

1 Order Assessing Civil Penalties and Notice of Right to Hearing. Respondents Titus and
2 Haragan acknowledged to ALJ Francis in a pre-hearing telephone conference on September
3 9, 2005, that each had received the Third Amended Order.

4 Pre-hearing conferences were convened in the matter on May 27, 2005; July 29,
5 2005; September 9, 2005; and October 28, 2005. A number of pre-hearing issues raised by
6 Titus were addressed prior to the hearing.¹

7 On May 5, 2006, Agency filed a Motion for Partial Summary Determination on the
8 issues concerning violations of the Oregon Securities Law. The Motion did not include the
9 issues related to being a "Debt Consolidating Agency" or a "Credit Services Organization."
10 Titus and Haragan filed similar responses to the Motion (and renewed Motions to Dismiss).

11 The Ruling on Legal Issues dated May 22, 2006, denied Respondents' Motions to
12 Dismiss and denied Agency's Motion for Partial Summary Determination. The Ruling
13 found that there were genuine issues of material fact that were still in dispute regarding
14 violations of the Oregon Securities Law.²

15 A hearing was convened on June 6, 7, and 8, 2006, in Salem, Oregon. Agency was
16 represented by Special Assistant Attorney General Caroline Smith. Rex Haragan appeared
17 in person and represented himself. Haragan participated throughout the proceeding. Ken
18 Titus appeared by telephone briefly at the start of the hearing on June 6, 2006. Titus read a
19 statement into the record, and then disconnected from the telephone conference. He did not
20 participate further in the proceeding.

21 Testifying on behalf of Agency were Fern Sanchez (by telephone), Michelle Troxel,
22

23 ¹ These issues are discussed in the ALJ's companion Proposed Order, the Director's Amended Proposed Order, and the
24 Final Order in Kenneth G. Titus, Sr. d/b/a Redwood Trust, OAH Case No. 120419.

25 ² Part of the difficulty addressed in the Ruling is that the two Respondents, Titus d/b/a Redwood Trust and Haragan d/b/a
26 Bountiful LLC do not stand in the same legal relationship to the facts. Although their business relationships were
intertwined, and much of the legal discussion treats them as one entity, they were in fact separate entities. The Ruling
stated that although the matters would be heard as a consolidated hearing, each Respondent would receive a separate
decision. The Findings of Fact in the two Proposed Orders are identical, and the Opinion is much the same for the alleged
securities violations and operating as a "debt-consolidating agency." But the factual bases upon which the violations were
found as "credit services organizations" are independent.

1 Michael Gray, Jeffery Reilly, Mary Ann Jimmerson, Dorothy Ridley, Clairean Smith, David
2 Stauffer, Fiona Harpster, Patrick Fitzgerald, Christos Mandalides, Mary Ann Mathis, and
3 Kirsten Anderson (a/k/a Jepsen). Rex Haragan was called as a witness by Agency and also
4 testified on his own behalf. Ken Calhoun initially testified as a witness on behalf of Rex
5 Haragan on June 8, 2006. His testimony concluded the presentation of evidence by the
6 parties. On June 9, 2006, the ALJ discovered that for some unexplained reason the
7 testimony of Ken Calhoun did not record. The hearing was reconvened by telephone on
8 Thursday, June 15, 2006, to rehear the testimony of Ken Calhoun. Written closing
9 arguments were timely received from Agency and Haragan by fax on June 29, 2006. The
10 record closed on June 29, 2006.

11 ALJ Steven R. Tegger issued a Proposed Order on July 24, 2006. The ALJ opined
12 that there was no security in this case, and proposed that the Agency dismiss all allegations
13 based on violations of the Oregon Securities Law. The ALJ also recommended the Agency
14 dismiss allegations based on operating as a debt-consolidating agency. The ALJ determined
15 that Respondent violated three provisions of the Oregon law governing credit services
16 organizations and recommended the assessment of civil penalties totaling \$3,000 against
17 Respondent for those violations.

18 Respondents filed Exceptions to the ALJ's Proposed Order in August 2006. The
19 Agency filed Agency's Response to Exceptions to Proposed Order on September 1, 2006.
20 Respondents did not file Replies.

21 The Director issued an Amended Proposed Order, which was mailed to Respondent
22 Rex A. Haragan d/b/a Bountiful LLC on March 21, 2007. The Amended Proposed Order
23 included notice of the 30-day deadline to file exceptions. Respondent Rex A. Haragan filed
24 Exceptions to Amended Proposed Order. Those exceptions, dated April 20, 2007, were
25 faxed to the Agency on Sunday, April 22, 2007, and were received by the Division of
26 Finance and Corporate Securities on Monday, April 23, 2007.

- 1 7. Whether Haragan was registered as a credit services organization pursuant to ORS
2 646.386(1).
- 3 8. Whether Haragan, operating as a credit services organization, engaged in prohibited
4 conduct pursuant to the provisions of ORS 646.384.
- 5 9. Whether Haragan, operating as a credit services organization, provided the consumer
6 with written disclosure of the information described in ORS 646.390.
- 7 10. Whether Haragan is subject to any civil penalties for violations, and if so, in what
8 amounts.

