



2785 East Desert Inn Road, Suite 180  
Las Vegas, Nevada 89121  
(702) 486-4120

**STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
FINANCIAL INSTITUTIONS DIVISION**

1179 Fairview Drive, Suite  
201  
Carson City, Nevada 89701  
(775) 687-5500

In Re:

The Entrust Group, Inc.

Respondent.

**FINAL DECISION**

On December 23, 2014, The State of Nevada, Department of Business and Industry, Financial Institutions Division (hereinafter "Division"), by and through legal counsel, Catherine Cortez Masto, Attorney General of the State of Nevada, and Christopher Eccles, Deputy Attorney General, served The Entrust Group, Inc. (the "Respondent") with a Complaint for Disciplinary Action and a Notice of Hearing pursuant to Nevada Revised Statutes (NRS) Chapters 233B and 669 and Nevada Administrative Code (NAC) Chapter 669. The matter was originally set for hearing on Thursday, January 15, 2015, at 10:00 a.m. at the Division's Las Vegas Office, 2785 E. Desert Inn Rd., Suite 180, Las Vegas, NV 89121.

The matter was continued until May 5, 2015. At the May 5, 2015 hearing, the parties executed a Settlement Agreement (Exhibit "A") informally disposing of the matter.

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1 Pursuant to the provisions of Nevada Revised Statutes (NRS) section 233B.121, the  
2 Administrative Hearing Officer hereby adopts and incorporates by reference the Settlement  
3 Agreement (Exhibit "A"), as the Final Decision in this matter.  
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5 DATED: May 11, 2015  
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9 Shannon M. Chambers  
10 Administrative Hearing Officer  
11 Labor Commissioner  
12 State of Nevada  
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CERTIFICATE OF MAILING

I, Rosiland M. Hooper, do hereby certify that I mailed a true and correct copy of the foregoing **FINAL DECISION**, through the United States Postal Service, Carson City, Nevada, in a postage-prepaid envelope to the following:

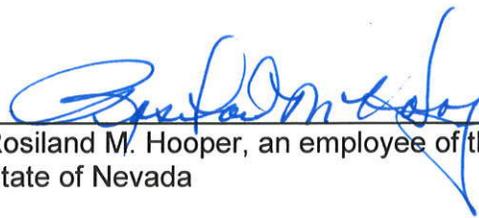
Christopher Eccles, Deputy Attorney General  
Office of the Attorney General  
State of Nevada  
555 East Washington Avenue  
Las Vegas, Nevada 89101  
Legal Counsel for the Division

David Newton, Senior Deputy Attorney General  
Office of the Attorney General  
State of Nevada  
555 East Washington Avenue  
Las Vegas, Nevada 89101  
Legal Counsel for the Administrative Hearing Officer

Hubert Bromma  
The Entrust Group, Inc.  
555 12th Street, Suite 1250  
Oakland, California 94607

John Kern, Esq.  
Holland & Knight  
50 California Street, Suite 2800  
San Francisco, California 94111

Dated this 12th day of May, 2015.



Rosiland M. Hooper, an employee of the  
State of Nevada

**EXHIBIT #A**

**EXHIBIT #A**

**STATE OF NEVADA  
DEPARTMENT OF BUSINESS AND INDUSTRY  
FINANCIAL INSTITUTIONS DIVISION**

In Re:

THE ENTRUST GROUP, INC.,

Respondent.

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**SETTLEMENT AGREEMENT**

This Settlement Agreement is hereby entered into between the State of Nevada, Department of Business and Industry, Financial Institutions Division (Division), through George E. Burns, Commissioner of the Division, and The Entrust Group, Inc. (Respondent, collectively, the "Parties").

**JURISDICTION**

1. The business of trust companies in the State of Nevada is governed by Chapter 669 of the Nevada Revised Statutes (NRS) and Chapter 669 of the Nevada Administrative Code (NAC).
2. The Division has primary jurisdiction for the licensing and regulation of persons operating and/or engaging in trust company business. NRS 669.010; NRS 669.029; NRS 669.045; NRS 669.090 et seq.
3. NRS Chapter 669 gives the Commissioner the power to regulate Respondent's business activities.

