedings before the Administrator, the making of Findings of Fact and Conclusions of Law, as set forth herein, an appeal from, judicial review of, or otherwise challenge the validity of the Order or the entry of the Order in conformity therewith in this proceeding. This Order is entered into by Prosper solely for the purpose of resolving the multi-state investigation described herein, Prosper does not intend that its consent to the Order be used for any other purpose, and asserts that the findings and conclusions in the Order shall not constitute admissions on the part of Prosper for any purpose.

FACTUAL BASIS FOR ADMINISTRATIVE ACTION

(5) The Division conducted an investigation of Prosper's activities and determined that Prosper has offered and sold securities as defined in N.C.G.S. § 78A-2(11) at various times between Prosper qualifying to do business in North Carolina and October 2008 without first registering its securities with the Division as required by N.C.G.S. § 78A-24. The Division, together with its counterparts in other states, conducted coordinated investigations into Prosper's activities in connection with unregistered securities offered and sold in several states between 2006 and October 2008.

(6) Prosper has cooperated, with the Division and the securities regulators of other states conducting investigations, by responding to inquiries, providing documentary evidence and other materials, and halting further offers and sales until its securities are appropriately registered. Prosper, as part of its settlement with respective states, agrees to appropriately register its securities with the Division before making further offers or soliciting sales from persons in North Carolina.

(7) Since February 2006 Prosper has held itself out, through its Internet website, www.prosper.com, as an online marketplace for "person to person" lending. Prosper has been licensed as a California finance lender (license #605-3227) since December 19, 2005.

(8) Prosper filed an application to register its securities with the United States Securities Exchange Commission in the fall of 2007 and shortly thereafter filed with the Division for registration of its securities in North Carolina. As of the date of entry of this Order, Prosper has not obtained registration of its securities in North Carolina.

(9) Prosper's lending platform functioned like a double-blind auction, connecting individuals who wish to borrow money, or "borrowers," with individuals or institutions who wish to commit to purchase loans extended to borrowers, referred to on the platform as "lenders." Lenders and borrowers registered on the website and created Prosper identities. They were prohibited from disclosing their actual identities anywhere on the Prosper website.

(10) Borrowers requested three-year, fixed rate, unsecured loans in amounts between $1,000 and $25,000 by posting "listings" on the platform indicating the amount they wanted to borrow and the maximum interest rate they were willing to pay. Prosper assigned borrowers a credit grade based on a commercial credit score obtained from a credit bureau, but Prosper did not verify personal information, such as employment and income.

(11) Potential lenders bid on funding all or portions of loans at specified interest rates, which were typically higher than rates available from depository accounts at financial institutions. Each loan was usually funded with bids by multiple lenders. After an auction closed and a loan was fully bid upon, the borrower received the requested loan with the interest rate set by Prosper and determined by the auction bidding at the lowest rate acceptable to all winning bidders.

(12) Individual lenders did not lend money directly to the borrower; rather, the borrower received a loan from a bank with which Prosper has contracted. (Prior to April of 2008, loans were made directly by Prosper.) The interests in a borrower's loan were then sold and assigned through Prosper to the lenders, with each lender receiving an individual non-recourse promissory note..

(13) Individual lenders in North Carolina who made loans through Prosper were investors who purchased securities in the form of the non-recourse promissory notes offered, sold and issued by Prosper without registration as required by N.C.G.S. § 78A-24.

(14) Since the inception of its platform in January 2006, Prosper has initiated approximately $174 million in loans nationwide. Prosper collected an origination fee from each borrower of one to three percent of loan proceeds, and collected servicing fees from each lender from loan payments at an annual rate of one percent of the outstanding principal balance of the notes.

(15) Prosper administered the collection of loan payments from the borrower and the distribution of such payments to the lenders. Prosper also initiated collection of past due loans from borrowers and assigned delinquent loan accounts to collection agencies. Lenders and borrowers were prohibited from transacting directly and were unable to learn each others' true identities.