9 **EVIDENTIARY RULING**

10 Exhibits A-1 through A-6, A-10 through A-13, A-16, A-17, A-21, A-23 through A-
11 27, A-29, A-30, A-32 through A-40, and A-42, offered by Agency, were admitted into the
12 record without objection. Exhibits marked A-7, A-8, A-9, A-14, A-15, A-18, A-19, A-20,
13 A-22, A-28, A-31, A-41, A-43, and A-44, were offered, but the ALJ excluded them.

14 Respondent Haragan offered Exhibits R-1 through R-6. R-3 and R-5 were excluded
15 as not relevant. Exhibits R-1, R-2, R-4, and R-6 were admitted into the record without
16 objection.⁴ The Director adopts these rulings.

17 **FINDINGS OF FACT**

18 1. Redwood Trust is purportedly a "humanitarian aid" organization located in
19 Schenectady, New York. The legal status of this entity is unknown. No instrument creating
20 Redwood Trust was produced in this proceeding. It is alleged in a Criminal Indictment filed
21 in the United States District Court for the Northern District of New York on March 21,
22 2005, that: "On or about July 20, 2000, KENNETH G. TITUS, SR. formed Redwood Trust
23 ('Redwood') by executing a 'Revocable Living Trust.'" The only alleged registration with
24 the State of New York is with the New York Employment Department. Redwood Trust

25 _____

26 ⁴ There was a further evidentiary ruling regarding the admissibility of certain cassette tapes offered by Titus. This is addressed in the companion Proposed Order, Kenneth G. Titus, Sr. d/b/a Redwood Trust, OAH Case No. 120419.

1 does have employees, but the number and duties of such employees are unknown. Ken
2 Titus holds himself out as a trustee of Redwood Trust. At all times material to this
3 proceeding, Titus was a resident of the State of New York. If there are other trustees or
4 principals involved in the management of Redwood Trust, they are unknown. Titus is the
5 only individual named in the Criminal Indictment. Redwood Trust holds itself out as a "for
6 profit" organization. It is not organized as a "non-profit" organization. Redwood Trust does
7 not have tax-exempt status from the Internal Revenue Service under section 501(c)(3) of the
8 Internal Revenue Code. Redwood Trust is not to be confused with a real estate investment
9 firm by the same name located in California. (Test. of Haragan, Fitzgerald, Ex. A-2, A-5.)

10 2. Bountiful LLC is an unincorporated association of independent representatives of
11 Redwood Trust. Rex Haragan is the organizer of Bountiful LLC and maintained its
12 principle place of business at his residence in Oregon. At all times material to this
13 proceeding, Rex Haragan was a resident of, and doing business in, the State of Oregon.
14 Although the letters "LLC" were used in the assumed business name, Bountiful was never
15 organized as a Limited Liability Company or as any formal business entity under the laws of
16 the State of Oregon. (Test. of Haragan, Ex. A-5.)

17 3. At all times material to this proceeding, Redwood Trust had a website located at
18 www.redwoodtrust.net. Exhibit A-16 is one version of this website that was downloaded
19 and printed on Thursday, November 4, 2004. Each page contained footer with the following
20 statement: "© 2004 Redwood Trust. All rights reserved. This product is pending and has
21 not yet begun." The following statements appeared on the website. [Note: all statements are
22 *sic.*]

23 Redwood Trust is a group of agents organized together to help Americans
24 with humanitarian aid in many forms. This aid, usually in the form of
25 grants, is given to adults and families as a way to make a huge difference
26 within their lives. Focusing first on homes, these grants and aids are
provided for those who need help. Primarily starting with foreclosures but
also allowing for distressed and near foreclosure homes.

1 This humanitarian assistance not only helps the families in need but also
2 help strengthen the American economy as well as create more jobs, better
3 life-styles and help families stay together in what can be one of the most
4 stressful times, foreclosure or late house payments.

5 The humanitarian trust is a Christian organization with the ideals of
6 providing their fellow persons with a more successful and uplifting life.

7 Humanitarian aid is assistance given to people in distress by individuals,
8 organizations, or governments to relieve suffering. The term often carries
9 an international connotation, but this is not always the case. Many full
10 time, professional humanitarian aid organizations exist, both within
11 government (USAID, DFID), and as private voluntary organizations (or
12 non-governmental organizations, e.g. Oxfam, Mercy Corps).

13 Redwood Trust was created as an instrument to help relieve the suffering
14 of American families. Foreclosures, child-support, credit card debt and
15 medical expenses can tear families apart. We want to help strengthen
16 them and give people a new lease on life.

17 It works like this. Redwood Trust has direct access to humanitarian funds
18 for many programs. We specialize in Foreclosure Grants, Mortgage
19 Grants, Child Support Grants, Credit Card Grants, Church Grants, Medical
20 Grants as well as Credit Restoration.

