

BEFORE THE
ADMINISTRATOR,
UNIFORM CONSUMER CREDIT CODE

STIPULATION AND FINAL AGENCY ORDER

In the Matter of:

PROSPER MARKETPLACE, INC.

Prosper.

This Stipulation and Final Agency Order (“Stipulation” or “Order”) is entered into by Prosper Marketplace, Inc. (“Prosper”) and the Administrator (“Administrator”) of the Uniform Consumer Credit Code, C.R.S. § 5-1-101, *et seq.* (“UCCC”) (collectively, “Parties”) to address issues arising from a past compliance examination.

SECTION I

Administrator’s Findings of Facts and Conclusions of Law

1. Prosper is a Delaware corporation with a principal place of business located at 221 Main St., Ste. 300, San Francisco, CA 94105.
2. Prosper is licensed as a supervised lender with the State of Colorado.
3. Through its website—prosper.com—Prosper offers personal unsecured loans to Colorado consumers (the “Loans”) made by its bank partner WebBank, a Utah-chartered industrial bank.
4. All Loans identify WebBank, a Utah-chartered industrial bank, as the entity which makes the loans.
5. Once transacted, Prosper services the Loans.
6. On December 15, 2017, the Administrator issued a compliance examination report (“Exam”) to Prosper alleging certain statutory violations and directing Prosper to take corrective action.

7. As is relevant here, the Exam cited Prosper and alleged: (1) making loan agreements with Colorado consumers subject to the law of another state in violation of Colo. Rev. Stat. section 5-1-201(8); (2) contracting for and receiving delinquency charges in excess of the limits imposed by Colo. Rev. Stat. section 5-2-203(1)(a); (3) failing to provide Colorado consumers with a right to cure notice required by Colo. Rev. Stat. sections 5-5-110 to 5-5-111; and (4) contracting for and receiving a finance charge in excess of the maximum rate supervised lenders are permitted to charge by Colo. Rev. Stat. section 5-2-201(2).

8. Effective July 30, 2019, the Parties entered into a tolling agreement (“Tolling Agreement”), whereby Prosper agreed to the following with regard to new loans made to Colorado consumers: (1) to provide all the protections of Colorado law except to the extent that doing so would cause Prosper or WebBank to violate Utah law; (2) to limit delinquency charges to the limits provided by Colo. Rev. Stat. section 5-2-203(1)(a); (3) to provide right to cure notices as required by Colo. Rev. Stat. sections 5-5-110 to 5-5-111; and (4) to limit finance charges to the limits provided by Colo. Rev. Stat. section 5-2-201(2).

9. Pursuant to the terms of the Tolling Agreement, the Administrator agreed to not take action against Prosper with respect to Loans made to Colorado consumers prior to July 30, 2019 and, in turn, Prosper agreed that any statutes of limitation applicable to the Administrator’s claims arising out of Prosper’s Exam were tolled and that Prosper would not assert any laches, estoppel, waiver, or related time-based defenses.

10. The Tolling Agreement remains in effect to the present day and, by this Stipulation, the Parties seek to fully and finally resolve the violations alleged in the Exam.

11. The Administrator is authorized to enforce the UCCC and, among other things, she is authorized to: examine supervised lenders; conduct investigations of possible violations; and enforce compliance with the UCCC via an administrative enforcement order, assurance of discontinuance, or civil action. C.R.S. §§ 5-6-103; 5-6-106; and 5-6-109 to 5-6-114.

12. Prosper denies the allegations and potential claims and any others and represents that it has entered into this Stipulation for the sole purpose of compromising disputed claims without the need for protracted and expensive litigation. This Stipulation does not constitute an admission by Prosper of any violation of Colorado law.

SECTION II
Definitions

13. The term “Effective Date” means the date upon which this Stipulation is signed by the Administrator.

14. Unless otherwise specified, all definitions found in the UCCC are incorporated herein, and any term defined therein shall have the same meaning when used in this Stipulation.

SECTION III
Order

Pursuant to Colo. Rev. Stat. section 5-6-109, the Administrator hereby orders as follows:

Injunctive Terms

15. Prosper agrees, together with all related or affiliated entities, and its officers, directors, shareholders, managers, members, principals, subsidiaries, heirs, successors, and assigns, together with all other persons, corporations, associations, or other entities acting under the entities’ or individual’s direction and control, or in active concert or participation with Prosper, or by whom Prosper may employ or contract with, that Prosper shall not engage in, now or in the future, any conduct described herein that violates the UCCC.