**FACTS ALLEGED BY THE DIVISION**

4. Respondent is a Delaware corporation with its principal place of business in Oakland, California. Respondent's main business address is 555 12th Street, Suite 1250, Oakland, California 94607.

5. The Division received a letter dated April 18, 2014 from a Nevada licensed trust company, notifying that Provident Trust Group, LLC (Provident), also a Nevada licensed trust company, demanded a transfer of Individual Retirement Account (IRA) assets from the Nevada licensed trust company to Respondent. The Nevada licensed trust company believes that Respondent's certain delegated responsibilities from Provident are deemed inappropriate and inconsistent with applicable state laws and regulations.

6. On July 21, 2014, the Division conducted an on-site examination of Provident. The examination scope included the review of Respondent's business relationships with Provident. The results of this review disclosed the following:

- a) The Contract for Custodial Services dated July 22, 2013, between Provident and Respondent indicated that Provident is willing to act as a Custodian provided that the Respondent, acting as the Administrator, performs certain administrative and custodial duties. These delegated duties are also summarized in the Respondent's Individual Retirement Custodial Account Agreement and include the following:
  - i) Executing applications, transfers, stock powers, escrow documents, purchase agreements, notes, deeds, reconveyances, and liens;
  - ii) Placing assets or liabilities in Administrator's name for the benefit of the Depositor to provide administrative feasibility of such transactions;
  - iii) Depositing account contributions and income;
  - iv) Paying account liabilities and distributions; and
  - v) Providing government reporting.
- b) The performance of the above fiduciary duties expressly characterizes a "trust business," and "fiduciary" as defined by the Nevada statute that includes Administrators who possess and control any account assets, including cash.
- c) Through its website [www.theentrustgroup.com](http://www.theentrustgroup.com), Respondent advertises its services and holds itself out to the public that it is

1 available to act as a fiduciary. It should be noted that Respondent's  
list of clients includes a number of Nevada residents.

2 d) The Internal Revenue Code states that all IRAs are required to be  
3 held by a custodial entity such as bank, credit union, trust company  
or an entity that is licensed and regulated.

4 e) IRA Administrators, as the name suggests, are usually responsible  
5 for marketing and selling, performing data entry, producing  
6 statements and basic reporting; while IRA Custodians are primarily  
responsible for holding title to assets, investments or property, and  
7 establishing custodial depository accounts under the Custodian's  
name.

8 f) When Respondent holds title to IRA custodial assets and the  
9 custodial depository accounts are established under the  
Respondent's name, the Respondent is no longer an Administrator  
10 in the general sense and becomes a trust company that holds the  
accounts. Thus, Respondent is operating as an unlicensed trust  
company in Nevada.

11 7. Respondent denies the Division's allegations.

12 8. Respondent has never been licensed as a trust company by the Division.

13  
14 **VIOLATIONS OF LAW ALLEGED BY THE DIVISION**

15 9. Entities performing trust company business in Nevada are regulated pursuant to  
16 NRS Chapter 669. The Nevada Legislature expressly states its intent at 669.010(1)-(3), which  
17 provides:

18 1. There exists in this State a need, for the protection of the public  
19 interest, to regulate companies which are engaged in the trust  
company business.

20 2. Such trust companies should be licensed and regulated in such  
21 manner as to promote the public advantage and convenience.

22 3. It is the purpose of this chapter to bring under public supervision  
23 those persons who are engaged in or who desire to engage in the  
business of a trust company, not in connection with banking  
24 business, and to insure that there is established in this State an  
adequate, efficient and competitive trust company service.

25 10. By its actions referenced hereinabove, Respondent has engaged in the business of  
26 a trust company in Nevada as defined in NRS 669.029, which provides:

27 "Business of a trust company" or "trust company business" means the  
28 holding out by a person, by advertising, solicitation or other means, that is

1 available to act as a fiduciary in this state and undertaking to act as a  
2 fiduciary in the regular course of its business.