21 Many of these programs require no funds to apply. Others are by
22 cooperative pay (15%) while others are fee based.

23 To apply for any of these grants you need to meet some basic criteria. In
24 the case of foreclosure and mortgage grants, you need to be one of the
25 property owners on the mortgage or have Power of Attorney to act in the
26 homeowner's behalf. The property pay-off must be less than \$1.2 Million.

The property will have a title search so you will need to have all the
proper information included within your mortgage agreement. You must
be seasoned for at least one month before starting the settlement process.
To qualify for a foreclosure grant you need to be in actual foreclosure.
There is only the one-month seasoning requirement for a mortgage grant
(anything other than a foreclosure is a considered a mortgage grant in
good standing).

What are the costs?

Prices for these services are as follows:

Foreclosure Grants: \$5,000 for a 1st mortgage. This is payable AFTER
the deed is cleared. Payment may be made over a 2-year period at ZERO

1 % interest. If there are additional mortgages, they can be added at a rate
2 of \$2000 each. Currently, grants are being completed in as little as 30-45
3 days.

4 Mortgage Grants: \$3000 payable in advance for any non-foreclosure grant
5 for mortgages. If there are any additional mortgages they can be added as
6 the rate of \$2000 each, payable in advance. Grants are currently being
7 completed in as little as 30-45 days.

8 Too good to be true?

9 Many would say so. After all, we've all heard the axiom "If it sounds too
10 good to be true, it probably is!" However, there is a reason the word
11 "probably" was put there. If it were always true, then what would that
12 statement say about our fellow man?

13 As we stated before, this is a Christian Trust Fund simply created to help
14 our fellow American's. Believe it or not, there are people in this country
15 who feel that we should help each other. Like the popular movie a few
16 years ago, we like to "Pay it forward."

17 We invite your skepticism and your probing questions. If you would like
18 more information about this process, please contact us by telephone or
19 email us. (Ex. A-16.)

20 4. Individuals registered with Redwood Trust on the website to be independent
21 representatives or associates to promote the mortgage pay-off program and receive
22 commissions to be paid after mortgages were paid. There was no cost to the individual to
23 register with Redwood Trust and apparently no qualifying criteria for representatives.
24 Spouses registered as a single representative. Representatives were required to sign a
25 "Mortgage Clearing Mutual Non-Circumvention/Non-Disclosure Agreement and Associate
26 Application." This agreement obligated the representatives not to interfere with each other
or disclose confidential information to third parties. It also provided: "All commissions
earned from business between the parties shall be per the commission schedule that is
available in the Redwood Trust home office. All such commissions shall be distributed
within seven days of the receipt of the cleared mortgage funds." It is alleged in the Criminal
Indictment that there were 7,000 "independent representatives" at the time the U.S.

1 Government seized the Redwood Trust funds. (Test. of Haragan, Ex. A-2, A-32.)

2 5. Rex Haragan first became involved with Redwood Trust as a website designer
3 doing business as Windowshades Multigraphics. Haragan was referred to Titus by Ken
4 Calhoun, an associate of Northwest Business Advisors (NWBA), in approximately early
5 March 2004. NWBA was organized in Oregon and had a principle place of business in
6 Portland, Oregon. Haragan had performed website design work for NWBA. Calhoun was
7 familiar with his work and that Redwood Trust needed help with its website. NWBA
8 marketed or promoted a credit restoration or credit clean-up program in which NWBA
9 agreed to assist in the process of removing and/or correcting information on a client's credit
10 reports under the provisions of the Fair Credit Reporting Act. At some point in time,
11 NWBA authorized Redwood Trust to post documents on Redwood's website promoting the
12 program. These documents are part of Exhibit A-16. A formal promotional agreement
13 between NWBA and Redwood Trust was drawn up and signed by representatives of
14 NWBA, but apparently never signed and returned by Titus. Calhoun brought Haragan and
15 Titus together over the telephone. Haragan explained what he could do in the development
16 of a back-end, encrypted website to handle a large volume of personal information and
17 forms relating to the mortgage pay-off program. Titus called back a few days later and
18 engaged the services of Haragan in Oregon to develop the website and form process located
19 at NetMyNet.Net which was then linked to the Redwood Trust website. (Test. of Haragan,
20 Calhoun, Ex. A-5, A-16.)

21 6. Calhoun was involved in organizing an NWBA "Spectacular Seminar" to be held
22 at the Howard Johnson Airport Hotel in Portland, Oregon, on May 21-23, 2004. He knew
23 that Ken Titus was coming to Portland to pick up a medical device. Since Titus was going to
24 be in Portland, Calhoun asked him to speak at the seminar on the Redwood Trust mortgage
25 pay-off program. Titus spoke at the seminar for approximately an hour on May 23, 2004.
26 The topic was listed on the promotional flyer as "Mortgage Elimination."

