

DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
DIVISION OF FINANCE AND CORPORATE SECURITIES
FINANCE SECTION

BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
STATE OF OREGON

In the Matter of) Order No. O-00-0033
STRATEGIC MORTGAGE SERVICES)
INC.) CEASE AND DESIST ORDER AND
CONSENT TO IMPOSITION OF CIVIL
PENALTIES

To: Strategic Mortgage Services Inc.
2445 NE Division Suite 200
Bend, Oregon 97701

WHEREAS the Director of the Department of Consumer and Business Services for the State of Oregon conducted an investigation of Strategic Mortgage Services Inc., and determined that Strategic Mortgage Services Inc. engaged in activities constituting violations of ORS 59.840 through 59.965 (hereinafter "the Oregon Mortgage Lender Law"); and

WHEREAS Strategic Mortgage Services Inc. wishes to resolve and settle this matter with the Director;

NOW THEREFORE, as evidenced by the authorized signatures subscribed on this order Strategic Mortgage Services Inc. hereby **CONSENTS** to entry of this order upon the Director's Findings of Fact and Conclusions of Law as stated hereinafter:

FINDINGS OF FACT

The Director **FINDS** that:

1. Strategic Mortgage Services Inc. (hereinafter "Respondent"), incorporated in Oregon on June 6, 1996 engages in residential mortgage transactions in Oregon or on Oregon real property in expectation of compensation.
2. The Division first granted Respondent an Oregon Mortgage Lender License on June 10, 1996 and Respondent has been continuously licensed to the present day.

1 3. Respondent's May 1999 license application revealed ownership of 30% of the
2 company by the President Del R. Erlandson, 60% by the Corporate Secretary Steve
3 Deacon, and the remaining 10% by Arnie Leis.

4 4. On July 28, 2000, James Flaherty, an examiner with the Division, traveled to
5 Bend to examine Respondent's principal location at 2445 NE Division, Suite 200, in
6 Bend, Oregon.

7 5. James Flaherty reviewed Respondent's personnel files. They did not contain
8 the date of birth, position or title of each employee and the responsibilities and starting
9 date of each employee. For those employees no longer in Respondent's employ, the
10 files did not contain the ending date, or reason for termination.

11 6. The examination revealed that Respondent engages in transactions on
12 residential real estate involving private investors funds.

13 7. James Flaherty reviewed the loan files for five of Respondent's consumers.
14 A review of these loan files revealed that Respondent was engaging in transactions in
15 which one investor purchased 100% of the interest in the real estate paper.

16 8. The files for each of the five loans did not contain a copy of the written
17 disclosure document that is described in OAR 441-870-0050(1) that must be given to
18 the private investor.

19 9. In each of the five loan files, there was no written statement, signed and
20 dated by the investor acknowledging receipt of the written disclosure document and an
21 opportunity to review the supporting documentation.

22 10. Each of the five files did not contain copies of the supporting documentation
23 evidencing the summarized information contained in the disclosure document.
24 Specifically the support documentation missing was 1) an appraisal or tax assessed
25 value if it is 100 percent of the true cash value and is on the same property underlying
26 the security, (2) the priority of the lien created and the total of all senior liens, (3) a

1 statement on the priority of any future advances, (4) a copy of the most recent complete
2 property tax statement, (5) the debtor's payment record for the preceding two years or,
3 if it has been less than two years, the payment record to date or a statement that it is
4 not available and a current credit report prepared by a credit reporting agency or a
5 statement of the debtor, (6) the terms of any senior lien or a copy of the instrument
6 creating the lien and any assignments, (7) if the seller or agent is the debtor, a
7 statement disclosing that fact and the amount of cash paid to the debtor in consideration
8 for issuing the paper, (8) a statement of any commission or fee chargeable to the
9 purchaser of the paper, (9) a prominent statement of any balloon payment, (10) if it is
10 inferior real estate paper, a statement of the risk of loss on foreclosure, (11) a statement
11 on whether or not the purchaser will be insured against casualty loss, and (12) a legal
12 description of the property is an appraisal was not provided.

13 11. Each of the five files did not contain a copy of documents evidencing that the
14 instrument creating the lien or assignment had been recorded pursuant to the provisions
15 of OAR 441-870-0060 nor were there copies of other guarantees, surety agreements
16 or correspondence relating to the sale of real estate paper.