3 11. By its actions referenced hereinabove, including, but not limited to, possessing or  
4 controlling assets of custodial accounts, Respondent has acted in the capacity of a fiduciary and  
5 administrator in Nevada as defined in NRS 669.045, which provides:

- 6 1. "Fiduciary" means a trustee, executor, administrator, guardian of  
7 an estate, personal representative, conservator, assignee for the  
8 benefit of creditors, receiver, depository or person that receives on  
9 deposit money or property from a public administrator under any  
10 provision of this chapter or from another fiduciary.  
11 2. As used in this section, "administrator" includes servicers or  
12 administrators of individual retirement accounts within the  
13 meaning of section 408(a) of the Internal Revenue Code of 1986,  
14 26 U.S.C. 408(a), where the servicer or administrator holds itself  
15 out to the public for performance of such services and holds or  
16 maintains an ownership interest in the servicing rights of such  
17 accounts, or possesses or controls any of the assets of such  
18 accounts, including cash.

19 12. Pursuant to NRS 669.045(2) and 26 U.S. Code §408, all IRAs are required to be  
20 held by a custodial entity such as a bank, credit union, trust company or an entity that is licensed  
21 and regulated. 26 U.S. Code §408 provides:

22 (a) Individual retirement account - For purposes of this section, the  
23 term "individual retirement account" means a trust created or  
24 organized in the United States for the exclusive benefit of an  
25 individual or his beneficiaries, but only if the written governing  
26 instrument creating the trust meets the following requirements:

27 (2) The trustee is a bank (as defined in subsection (n)) or such  
28 other person who demonstrates to the satisfaction of the  
Secretary that the manner in which such other person will  
administer the trust will be consistent with the requirements  
of this section.

(n) Bank

For purposes of subsection (a)(2), the term "bank"  
means -

- (1) any bank (as defined in section 581),  
(2) an insured credit union (within the meaning of  
paragraph (6) or (7) of section 101 of the  
Federal Credit Union Act), and  
(3) a corporation which, under the laws of the  
State of its incorporation, is subject to

1 supervision and examination by the  
2 Commissioner of Banking or other officer of  
such State in charge of the administration of  
the banking laws of such State.

3 13. By engaging in the business of a trust company in Nevada without a license,  
4 Respondent has violated NRS 669.090, which provides:

5 It is unlawful for any retail trust company to engage in the business of a  
6 trust company without complying with the provisions of this chapter and  
having a license issued by the Commissioner.

7 14. By using the word "trust" as part of its name, Respondent has violated NRS  
8 669.095(1), which provides as follows:

9 1. Except as otherwise provided in subsection 2, no person or  
10 organization formed and doing business under the laws of this  
State or any other state may:

11 (a) Use the word "trust" or any direct derivative of that word as  
12 part of its name.

13 (b) Advertise or use any sign with the word "trust" used as part  
of its name.

14 15. The Commissioner has authority to investigate Respondent's activities pursuant to  
15 NRS 669.283(1)-(3), which provides:

16 1. For the purpose of discovering violations of this title or of securing  
17 information required under this chapter, the Commissioner or the  
18 Commissioner's duly authorized representatives may at any time  
investigate the business and examine the books, accounts, papers  
and records used therein of:

19 (a) Any Licensee;

20 (b) Any other person engaged in an activity for which a license  
21 is required pursuant to the provisions of this chapter; and

22 (c) Any person that the Commissioner has reasonable cause to  
23 believe is violating or is about to violate any provision of  
this chapter, whether or not the person claims to be within  
the authority or beyond the scope of this chapter.

24 2. For the purpose of examination, the Commissioner or the  
25 Commissioner's authorized representatives must have and be given  
free access to the offices and places of business, files, safes and  
26 vaults of such persons.