1 Haragan also spoke at the seminar on website development. Haragan, whose website
2 services for Redwood Trust had already been engaged, met Titus in-person at the seminar
3 but did not listen to his presentation. (Test. of Haragan, Calhoun, Ex. A-5, R-1, R-2.)

4 7. Titus held weekly or periodic telephone conference calls where he would provide
5 updates and information about Redwood Trust to the representatives. Titus and Haragan
6 discussed the possibility of web casting these telephone calls in an archive form so that
7 people could listen to them at their leisure. Around the time of the Spectacular Seminar,
8 Haragan started listening in on the telephone calls to see if he would be able to do the web
9 casting. This was when Haragan began to understand what Titus was promoting. Haragan
10 brought his wife in to listen to one of the telephone calls and they both became interested in
11 being representatives. Haragan asked Titus about getting involved, and Titus referred him to
12 Ken Calhoun, who was already registered as a Redwood Trust representative. (Test. of
13 Haragan, Ex. A-5.)

14 8. Redwood Trust representatives would assist applicants⁵ for a foreclosure or
15 mortgage grant in completing a packet of forms available on the website. The
16 representatives made sure that all the forms were properly filled out and forwarded the
17 documents as one packet to the address in New York using an overnight delivery service
18 such as UPS, Airborne Express or FedEx. Redwood Trust would not accept documents sent
19 via the US Postal Service. Any payments were to be remitted in the form of a cashier's
20 check or money order made payable to Redwood Trust. These were forwarded along with
21 the packet to Redwood Trust. Redwood Trust representatives did not (or were not supposed
22 to) receive any monies from grant applicants. After a mortgage was cleared or paid, the
23 Redwood Trust representative who referred the application was to receive 8 percent of the
24

25
26 ⁵ As in the ALJ's Proposed Order, the Director also uses the terms "applicants," "mortgage grant applicants," "consumers" and "investors" interchangeably in this Order. They all refer to the individuals who applied for Redwood Trust mortgage grants.

1 pay-off amount as a commission. The commissions were to be paid by Redwood Trust over
2 and above the mortgage pay-off amounts, and from the same source of funds as the
3 mortgage payments. (Test. of Haragan, Ex. A-5, A-13.)

4 9. The Redwood Trust application packet contained several forms. The cover sheet
5 was entitled "Mortgage Clearance Instructions and Checklist." This document contained the
6 following statement:

7 Please keep in mind that Redwood Trust is accepting your debt, not the
8 asset. Your home is yours. We do not guarantee that we will be able to
9 use the mortgage cancellation and/or settlement process successfully for
10 your property. If for any reason we are unable to clear your mortgage
11 and/or deed of trust, the entire fee paid for the mortgage cancellation
and/or settlement process action will be fully refunded to you. Also
within a five (5) day period of submission of this package, you are able to
cancel the program and receive a full refund of any fees paid.
(Ex. A-13.)

12
13 10. The checklist was followed by a "Client Information Mortgage Settlement
14 Worksheet." The website worksheet had fields that could be filled in and the worksheet
15 printed with the information. The worksheet gathered basic information identifying the
16 applicant, the property, the lender, the status of the mortgage, the pay-off amount, and either
17 the pre-payment fee or the post pay-off fee as applicable. This worksheet was to be
18 accompanied by a copy of the instrument evidencing the mortgage debt, a copy of the deed
19 or document evidencing the interest in the property, and the most recent statement of the
20 mortgage debt. (Ex. A-13.)

21 11. The settlement worksheet was followed by an "Assignment of Debt." This
22 document was to be signed and notarized by the applicant and purported to assign the
23 mortgage debt to Redwood Trust "upon the signing and witnessing [*sic*] recording of this
24 document in the COUNTY RECORDER'S OFFICE OF THE STATE _____

25 _____ FOR THE COUNTY OF _____." There was no evidence

26 that any assignment had actually been recorded anywhere. The document does not mention

1 anything about requesting the lender's permission to make an assignment of debt. None of
2 the applicants who testified stated that they had spoken to their lender about the assignment
3 or had the lender's express consent to make an assignment. (Test. of Troxel, Gray, Reilly,
4 Ex. A-13.)

5 12. The next document in the packet was an "Affidavit of Limited Power of
6 Attorney." This document was to be signed and notarized and consisted of two paragraphs.
7 The first paragraph gave Redwood Trust a 12-month Limited Power of Attorney "to
8 negotiate and settle all debts on my behalf" and "to sign my name in furtherance of settling
9 debts." The second paragraph stated the following:

10 Redwood Trust has a Limited Power of Attorney to place a lien or mortgage
11 on the property located at _____, for the purpose of
12 securing and disbursing funds to satisfy all fees and commissions due to
13 others and with the balance going to Redwood Trust, from the elimination
14 and/or settlement process. This may only be done if this mortgage and/or
15 deed of trust are put through the same process as well. It is understood that
no monies will be returning to the property owner except by special
exception from this process and all mortgages and/or deeds of trust will be
zeroed out at the end of this process.

