BEFORE THE COMMISSIONER OF COMMERCE AND INSURANCE
FOR THE STATE OF TENNESSEE, AT NASHVILLE

TENNESSEE SECURITIES DIVISION,	)	
Petitioner,	)	
	)	
vs.	)	**Order No. 09-009**
	)	
PROSPER MARKETPLACE, INC	)	**SI-2009-005**
Respondent.	)	

CONSENT ORDER

The Tennessee Securities Division ("Division") and Prosper Marketplace, Inc., ("Prosper") agree to the entry of this Consent Order in accordance with TENN. CODE ANN. § 48-2-116 of the Tennessee Securities Act of 1980, as amended, TENN. CODE ANN. §§ 48-2-101, *et seq.* ("Act"), which states that the Commissioner of the Department of Commerce and Insurance ("Commissioner") may from time to time make such orders as are necessary to carry out the provisions of the Act.

Respondent, Prosper, hereby stipulates and agrees, subject to the approval of the Commissioner, as follows:

RESPONDENT

1. WHEREAS, the Tennessee Department of Commerce and Insurance, Securities Division ("Division") conducted an investigation of Prosper and determined that Prosper has offered and sold securities as defined in Tenn. Code Ann. § 48-2-101 et seq.; and

2. WHEREAS, a number of state regulators coordinated investigations into

Prosper's activities in connection with unregistered securities offered and sold between 2006 and October 2008; and

3. WHEREAS, Prosper has cooperated with regulators conducting the investigations by responding to inquiries, providing documentary evidence and other materials, and halting further offers and sales until the securities are appropriately registered; and

4. WHEREAS, Prosper, as part of this settlement agrees to appropriately register its securities with the Division before making further offers or soliciting sales, and to make certain payments; and

5. WHEREAS, Prosper neither admits nor denies the Findings of Fact and Conclusions of Law, but has agreed to resolve the investigations relating to its offers and sales of unregistered securities through this Consent Order ("Order") in order to avoid protracted and expensive proceedings in numerous states; and

6. NOW, THEREFORE, the Commissioner of the Tennessee Department of Commerce and Insurance, as administrator of the TENN. CODE ANN. § 48-2-101 *et seq.*, hereby enters this Order:

FINDINGS OF FACT

Part 1: Respondent Licensing/Registration History

1. Prosper, as evidenced by the authorized signature on the consent to the Order below, admits the jurisdiction of the Division, voluntarily consents to the entry of this Order and elects to permanently waive any right to a hearing and appeal under TENN. CODE ANN. § 4-5-101 *et seq.*, with respect to this Order;

2. 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. Since February 2006 Prosper has held itself out, through its Internet website, www.prosper.com, as an online marketplace for "person to

person" lending.

3. Prosper has been licensed as a California finance lender (license #605-3227) since December 19, 2005. A California finance lender license does not authorize a licensee to sell securities to Tennessee residents.

4. Prosper submitted an application to register securities in Tennessee on November 7, 2007. As of the date of this order, Prosper does not yet have an active securities registration in Tennessee.

Part 2: Prosper Product Prior to October 16, 2008

5. 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.

6. 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.

7. 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.

8. 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 that loan were then sold and assigned through Prosper to the lenders, with each lender receiving an individual non-recourse promissory note.

9. 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.

10. 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.

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

12. Five hundred and twenty four (524) Tennessee residents have financed 18,080 Prosper loans totaling more than $1,515,384.53.

Part 3: Prosper's Omissions in Connection with Sales to Investors

13. 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.

14. 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.

CONCLUSIONS OF LAW

1. The "notes" sold by Prosper to Tennessee residents are securities, as defined by TENN. CODE ANN. § 48-2-102(16).

2. Prosper sold securities that were not registered with the Division in violation of TENN. CODE ANN. § 48-2-104 (a), which provides in pertinent part; It is unlawful for any person to sell any security in this state unless: It is registered under this part, (t)he security or transaction is exempted under § 48-2-103; or (t)he security is a covered security.

3. In connection with the offer or sale of a security to Tennessee residents, Prosper either failed to include information or failed to describe in the manner typically required of a securities registrant certain business or loan information including investment risk factors, that would have aided investors, or prospective investors in making an objective decision on whether to invest in the Prosper notes in violation of TENN. CODE ANN § 48-2-121.

ORDER

IT IS HEREBY ORDERED:

1. Prosper will CEASE AND DESIST from offering and/or selling securities to persons in or from Tennessee in violation of TENN. CODE ANN. § 48-2-101 *et seq.* and will comply with TENN. CODE ANN. § 48-2-101 *et seq.*

2. Within ten (10) days of the entry of this Order, Prosper shall pay **$8,461.00**. Payment in the form of a money order or cashier's check shall be mailed or delivered to:

State of Tennessee
Department of Commerce and Insurance
Securities Division - Broker-Dealer Section
6th Floor, Davy Crockett Tower, Suite 680
500 James Robertson Parkway
Nashville, Tennessee 37243

3. In the event another state securities regulator determines not to accept Prosper's state settlement offer, the total amount of the Tennessee payment shall not be affected, and shall remain at $8,461.00.

4. This Order concludes the investigation by the Division and any other action that the Division could commence under applicable Tennessee law on behalf of Tennessee as it relates to Prosper, up to and including any activity through November 24, 2008; provided however, that excluded from and not covered by paragraph 1 in this section are any claims by the Division arising from or relating to the "Order" provisions contained herein.

5. This Order is entered into solely for the purpose of resolving the referenced multi-state investigation, and is not intended to be used for any other purpose, and its findings and conclusions shall not constitute admissions on the part of Prosper for any purpose.

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

7. For any person or entity not a party to this Order, this Order does not limit or create any private rights or remedies against Prosper, does not limit or create liability of Prosper, or limit or create defenses of Prosper to any claims.

8. Nothing herein shall preclude Tennessee, its departments, agencies, boards, commissions, authorities, political subdivisions and corporations, other than the Division and only to the extent set forth in paragraph 1 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.

9. This Order and any dispute related thereto shall be construed and enforced in accordance with, and governed by, the laws of Tennessee without regard to any choice of law principles.

10. 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.

Dated this 2nd day of September, 2009.

BY ORDER OF:

Leslie A. Newman

Leslie A. Newman
Commissioner
Tennessee Department of Commerce and Insurance
Securities Division

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

I, Christian A. Larsen, 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 Tennessee Department of Commerce and Insurance, Securities Division reserves the right to take further actions to enforce this Order or to take appropriate action upon discovery of other violations of the Tennessee Securities Act of 1980, as amended (TENN. CODE ANN. §§ 48-2-101 *et seq.*) 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 17th day of August, 2009.

Prosper Marketplace, Inc.
By: _____
Title: President + CEO

SUBSCRIBED AND SWORN TO before me this 17 day of August, 2009

_____
Notary Public

My Commission expires: February 6, 2012

MICHELLE DONNELLY
Commission # 1788742
Notary Public - California
San Francisco County
My Comm. Expires Feb 6, 2012

Order Approved as to Form:

_____
Randall J. Fons, Partner
Morrison & Foerster LLP

8/21/09
Date