27 3. The Commissioner may require the attendance of any person and  
28 examine the person under oath regarding:

- 1 (a) Any transaction or business regulated pursuant to the provisions of this chapter; or
- 2 (b) The subject matter of any audit, examination, investigation or hearing.
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4 16. The Commissioner has authority to issue a cease and desist order and take other  
5 action(s) against Respondent pursuant to NRS 669.2846(1)-(2), which provides:

- 6 1. Whenever the Commissioner has reasonable cause to believe that any person is violating or is threatening to or intends to violate any  
7 provision of this chapter, the Commissioner may, in addition to all actions provided for in this chapter and without prejudice thereto,  
8 enter an order requiring the person to desist or to refrain from such violation.
- 9 2. The Attorney General or the Commissioner may bring an action to enjoin a person from engaging in or continuing a violation or from  
10 doing any act or acts in furtherance thereof. In any such action, an order or judgment may be entered awarding a preliminary or final  
11 injunction as may be deemed proper.
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13 17. The Commissioner may impose an administrative fine upon Respondent pursuant  
14 to NRS 669.295(1), which provides:

- 15 1. In addition to any other remedy or penalty, the Commissioner may impose an administrative fine of not more than \$10,000 per  
16 violation upon a person who:
  - 17 (a) Without a license, conducts any business or activity for which a license is required pursuant to the provisions of  
18 this chapter; or
  - 19 (b) Violates any provision of this chapter or any regulation adopted pursuant thereto.
- 20

21 **SETTLEMENT**

22 18. The Division was prepared to prosecute the case based upon the Complaint for  
23 Disciplinary Action (the "Complaint"), and the Respondent, which denies any allegation of  
24 wrongdoing, was prepared to defend against the Complaint.

25 19. In lieu of the expense and uncertainty of an administrative hearing, the Parties  
26 desire to compromise and settle the Complaint based upon the following terms and conditions.

27 20. On February 6, 2015, Respondent paid a fine of \$10,000.00 to the State of  
28 Nevada, Financial Institutions Division.

1           21.     Effective March 6, 2015, Kingdom Trust Company---a South Dakota licensed  
2 trust company---became the legal custodian for all retirement accounts associated with Nevada  
3 residents, for which Respondent had served as third-party administrator (the "Nevada  
4 Accounts").

5           22.     Effective April 17, 2015, Kingdom Trust Company---a South Dakota licensed  
6 trust company---became the legal custodian for all remaining accounts for which Respondent  
7 serves as third-party administrator.

8           23.     As of April 17, 2015, Respondent has no contractual relationship with Provident,  
9 or with any other Nevada-based non-depository trust company or financial institution.

10          24.     No later than May <sup>10B</sup> 1, 2015, Respondent will publish a notice on its website that it  
11 no longer accepts applications from prospective clients who are Nevada residents seeking  
12 respondent's services as a third-party administrator.

13          25.     No later than September 8, 2015, a Nevada licensed trust company will succeed  
14 Respondent as third-party administrator for all Nevada resident accounts; Respondent will have  
15 no clients who are Nevada residents after that succession.

16          26.     No later than September 8, 2015, Respondent will grant to a Nevada licensed trust  
17 company an Irrevocable Limited Power of Attorney to take the steps necessary to re-title assets  
18 held in the retirement accounts of the above-mentioned Nevada residents. No later than  
19 September 8, 2015, a Nevada licensed trust company and Respondent also will issue to those  
20 Nevada residents a written disclosure explaining that their retirement account assets will be re-  
21 titled in the Nevada licensed trust company's name, over time, in the regular course of business,  
22 but that notwithstanding that process (or whatever title their assets then-currently bear) a Nevada  
23 licensed trust company will be the legal custodian and administrator effective no later than  
24 September 8, 2015. Entrust understands that it cannot hold or maintain an ownership interest in  
25 the servicing rights of individual retirement accounts for Nevada residents, or possess or control  
26 any of the assets of such accounts, including cash. Entrust further understands that by July 8,  
27 2015, it must cease operations of its Precious Metals IRA Center in Reno, Nevada, because said  
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1 operations are within the scope of trust company business and therefore prohibited by NRS and  
2 NAC Chapters 669 unless the entity has obtained a Nevada trust license from the Division.

3 27. The parties understand that no person can solicit or engage in trust business in  
4 Nevada without first obtaining a Nevada trust license from the Division, and that acting as a  
5 fiduciary as defined in NRS Chapter 669 on behalf of Nevada residents is conducting trust  
6 business in Nevada.

7 28. Effective immediately, Respondent shall permit the Division's representative to  
8 inspect and/or copy certain of Respondent's client records, including account applications, client  
9 agreements, custodial agreements, client lists, and other business records that are necessary for  
10 the Division to verify that Respondent has fully complied with all provisions of this Settlement  
11 Agreement.