(16) Prosper voluntarily suspended all offers and sales of securities on October 16, 2008.

(17) At least 1,323 North Carolina residents have financed Prosper loans totaling more than $ 3.9 million between January 2006 and October 2008.

(18) Prosper provided information to lenders concerning the issues noted below, although it did not provide the information in the manner typically required of a securities registrant regarding: details of the company's business model; biographical information about the background and experience of Prosper's management; certain risk factors in connection with the purchase of a Prosper facilitated note, including the fact that the notes were speculative investments; significant financial risks that investors may be subjected to when investing in the Prosper notes that could result in a complete loss of their investment, such as the fact that borrowers may not fulfill their obligations to make payments for reasons of death or incapacity, bankruptcy, or inability to pay; information concerning Prosper's status as a development stage company with a limited operating history; and the possibility that Prosper could cease operations at any time due to the failure to raise additional capital, because of a lack of profitability, or because of regulatory concerns.

(19) The Prosper website, the company's exclusive mode of dissemination of information to prospective investors, did not contain financial statements for Prosper, did not disclose that the notes were not registered with the Division, and that Prosper might have significant contingent liability for the offer and sale of unregistered securities.

(20) This Order contains the entire settlement agreement between the undersigned, there being no agreement of any kind, verbal or otherwise, which varies, alters, or adds to this Final Order. Respondents affirmatively state that they have freely agreed to the signing of this Final Order, and that no threats, promises or offers of any kind, other than as stated in this document, have been made by the Securities Administrator, Deputy Securities Administrator, any member of the staff of the Securities Division, or any agent or employee of the Department of the Secretary of State in connection with the signing of this Final Order.

(21) The acceptance and entry of this Final Order will be in the public interest and is necessary for the protection of the investing public.

(22) Prosper agrees that the presentation of this Final Order to the Administrator without the undersigned Respondent or counsel for Respondent being present shall not constitute an improper *ex parte* communication between the Administrator and Petitioner or counsel for Petitioner. This Final Order shall be effective only after approval and execution by the Administrator.

BASED UPON THE FOREGOING Findings of Fact, the Administrator makes the following:

CONCLUSIONS OF LAW

(1) The acceptance and entry of this Final Order is in the public interest and for the protection of investors as required by N.C.G.S. §78A-49(b).

(2) The individual non-recourse promissory note sold by Prosper to North Carolina residents are securities, as defined by N.C.G.S. § 78A-2(11).

(3) Prosper sold securities to North Carolina residents that were not registered with the Division in violation of N.C.G.S. § 78A-24.

(4) It is in the public interest of the citizens of North Carolina and for the protection of investors that Prosper be prohibited from violating the provisions of the Act in connection with selling or making offers to sell securities, buying or soliciting offers to buy securities, or otherwise engaging in business as an issuer of securities pursuant to the Act.

NOW, THEREFORE, the Administrator, acting through her duly appointed Deputy Securities Administrator, pursuant to and under all authority granted by the North Carolina

Securities Act, upon the foregoing Findings of Fact and Conclusions of Law does hereby enter the following:

ORDER

IT IS HEREBY ORDERED:

(1) Prosper will **CEASE AND DESIST** from offering to sell or selling securities to persons in or from North Carolina in violation of the Act and will comply with the Act in any future offer or sale of securities in North Carolina.

(2) Prosper shall pay the sum of $21,780.00 to the Investor Education and Protection Trust Fund of the North Carolina Department of the Secretary of State as revenues derived from a consent order, pursuant to N.C.G.S. § 147-54.5(e).

(3) In the event another state securities regulator determines not to accept Prosper's state settlement offer, the total amount of the North Carolina payment shall not be affected, and shall remain as set forth above.

(4) This Order concludes the investigation by the Division and any other action that the Division could commence under the Act or other applicable North Carolina law on behalf of North Carolina investors or the Division as it relates to Prosper, up to and including any activity through November 24, 2008; provided however, that excluded from and not covered by this section are any claims by the Division arising from, relating to, or seeking enforcement of this Order.

