

**STATE OF NEW HAMPSHIRE
BANKING DEPARTMENT**

In The Matter of: Prosper Funding LLC and Prosper Marketplace, Inc.
Case No. 16-035

CONSENT ORDER

WHEREAS, the New Hampshire Banking Department (“Department”) is charged with regulating persons who engage in small loan lending in New Hampshire and enforcing the provisions of RSA 399-A.

WHEREAS, Prosper Marketplace, Inc. (“PMI”) is a Delaware corporation incorporated in 2005.

WHEREAS, Prosper Funding LLC (“PFL”), a Delaware company formed in 2012, is a wholly-owned subsidiary of Prosper Marketplace, Inc.

WHEREAS, PMI and PFL (jointly, “Prosper”) own and operate an online marketplace through which borrowers apply for and obtain unsecured consumer loans from a third-party bank.

WHEREAS, the Department was in receipt of direct mail advertising from Prosper soliciting business from a New Hampshire consumer by offering a pre-approved loan of up to \$35,000.

WHEREAS, because of the solicitation, the Department requested information from Prosper about its business activities with New Hampshire consumers, from which the following information is relevant:

1. Loans of \$10,000 or less and with an annual percentage rate of 10 to 36 percent (i.e. “small loans”) have been made to New Hampshire consumers by the bank through the Prosper platform since 2007.

2. Prosper provided and continues to provide the online platform through which New Hampshire consumers may apply for loans.
3. Prosper verifies the information that the borrower provides in his or her application, obtains the applicant borrower's credit report and assigns a proprietary credit risk rating ("Prosper Rating") to the application.
4. Prosper acts as the third-party bank's agent and may perform any of the bank's obligations under the Borrower's Registration Agreement.
5. The third-party bank funds the loans.
6. Prosper acts as the loan servicer and administers the loan on behalf of the third-party bank, its successors or assigns.

WHEREAS, RSA 399-A:1, XII defines "lender," in pertinent part, as:

a person who for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly:

- (a) Acts as an intermediary, finder, or agent of a lender or borrower for the purpose of negotiating, arranging, finding, or procuring loans, or commitments for loans.
- (b) Offers to serve as an agent for any person in an attempt to obtain a loan.
- (c) Offers to serve as an agent for any person who has money to lend for a loan.
- (d) Performs services or any of the business functions auxiliary or supplemental to the production, distribution or maintenance of loans for a lender.
- (e) Acts as a credit services organization as defined in RSA 359-D:2, II.
- (f) Advertises for, solicits, or holds himself out as willing to make or procure small loans, payday loans, or title loans.
- (g) Holds the servicing rights to a small loan or records small loan payments on its books and records and performs such other administrative functions as may be necessary to properly carry out the debt holders' obligations under a loan agreement.

WHEREAS, Prosper recently initiated the licensing process with the Department.

WHEREAS, Prosper makes the following acknowledgements:

1. Prosper knowingly and voluntarily enters into and signs this Consent Order without threats, force, intimidation or coercion of any kind.

2. Although Prosper neither admits nor denies any of the findings herein or any violation of New Hampshire law, Prosper understands the nature of the allegations set forth herein and that they could constitute grounds for potential sanctions, as provided by law.
3. Prosper understands that it has the right to notice and an adjudicatory hearing to contest the matters set forth herein, including any appeal, and hereby waives those rights.
4. Prosper understands that its action in entering this Consent Order is a final act and not subject to reconsideration or judicial review or appeal.
5. Prosper represents and warrants that it has all the necessary rights, powers and abilities to carry out the terms of this Consent Order.
6. Prosper acknowledges that the Department is relying upon Prosper's representations and warranties stated herein in making its determinations in this matter.
7. Prosper acknowledges that this Consent Order may be revoked and the Department may pursue any and all remedies available under the law against Prosper if the Department later learns that Prosper knowingly or willfully withheld information from the Department.

WHEREAS, as an economical and efficient method of resolving the foregoing matters, Prosper consents to enter into this voluntary Consent Order with the Department as follows:

1. Prosper shall, pursuant to RSA 399-A:23, IV, pay an administrative fine in the amount of \$39,000, which Prosper shall, contemporaneously with the execution of this Consent Order, remit to the New Hampshire Banking Department by check payable to the "State of New Hampshire";

2. Prosper shall continue to keep open its pending small loan lender license application with the Department and, upon issuance of such license to Prosper, agrees to maintain the license for so long as it engages in activities that are deemed to fall within the scope of RSA 399-A; and
3. Failure by Prosper to comply with any portion of this Consent Order shall constitute a separate and sufficient basis for administrative action, up to and including license suspension, revocation and monetary penalties.

NOW THEREFORE, the Commissioner of the New Hampshire Banking Department enters the following ORDER:

1. The sanctions set forth above are hereby entered;
2. This Order fully resolves this matter and the Commissioner will not take further action against Prosper for the allegations presented herein, provided that the Department may take enforcement action against Prosper for any violation of this Consent Order or the matters underlying its entry, if the Commissioner determines that compliance with the terms of this Order are not being observed or if any representation made by Prosper and reflected herein is subsequently discovered to be untrue;
3. Nothing herein shall nor is intended in any way whatsoever to challenge or negate the validity or legality of any of the small loan contracts, or any term therein, entered into by New Hampshire consumers through the Prosper platform;
4. Nothing herein is intended to alter any future statutory or regulatory requirements of licensure and the allegations set forth above may be fully taken into account by the Department in connection with future examinations and enforcement actions;

5. Pursuant to RSA 399-A:20, VI, the Commissioner finds this action necessary or appropriate to the public interest or the protection of consumers and consistent with the purposes fairly intended by the policy and provisions of this title;
6. Once this Consent Order is effective and final, the Department agrees not to seek reimbursement, refunds, penalties, fines, costs or fees regarding any of the facts, allegations or findings of violations contained herein;
7. This Consent Order shall become effective and final upon the date signed by the Banking Department Commissioner; and.
8. This Consent Order is the complete document representing resolution of this matter; there are no other agreements, promises, representations or warranties other than those set forth in this Consent Order.

Executed by:

/s/
Rosemary Wiant, Esq.
New Hampshire Banking Department

11/22/16
Date

/s/
Sachin Adarkar
General Counsel
Prosper

11/15/16
Date

SO ORDERED.

/s/
Gerald H. Little, Commissioner
New Hampshire Banking Department

11/23/16
Date