12 29. If Respondent fails to fully comply with this Settlement Agreement by September  
13 8, 2015, Respondent agrees to pay the Division an additional \$90,000.00.

14 30. Additionally, if Respondent fails to fully comply with this Settlement Agreement,  
15 Respondent may, at the Division's discretion, be subject to administrative disciplinary action  
16 including summary suspension, if applicable, and/or any other civil and/or criminal action  
17 allowed by law.

18 31. Respondent agrees and understands that by entering into this Settlement  
19 Agreement, Respondent is waiving his/her right to a hearing at which Respondent may present  
20 evidence in his/her defense, his/her right to a written decision on the merits of the Complaint,  
21 his/her rights to reconsideration and/or rehearing, his/her right to an appeal and/or judicial  
22 review, and all other rights which may be accorded by the Nevada Administrative Procedure Act,  
23 the Nevada Trust Companies' statutes and accompanying regulations, and the federal and state  
24 constitutions. Respondent fully understands that he/she has the right to be represented by legal  
25 counsel in this matter at his/her own expense.

26 32. Each party shall bear its own attorneys' fees and costs.

27 33. Release. In consideration of execution of this Settlement Agreement, the Parties  
28 hereby release each other and their respective members, agents, employees and counsel in their

1 individual and representative capacities, from any actions, causes of action, suits, debts,  
2 judgments, executions, claims, and demands known in law or equity that the Parties had or now  
3 have relating to the alleged violations that are the subject of this Settlement Agreement, against  
4 any or all of the persons and/or entities named in this section, arising out of or by reason of the  
5 Division's investigation, the Division's Cease and Desist Order, the Complaint for Disciplinary  
6 Action and this Settlement Agreement, and all matters relating thereto. The Division's release of  
7 Respondent is only effective if Respondent fully complies with this Settlement Agreement and  
8 does not violate Nevada's trust laws subsequent to the alleged violations that are the subject of  
9 this Settlement Agreement. The Division's release is limited by its jurisdiction.

10 34. Indemnification. Respondent hereby indemnifies and holds harmless the  
11 Division, and each of its respective members, agents, employees and counsel in their individual  
12 and representative capacities against any and all claims, suits, and actions brought against any or  
13 all of the persons and/or entities named in this section by reason of the Division's investigation,  
14 the Division's Cease and Desist Order, the Complaint for Disciplinary Action and this Settlement  
15 Agreement and all other matters relating thereto, and against any and all expenses, damages, and  
16 costs, including court costs and attorney fees, which may be sustained by the persons and/or  
17 entities as a result of said claims, suits, and actions arising out of the Respondent's actions taken  
18 during the time that they are working toward meeting the terms of this Settlement Agreement.

19 35. Respondent and/or principals thereof have signed and dated this Settlement  
20 Agreement only after reading and understanding all terms herein.

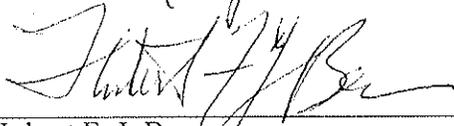
21 IN WITNESS WHEREOF, we have each executed this Settlement Agreement as of the  
22 date set forth below.

23 SO STIPULATED on this 5<sup>th</sup> day of May, 2015.

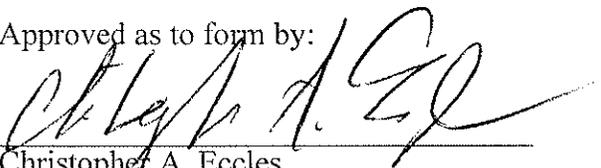
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George E. Burns  
27 Commissioner  
Nevada Financial Institutions Division  
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SO STIPULATED on this 5<sup>th</sup> day of May, 2015.

  
\_\_\_\_\_  
Hubert F. J. Bromma  
Chairman and C.E.O. of The Entrust Group, Inc.

ADAM PAUL LAXALT  
Nevada Attorney General

Approved as to form by:  
  
\_\_\_\_\_  
Christopher A. Eccles  
Deputy Attorney General