(5) If payment is not made by Prosper, or if Prosper defaults in any of its obligations set forth in this Order, the Administrator may vacate this Order, at her sole discretion, upon 10 days notice to Prosper and without opportunity for administrative hearing, and then commence a separate action.

(6) Nothing herein shall preclude the State of North Carolina, its departments, agencies,

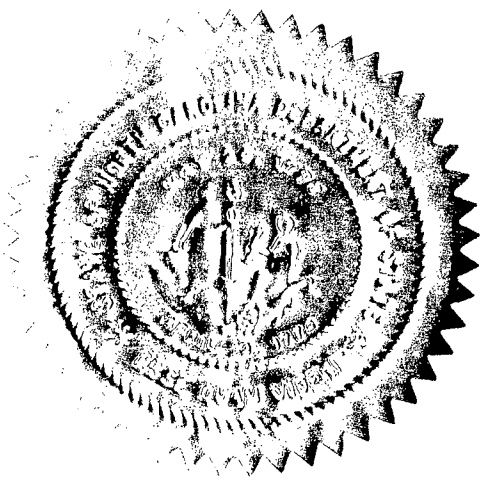
boards, commissions, authorities, political subdivisions and corporations, other than the Division and only then to the extent set forth in paragraph (5) in this section, (collectively, "State Entities") and the officers, agents or employees of State Entities from asserting any claims, causes of action, or applications for compensatory, nominal and/or punitive damages, administrative, civil, criminal, or injunctive relief against Prosper in connection with unregistered securities sales.

(7) This Order and any dispute related thereto shall be construed and enforced in accordance with, and governed by, the laws of the State of North Carolina without regard to any choice of law principles.

(8) This Order shall be binding upon Prosper and its successors and assigns as well as to successors and assigns of relevant affiliates with respect to all conduct subject to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

This **ORDER** shall become final upon entry.

WITNESS MY HAND AND THE OFFICIAL SEAL of the North Carolina Department of Secretary of State, this the 20th day of October 2009.



ELAINE F. MARSHALL

SECRETARY OF THE STATE OF

NORTH CAROLINA and

SECURITIES ADMINISTRATOR

By:

DAVID S. MASSEY

DEPUTY SECURITIES ADMINISTRATOR

CORPORATE CONSENT TO ENTRY OF ORDER FOR PROSPER MARKETPLACE, INC.

I, Kirk T. Inglis, state that I am an officer of Prosper Marketplace, Inc. and I am authorized to act on its behalf; that I have read the foregoing Order and that I know and fully understand the contents hereof; that Prosper Marketplace, Inc. voluntarily consents to the entry of this Order without any force or duress, expressly waiving any right to a hearing in this matter; that Prosper Marketplace, Inc. understands that the Securities Division, North Carolina Department of the Secretary of State, reserves the right to take further actions to enforce this Order or to take appropriate action upon discovery of other violations of the North Carolina Securities Act by Prosper Marketplace Inc.; and that Prosper Marketplace, Inc. will fully comply with the terms and conditions stated herein. Prosper Marketplace, Inc. agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal or local tax for any administrative monetary penalty that shall pay pursuant to this Order.

Prosper Marketplace Inc. understands that this Order is a public record document.

Prosper Marketplace Inc. has been represented by counsel of its choosing in connection with the resolution of this matter, specifically, Randall J. Fons, Partner, Morrison & Forster LLP.

Dated this 30th day of September, 2009.

Prosper Marketplace, Inc.

By: Kirk Inglis

Title: Chief Operating Officer + Chief Financial Officer

State of California
County of San Francisco

SUBSCRIBED AND SWORN TO before me this 30 day of September, 2009

Notary Public

My Commission expires: February 4, 2012 (SEAL)

MICHELLE DONNELLY
Commission # 1786742
Notary Public - California
San Francisco County
My Comm. Expires Feb 6, 2012

~~Order Approved~~ as to Form:

Randall J. Fons, Partner
Morrison & Foerster LLP

10/6/09
Date