

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES
SECURITIES SECTION
BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND
BUSINESS SERVICES

<p>4 In the Matter of:</p> <p>5</p> <p>6 LENDINGCLUB CORPORATION,</p> <p>7 Respondent.</p>	<p>)</p>	<p>No. S-10-0050</p> <p>FINAL ORDER DENYING</p> <p>APPLICATION FOR REGISTRATION</p> <p>OF SECURITIES, ENTERED BY</p> <p>DEFAULT</p>
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10 **WHEREAS**, the Director of the Department of Consumer and Business Services for the

11 State of Oregon (the “Director”), acting by and pursuant to the authority of the Oregon Securities

12 Law, Oregon Revised Statutes (“ORS”) 59.005 *et seq*, and other applicable authority, has

13 reviewed an application for the registration of securities submitted by **LENDINGCLUB**

14 **CORPORATION** (hereafter “**LENDINGCLUB**” or the “Applicant”) and issued an **ORDER**

15 **DENYING APPLICATION FOR REGISTRATION OF SECURITIES AND NOTICE OF**

16 **RIGHT TO CONTESTED CASE HEARING;**

17 **WHEREAS**, on December 3, 2010 **LENDINGCLUB** was duly served with a true copy

18 of the Order and Notice by United States Mail, first class postage prepaid, addressed to Jason

19 Altieri, Esq., its General Counsel and Compliance Officer, at the following last known address:

20 370 Convention Way, Redwood City, California 94063. This mailing was not returned .

21 **WHEREAS**, on December 3, 2010 **LENDINGCLUB** was duly served with a true copy

22 of the Order and Notice by United States Mail, certified mail, return receipt requested, addressed

23 to Jason Altieri, Esq., its General Counsel and Compliance Officer, at the following last known

24 address: 370 Convention Way, Redwood City, California 94063. This mailing (#7008 1830 0003

25 3147 1686) was signed for by “Mohamed” on December 6, 2010.

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 Labor and Industries Building
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1 generically referred to as the “merit review” standard). Furthermore, the Director may, when
2 appropriate, permit the registration of securities yet mandate such conditions, limitations, and/or
3 restrictions as she deems necessary for the protection of the investing public.

4 4. Pursuant to ORS 59.105, the Director may deny an application for the registration of
5 securities under certain circumstances, such as if the applicant is insolvent or in unsound
6 financial condition, has violated any provision of the Oregon Securities Law, or has falsely
7 represented a material fact to the Director.

8 5. OAR 441-065-0020 requires an applicant to submit, if applicable, the issuer’s SEC
9 Registration Statement, prospectus [or offering circular], underwriting agreement, dealers’
10 agreement, articles of incorporation or formation, bylaws, contracts or documents of a material
11 nature, an opinion of counsel as to the legality of the securities to be issued, financial statements
12 for specified time periods, proposed advertising materials, and other documents. Of import, OAR
13 441-065-0020 (3) (f) instructs the applicant to “furnish promptly all additional information and
14 documents with respect to the issuer or the securities covered by the application as the Director
15 requests.”

16 6. After preliminary review of an application to register securities, the Director tenders
17 written “Comments”, by which she asks the applicant for clarification of assertions made in the
18 application, requests changes to some portion of the investor disclosure content, and/or asks for
19 additional information about the applicant’s history, operations, and previous securities
20 offerings. It is not uncommon for the Director to tender multiple Comment letters in connection
21 with a single application. Applicants are instructed to respond to Comment letters in writing.

22 7. The Division commenced its preliminary review of **LENDINGCLUB**’s application
23 in August 2008. Staff was concerned because on August 1, 2008 the issuer’s auditor, Armano
24 McKenna LLP, observed that, as of March 31, 2008, “there are significant matters concerning
25 the company, including recurring losses from operations since inception, that raise substantial
doubt about its ability to continue as a going concern.” Although the auditor subsequently



1 removed the “going concern” comment from its reports describing the applicant’s financial
2 condition, the August 1, 2008 statement delayed substantive review of **LENDINGCLUB**’s
3 application.

4 8. On December 8, 2008, the Division tendered its first Comment letter to the
5 applicant’s counsel.

6 9. On July 7, 2009, the Division corresponded with the applicant’s counsel, noting that
7 “on December 8, 2008 this office sent correspondence containing but a few straightforward
8 factual queries to your attention. More than half a year later, we have yet to receive a reply. The
9 purpose of our limited request for information was to determine whether your client issued
10 securities... to Oregon residents prior to having said securities registered by this office.”

11 10. On August 6, 2009 the applicant’s counsel filed a response to the Division’s July 7,
12 2009 Comment letter. Staff and counsel exchanged electronic correspondence after this letter
13 was received.

14 11. On October 23, 2009 the Division tendered its second Comment letter to the
15 applicant’s counsel. The correspondence posed inquiries under three separate headings: “Legal
16 Status of Pre-April 7, 2008 LendingClub Member Notes”; “Basis For Exemption From
17 Consumer Finance License Requirements”; and “Registration or Enforcement Related
18 Correspondence From Other Jurisdictions.”

19 12. On November 19, 2009 the applicant’s general counsel informed the Director, in
20 writing, that “please be advised that the undersigned has assumed responsibility for all future
21 filings with your office regarding the company.” On December 7, 2009 the Director’s designee
22 sent electronic correspondence to general counsel noting that “I am in receipt of your
23 correspondence dated November 19, 2009... Will you be replying to the Division’s October 23,
24 2009 letter...?”

25 13. The Division has not received any response to either its October 23, 2009 Comment
letter or its December 7, 2009 electronic correspondence.

1 **CONCLUSIONS OF LAW**

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3 The Director **CONCLUDES** that:

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5 14. **LENDINGCLUB** has, in violation of OAR 441-065-0020 (3) (f), failed to furnish
6 promptly additional information and documents with the respect to the issuer or the securities
7 covered by the application for the registration of securities that were requested by the Director.

8 15. **LENDINGCLUB** has, in violation of ORS 59.105 (1) (f), withheld from the Director
9 material information. Said information is necessary to determine, pursuant to ORS 59.105 (1)
10 (a), whether the issuer’s plan of business, the characteristics of its securities, and/or the methods
11 of sale and distribution are unfair, unjust, or inequitable.

12 16. **LENDINGCLUB** has, in violation of ORS 59.105 (1) (f), withheld from the Director
13 material information. Said information is necessary to determine, pursuant to ORS 59.105 (1)
14 (c), whether the applicant has violated any of the provisions of the Oregon Securities Law.

15 **ORDER**

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17 Therefore, the Director **ORDERS** that:

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19 17. The application for registration of securities submitted by **LENDINGCLUB** on June
20 24, 2008 is hereby **DENIED**.

21 **IT IS SO ORDERED.**

22 Dated this 4th day of January 2011 NUNC PRO TUNC November 16, 2010 at Salem, Oregon.

23 CORY STREISINGER, Director
24 Department of Consumer and Business Services
/s/ *David Tatman*

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David C. Tatman, Administrator
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