16. Beginning on the Effective Date of this Stipulation and continuing through July 1, 2024, Prosper shall:

- a. Provide its Colorado customers all the protections of Colorado law except to the extent that doing so would cause Prosper or WebBank to violate Utah law.
- b. Limit delinquency charges to the limits provided by Colo. Rev. Stat. section 5-2-203(1)(a), except with respect to loans retained by WebBank or sold to a state-chartered, FDIC-insured bank or a federally-chartered bank;
- c. With respect to all Loans made on or after the Effective Date of this Order that contain an acceleration clause, Prosper will, in the event of default, provide the borrower with a right-to-cure notice consistent with Colo. Rev. Stat. sections 5-5-110 to 5-5-111; and

- d. Limit finance charges to the limits provided by Colo. Rev. Stat. section 5-2-201(2), except with respect to loans retained by WebBank or sold to a state-chartered, FDIC-insured bank or a federally-chartered bank.
- e. This Order does not require Prosper to notify any borrowers regarding the application of Colorado law to any loans.
- f. Nothing in this Order shall be interpreted to limit, restrict, or otherwise govern WebBank's ability to engaged in supervised or other lending, or to sell, transfer, or otherwise assign loans.

17. Prosper shall maintain its license to operate in Colorado under the UCCC and may continue to operate in Colorado in compliance with the UCCC consistent with this Order.

18. Prosper will still apply for a renewal license and/or registration for the duration of services it performs in Colorado in connection with the UCCC.

Monetary Relief

19. Within 120 days of the Effective Date of this Order, Prosper shall pay \$10,000 to the Colorado Attorney General's Office ("Attorney General"). This amount along with any interest is payable, in trust, to the Attorney General, to be used in the Attorney General's sole discretion for reimbursement of attorneys' fees and costs, the payment of consumer restitution, if any, and for consumer or creditor educational purposes, for future consumer credit or consumer protection enforcement, or public welfare purposes.

20. All payments due the Attorney General hereunder shall be deemed paid upon the receipt of the payment. Prosper may pay by check or ACH transfer. If payment is made by check, the check shall be made payable to the "Colorado Department of Law." The check should be mailed to: "Administrator, UCCC, attn: Philip Sparr and Miriam Burnett, 1300 Broadway, 6th/7th Floor, Denver, Colorado 80203." If payment is made by wire transfer, wire transfer instructions will be provided upon request.

SECTION IV
Stipulation and Release

21. Prosper agrees and stipulates to this Order and all terms contained herein.

22. It is the intent and purpose of this Order to resolve fully the particular issues, allegations, or charges raised by the Administrator's investigation of Prosper's activities as set forth above, and only those issues. Further, the omission from this Stipulation of other acts, conduct, or practices which might constitute violations of the UCCC shall not be deemed or construed to be approval by the Administrator of such acts, conduct, or practices.

23. Prosper acknowledges that it has a right to request an evidentiary hearing in this matter, present evidence, examine witnesses, and appeal from any adverse action and waive those rights.

24. Prosper agrees that this Order contains the entire agreement between the Administrator and is binding upon all the officers, directors, employees, shareholders, managers, members, principals, affiliates, agents, trade names, heirs, and successors of Prosper.

25. This Order shall be disclosed in response to any question posed—in a license application or license renewal application—by the Administrator regarding past, or pending, state or federal administrative or disciplinary action against Prosper and, further, constitutes administrative or disciplinary action under Colorado law.

26. Colorado law governs this Order. Any claims or causes of action arising out of or based upon this Order shall be commenced before the Colorado Office of Administrative Courts or in Denver District Court for the State of Colorado, as appropriate. Prosper hereby consents to the jurisdiction, venue and process of the Colorado Office of Administrative Courts and the Denver District Court. In the event of any action or proceeding alleging or asserting a violation of or failure to comply with this Order, this Order shall be admissible in full and shall be evidence that prior to this Order, Prosper engaged in the acts and practices described herein.

EXECUTED AND SO ORDERED by the Administrator this 6th day of February, 2024.



Martha Fulford
Administrator
Uniform Consumer Credit Code

[SIGNATURE PAGE TO FOLLOW]

AGREED TO AND STIPULATED BY:

PROSPER MARKETPLACE, INC.

DocuSigned by:
Edward R. Buell III
BY: _____
EDWARD R. BUELL III
General Counsel & Chief Compliance Officer
221 Main St., Ste. 300
San Francisco, CA 94105

Date: 2/2/2024

APPROVED AS TO FORM:

PROSPER MARKETPLACE, INC.

DocuSigned by:
Martha O'Malley
BY: _____
MARTHA O'MALLEY
Prosper Marketplace, Inc.
Assistant General Counsel -
Regulatory
221 Main St., Ste. 300
San Francisco, CA 94105

Date: 2/1/2024

ADMINISTRATOR

Philip Sparr
BY: _____
PHILIP SPARR
Assistant Attorney General
Consumer Protection Section
Consumer Credit Enforcement Unit
Ralph L. Carr Colorado Judicial Ctr.
1300 Broadway, 6th Floor
Denver, CO 80203

Date: 2/6/2024