16 The applicants and representatives (at least those who testified) did not have any
17 understanding of what this paragraph meant. (Test. of Troxel, Gray, Reilly, Ex. A-13.)

18 13. The next document in the packet was a "Letter of Acceptance." This document
19 was also to be signed and notarized by the "offeror(s)" [applicant]. Although the document
20 purports to be an agreement or contract, there is no place for the "offeree" [Redwood Trust]
21 to sign. The document contained the following statement:

22 Offeror(s) agrees to pay \$3000.00 to Redwood Trust for assistance in debt
23 elimination and/or settlement of offeror's lien of Deed on Trust or Mortgage
24 and \$2000.00 for each additional Deed of Trust. Mortgage, home equity
25 loan, or line of credit. Offeror additionally agrees to a payment of a
26 remaining fee of 100% of a mortgage amount based on 50% of the value of
the property. Offeror(s) understand that each account number is handled as
a separate issue. A nominal amount of _____ will be forwarded,
along with requested documentation indicated elsewhere in this package of

1 forms, as consideration of this offer and acceptance. *** Remaining
2 payment will be satisfied as follows: *** Offeror(s) will secure additional
3 mortgage through whatever means necessary to satisfy that remaining fee to
4 Redwood Trust. *** Offeror(s) agree(s) to provide Offeree, Redwood Trust,
with accurate, current and correct information to move forward with said
debt elimination and/or settlement in a timely manner.

5 The applicants and representatives (at least those who testified) did not have any
6 understanding of the purpose of this document. But the applicants (at least those who
7 testified) did not have any confusion about the amounts they would be required to pay if
8 their mortgage was paid by Redwood Trust. Prior to offering the mortgage pay-off program,
9 Redwood Trust offered some kind of arbitration process where it attempted to negotiate or
10 settle a mortgage in foreclosure. Redwood Trust did not start offering the mortgage pay-off
11 grants until 2004. (Test. of Haragan, Troxel, Gray, Reilly, Ex. A-5, A-13.)

12 14. Haragan created a document entitled "Frequently Asked Questions," which
13 restated the mortgage pay-off program for the benefit of Bountiful representatives. In that
14 document, the following statement is made: "The Letter of Acceptance, is for the Bank
15 Process, the Trust along with the Client become the Offeror, [sic] this form is not being used
16 at this time, however, we are still requesting that it be completed so that we do not have to
17 request it in the future." Some representatives were instructed to draw an "X" across the
18 entire page when submitting the packet. Some of the Letters of Acceptance in evidence are
19 X'd out, and some are not. (Test. of Haragan, Troxel, Gray, Reilly, Ex. A-5, A-13.)

20 15. Following the Letter of Acceptance was a form of a Promissory Note to be
21 signed and notarized by applicants for a foreclosure grant. Monthly payments were to
22 commence "30 days from remittance of funds to mortgage lender." (Ex. A-13.)

23 16. Rex and Kathy Haragan created Bountiful LLC in the summer of 2004 to have
24 more control and organization over how the Redwood Trust mortgage pay-off program was
25 represented. In Redwood Trust there was no structure as to how representatives were
26 brought into the process. The majority of people involved with Redwood Trust were

1 primarily interested in paying off the mortgage on their own home, or homes owned by
2 neighbors or family, and most of these were not in foreclosure. The Haragans felt the
3 concept of helping people was losing out to the concept of selling people on making money.
4 They wanted to turn that around with Bountiful LLC. Redwood Trust had a standard for
5 representatives of referring one mortgage (in good standing) grant to one foreclosure grant.
6 Haragan set a standard for Bountiful representatives of two foreclosure grants to one
7 mortgage grant. (Test. of Haragan, Ex. A-5.)

8 17. Bountiful LLC had a three-tiered structure. Rex and Kathy Haragan held
9 themselves out as National Coordinators. Underneath them, there were eight to ten Regional
10 Coordinators. Although Bountiful had representatives in 12 states, Regional Coordinators
11 did not have a geographic region, it was just a level within the hierarchy. Underneath the
12 Regional Coordinators were Area Coordinators. If an Area Coordinator referred an
13 applicant to Redwood Trust and the mortgage was paid, the Area Coordinator was to receive
14 an 8 percent commission, the Regional Coordinator was to receive a 4 percent commission,
15 and the National Coordinators were to receive (together) a 4 percent commission. There
16 were a total of approximately 45 Bountiful representatives, with 12 of these located in
17 Oregon. (Test. of Haragan, Ex. A-5, A-21.)

18 18. The Regional Coordinators could bring in people (Area Coordinators)
19 underneath them only with Haragan's permission. The new people had to speak directly
20 with Haragan, they had to know what they were talking about, and they had to be computer
21 literate. They had to agree to adhere to the same standards as the Haragans. Haragan had
22 the final approval of these individuals to become Bountiful representatives. Haragan had
23 them sign a "Bountiful, LLC. Non-Circumvention, Non-Disclosure and Working
24 Agreement." (Test. of Haragan, Ex. A-5, A-42.)