17 12. None of the notes examined that provided for a prepayment penalty
18 contained the required notice of OAR 441-870-0040(1).

19 13. The examination also revealed that only one of the five files reviewed
20 contained a lock/float disclosure.

21 14. Finally, the examination revealed that four of the five files did not contain a
22 copy of the final credit report or the credit report relied upon for the loan decision.

23 15. Respondent has reviewed the exam results. In response to the exam results,
24 Respondent reports that they have updated their personnel files with the pertinent
25 information. With regard to the lack of disclosures to private investors, Respondent
26 reports that it has created a form to comply with the disclosure requirements and

1 checklist to verify that the requirements are met on every private investor transaction.

2 **CONCLUSIONS OF LAW**

3 The Director **CONCLUDES** that:

- 4 1. Respondent violated ORS 59.860 by failing to keep records as required by OAR
5 441-865-0010 through 441-865-0080.
- 6 2. Respondent violated OAR 441-865-0050 by failing to keep a personnel ledger with
7 the name, date of birth, position or job title, responsibilities of the position, and
8 starting date for each employee and failing to keep the ending date and reason for
9 termination for former employees.
- 10 3. Respondent violated OAR 441-865-0060(1)(c) by failing to maintain a copy of the
11 executed float or lock agreement in each borrower's file.
- 12 4. Respondent violated OAR 441-865-0060(1)(f) by failing to maintain a copy of the
13 final credit report or the credit report relied upon for the loan in each borrower's file.
- 14 5. Respondent engaged in "dishonest, fraudulent, or illegal practices or conduct" and
15 "unfair or unethical practices or conduct" by violating OAR 441-870-0050(1) by failing
16 to provide to investors the written disclosure document required by the rule.
- 17 6. Respondent violated OAR 441-865-0080(1)(a) by failing to maintain a copy of the
18 written disclosure document described in OAR 441-870-0050(1) that was to be
19 provided to each private investor.
- 20 7. Respondent violated OAR 441-865-0080(1)(b) by failing to maintain a statement
21 signed and dated by the investor acknowledging receipt of disclosures.
- 22 8. Respondent violated OAR 441-865-0080(1)(c) by failing to maintain the supporting
23 documentation of summarized information provided in the private investor disclosure.
- 24 9. Respondent violated OAR 441-865-0080(1)(e) by failing to maintain a copy of the
25 documents evidencing that the lien or assignment has been recorded pursuant to the
26 provisions of OAR 441-860-0060.

1 **ORDER**

2 The Director, pursuant to ORS 59.885(4), hereby **ORDERS** that Strategic
3 Mortgage Services Inc. will **CEASE AND DESIST** from violating any provision of Oregon
4 Mortgage Lender Law, OAR 441-850-0005 through 441-885-0010 and any rule, order,
5 or policy issued by the Division.

6 The Director, pursuant to ORS 59.996 hereby **ORDERS** Strategic Mortgage
7 Services Inc. to pay the State of Oregon a civil penalty of \$2000. The civil penalty is
8 based upon \$1000 for failing to provide the required disclosures to the private investors
9 and \$1000 for books and records violations.

10 The Director suspends payment of \$1800 of the assessed civil penalty for a three
11 year period. If in the period between the date of the Order to three years from the date
12 of the Order, Respondent violates any provision of Oregon's Mortgage Lender Law,
13 OAR 441-850-0005 through 441-885-0010 or any rule, order, or policy issued by the
14 Division, the suspended portion of the assessed civil penalty will become immediately
15 due and payable. If the Respondent does not violate Oregon's Mortgage Lender Law,
16 OAR 441-850-0005 through 441-885-0010 or any rule, order, or policy issued by the
17 Division in the three year period, the suspended portion of the civil penalty is waived.

18 The date of the Order is the date the Director signs the Order.

19 The entry of this Order in no way limits further remedies which may be available
20 to the Director under Oregon law.

21 Dated this 4th day of October, 2000.

22 **MARY C. NEIDIG, DIRECTOR**
23 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**

24
25 by 
26 **R.M. NOCKLEBY, ADMINISTRATOR**
DIVISION OF FINANCE AND CORPORATE SECURITIES