25 19. Once accepted, Haragan provided the Bountiful LLC representatives with their
26 own personalized websites. Bountiful had the main website at www.BountifulLLC.com.

1 This served as a template for the individualized websites. If Haragan had constructed each
2 website from scratch, each would cost or be valued at \$2,000. Haragan spent only an hour
3 or two personalizing each website. The domain name for the individual was reserved as
4 www.Bountiful_ __.com with the individual's initials substituting for LLC. The application
5 packet was personalized by showing the name of the representative referring the application.
6 Other than the changes made to personalize the website, the website looked substantially the
7 same as the Bountiful website, which in turn was substantially the same as the Redwood
8 Trust website developed by Haragan. Each Bountiful representative was charged \$10 a year
9 to reserve his or her domain name. (Test. of Haragan, Ex. A-5, A-13.)

10 20. To make commission payments, Redwood Trust decided to use the NWBA
11 ATM/Debit card system. Bountiful Regional and Area Coordinators would receive their
12 commission payments via electronic transfer to these cards at the same time that the
13 mortgage was paid. The card system would allow the withdrawal of funds from ATMs or
14 the representative could go to a website to transfer the funds to any existing bank account.
15 These ATM/Debit cards cost \$29.95 and needed \$20 to be placed in the account to activate.
16 The monthly fee for the card was \$6.95. As an option, the representative could choose an
17 Emoney MasterCard that could be used like any other charge card. This card cost \$49.95
18 and needed \$50 to activate. The monthly fee was the same at \$6.95. These cards were
19 available at www.YourMoneyCard.com or from Bountiful LLC. In addition, Bountiful
20 representatives paid Bountiful LLC \$5.00 for business cards (250 count). (Test. of Haragan,
21 A-5, A-13.)

22 21. Christos Mandalides worked as a dancing instructor at the Greek Cuisina in
23 downtown Portland. Rex Haragan's stepson, Shawn McCorkle, also worked at the
24 restaurant and told Mandalides about Redwood Trust. Mandalides was interested and
25 attended a meeting at the Greek Cuisina in August 2004, at which Rex and Kathy Haragan
26 explained the mortgage pay-off program. Mandalides signed up that day to be a Bountiful

1 LLC representative and paid the fees for the website, business and electronic cards. He
2 received the personalized Bountiful website. Mandalides began recruiting applicants in
3 September 2004 after he received his business cards. The initial leads came from the
4 Haragans who had subscribed to a real estate website that showed properties in foreclosure.
5 After that, Mandalides began picking up a daily commerce journal and reviewing the legal
6 notices of foreclosure sales. He personalized his own flyer which identified him as an Area
7 Coordinator for Bountiful LLC, but the content was copied from the Bountiful website. He
8 would either mail the flyer or leave a copy at a prospective applicant's door, and call back
9 later. Mandalides helped ten people apply for foreclosure grants. None of the people he
10 helped paid any money up front. He understood that Redwood Trust was located in New
11 York and that Ken Titus was the trustee. He understood that Redwood Trust would be
12 getting money from overseas to invest to pay off the mortgages and that he would receive
13 commissions from Redwood Trust if it was successful in paying off the mortgages of his
14 applicants. Mandalides was active as a representative for Bountiful from September to
15 November 30, 2004 (the date of the Cease and Desist Order). He estimates that he
16 contributed a total of about 50 hours to this activity during that time period. In addition to
17 the up-front fees paid to Bountiful, Mandalides also paid for the cost of the flyers and
18 postage out of his pocket. Mandalides never received any commissions. (Test. of Haragan,
19 Mandalides, Ex. A-5, A-10, A-11.)

20 22. Mary Ann Mathis is Rex Haragan's aunt. She first heard about Redwood Trust
21 from her sister. Mathis attended an informational meeting hosted by Rex and Kathy
22 Haragan at the American Legion in Portland in July 2004. There were eight to ten people at
23 the meeting. Mathis signed up to be an Area Coordinator for Bountiful. She received her
24 business cards and personalized website. Mathis received lists of contacts from Rex and
25 Kathy Haragan. Mathis would mail out a flyer on yellow colored paper. Mathis helped ten
26 or eleven people apply for grants, all but two of which (her children) were foreclosure

1 grants. She would forward the completed paperwork to Rex Haragan in Portland, who
2 would then send it on to Redwood Trust. Mathis understood that the money was coming
3 from Redwood Trust to pay off the mortgages and that she would receive commissions from
4 Redwood Trust if it were successful in paying off the mortgages of applicants she helped.
5 Mathis was an active Area Coordinator until the Cease and Desist Order issued on
6 November 30, 2004. During the time she was active, she estimates that it cost her at least
7 \$100 out of her pocket and that she devoted a total of about 70 hours to this activity. Mathis
8 did not receive any commissions. (Test. of Haragan, Mathis, Ex. A-5, A-12, A-26.)

9 23. Michelle Troxel and Michael Gray are children of Mary Ann Mathis. They each
10 applied for a mortgage grant through Mathis in September and October 2004. They each
11 cashed in 401k accounts to pay the \$3,000 up front fee to Redwood Trust. Their mortgages
12 were never paid. They have not received a refund of their up-front payment. (Test. of
13 Troxel, Gray, Ex. A-24, A-25.)

14 24. Fern Sanchez lives in Canby, Oregon. She is 67 years old, retired and disabled.
15 She heard about the mortgage pay-off program through Kathy Haragan. In November 2004,
16 Sanchez made an application to Redwood Trust for a mortgage grant to pay off her
17 mortgage balance of approximately \$85,000. Sanchez sent a cashier's check for \$3,000 by
18 Federal Express payable to Redwood Trust on or about December 1, 2004, as an up-front
19 fee. She first understood that her mortgage would be paid within 90 days. Sanchez was
20 later told that there would be a delay, but that her mortgage would eventually be paid. Her
21 mortgage was never paid and she has not received a return of her \$3,000. (Test. of Sanchez,
22 Ex. A-23, A-37.)

23 25. During the times relevant to this proceeding, Jeffery Reilly had a house in Wood
24 Village, Oregon. Around October 2004, he owed about \$224,000 on his mortgage and was
25 in arrears by approximately \$8,500. He had already received a notice of foreclosure from
26 the lender when he received information in the mail from Rex Haragan and Bountiful LLC

1 regarding the Redwood Trust mortgage pay-off program. Reilly made an application to
2 Redwood Trust for a foreclosure grant and signed a promissory note for \$5,000, promising
3 to pay Redwood Trust, without interest, in 24 monthly payments commencing within 30
4 days after Redwood Trust paid his mortgage. Based on information from Rex Haragan,
5 Reilly believed that his mortgage would be paid within 60 days. After that deadline came
6 and went, he was told weekly that the mortgage would be paid. The lender never received
7 any funds from Redwood Trust and Reilly lost the home in foreclosure. Reilly never paid
8 any moneys to Redwood Trust. (Test. of Reilley, Ex. A-29, A-38.)

9 26. Mary Ann Jimmerson lives in Lebanon, Oregon. She was losing her home of 27
10 years after her husband passed away. Jimmerson had already moved out of the home on the
11 advice of her realtor in order to sell the home. She heard about Redwood Trust through
12 Riley Haragan, Rex Haragan's son. Jimmerson filled out the paperwork to apply to
13 Redwood Trust for a foreclosure grant. Jimmerson received a copy of a Letter of Intent
14 dated October 13, 2004, mailed by Rex Haragan to her lender, First Horizon, informing the
15 lender that her application for a grant had been accepted by Redwood Trust and that the
16 grant would pay the mortgage in full. The letter stated: "Redwood Trust will release funds
17 for this grant within the next 60 days." The letter requested that the lender "temporarily
18 withdraw this home from auction so Redwood Trust can pay this mortgage and keep Mary
19 Ann Jimmerson in her home." The letter was signed by Rex Haragan, Bountiful LLC. The
20 letter was on letterhead with a Bountiful LLC logo and a "Headquarters" address on SW
21 Pacific Highway in Portland, Oregon, which was Rex Haragan's home address. Based on
22 the acceptance and letter of intent, Jimmerson moved back into her home. The lender never
23 received any funds from Redwood Trust to pay off the mortgage. The house was auctioned
24 off on December 21, 2004, and Jimmerson was given a seven-day eviction notice. (Test. of
25 Jimmerson, Ex. A-27.)

26 27. From approximately July 2004 until March 2005, the United States Postal

1 Inspection Service (USPIS), and the Internal Revenue Service, Criminal Investigation (IRS-
2 CI) conducted an investigation of Redwood Trust and Ken Titus. On March 21, 2005, the
3 Internal Revenue Service filed a Verified Complaint For Forfeiture In Rem in the United
4 States District Court for the Northern District of New York, seizing funds in various
5 accounts held by Redwood Trust and Ken Titus. The investigation revealed that
6 approximately 954 individuals had sent money to Redwood Trust to have their mortgages
7 paid, while eight others invested in another Redwood Trust program. Redwood Trust
8 received a total of approximately \$4.2 million. Of the moneys received, approximately 2
9 percent (\$93,000) were used to pay off one mortgage and the arrears on three others; and
10 approximately 12 percent (\$502,000) was refunded to those who requested a refund. The
11 remainder, more than \$3.6 million, was used either for the benefit of Redwood Trust or
12 Titus. The funds were used to pay for payroll, utilities, office supplies, fixed assets, rent,
13 license fees, travel, meals and other ordinary business expenses. From September 2003 to
14 December 2004, Redwood Trust paid out at least \$358,000 in payroll and other expenses.
15 (Ex. A-1.)

16 28. The mortgage grant applicants' funds were deposited in one Redwood Trust bank
17 account at Pioneer Savings Bank in New York, account number ending in 2965. These
18 funds were pooled, rather than segregated into an individual account for each mortgage
19 grant applicant. (Ex A-1 and Ex. A-2).⁶

20 29. Titus informed the government investigators that he was planning to transfer
21 approximately \$2 million of the funds to participate in a program promising 100 percent
22 return on his investment every few weeks. Titus stated that he received documents from a
23 third party stating that a group of people, unknown to him, had investments and wanted the
24 proceeds to go to good causes. Titus stated that if he opened a joint account with two men
25

26 ⁶ The Director makes this additional finding of fact because the ALJ's Proposed Order did not fully and adequately set forth this material evidence in the record.

1 he had never met and deposited the \$2 million, they would allow Redwood Trust to take \$20
2 million a week. Titus also spoke about meeting an individual at a seminar in Detroit who
3 intended to give Redwood Trust \$1.4 billion from the proceeds of Mexican gold sales, but
4 the U.S. Government had tied up the funds. Titus also stated that a woman in California,
5 whom he had not met, was interested in giving gold mine claims in the U.S. and abroad to
6 organizations that help people. She claimed to have 50 gold mine claims valued at \$1
7 trillion. Titus expected to get at least one claim. (Ex. A-1.)

8 30. Initially, Titus told representatives that funds would be available to pay off
9 mortgages in mid-September 2004. In weekly telephone conferences after that, Titus gave
10 various explanations as to when the funds to pay off the mortgages and commissions would
11 be available. The expected pay off date kept being pushed back month-by-month. (Test. of
12 Haragan, Ex. A-5.)

13 31. Titus informed the government investigators that he was not a paid staff member
14 of Redwood Trust. He was a volunteer and his only form of compensation was a car paid
15 for by Redwood Trust and the payment of his personal medical expenses (which included
16 treatment for a serious medical condition). Titus holds himself out as pastor of the God's
17 Saint's Christian Church. Among the items seized by the U.S. Government was a \$20,000
18 Teller's Check dated March 16, 2004, payable to God's Saint's Christian Church and drawn
19 on funds originally held in the Redwood Trust account. (Ex. A-1.)

20 32. The only known mortgage grant applicant through Bountiful to be paid by
21 Redwood Trust was actually a land sales contract for the purchase of a doublewide mobile
22 home by Shawn McCorkle, Rex Haragan's stepson. The pay-off amount was \$19,984.01,
23 payable to Pacific Northwest Title by a check drawn on Pioneer Savings Bank of Troy, New
24 York. The U.S. Government investigation identified this account as a Redwood Trust
25 account. Rex Haragan spoke directly to Ken Titus about McCorkle's situation and urged the
26 payment. Rex Haragan received a commission from Redwood Trust on the pay-off, which is

1 the only known commission paid by Redwood Trust. (Test. of Haragan, Ex. A-1, A-5, R-6.)

2 33. The In Rem proceeding was followed by the Criminal Indictment filed in the
3 U.S. District Court on July 21, 2005. The indictment alleges mail fraud and wire fraud by
4 Ken Titus and Redwood Trust. The matter had not gone to trial as of the date of this
5 proceeding. (Test. of Fitzgerald, Ex. A-2.)

6 34. Redwood Trust and Bountiful LLC did not register securities in the State of
7 Oregon and there is no record of any federal covered security for which a notice has been
8 filed and fees have been paid. (Test. of Smith, Stauffer, Ex. A-33, A-34, A-39.)

9 35. Ken Titus and Rex Haragan have not been licensed by the State of Oregon as
10 securities salespersons, investment advisers or broker dealers since 1991. (Test. of Smith,
11 Stauffer, Ex. A-33, A-34, A-39.)

12 36. Ken Titus and Rex Haragan were not registered with the Director of the
13 Department of Consumer and Business Services as operating a debt-consolidating agency.
14 (Test. of Smith, Stauffer, Ex. A-33, A-34, A-39.)

15 37. Redwood Trust and Bountiful LLC were not registered with the Director of the
16 Department of Consumer and Business Services as a credit services organization. There
17 was no disclosure of the information required to be disclosed by a credit services
18 organization. There was no statement revealing the existence of the required surety bond or
19 irrevocable letter of credit in the amount of \$25,000, or a statement regarding the procedure
20 for a consumer to recover damages by commencing an action on the bond or irrevocable
21 letter of credit. There was no written agreement between Bountiful LLC and the consumer
22 applicants detailing the credit services to be provided by Bountiful LLC. (Test. of Smith,
23 Stauffer, Fitzgerald, Ex. A-33, A-34, A-37, A-38 A-39.)

24 38. The Director of the Department of Consumer and Business Services issued a
25 Cease and Desist Order on November 30, 2004. It was served on Titus and Haragan and
26 other Bountiful representatives. (Test. of Fitzgerald, A-5, A-36.)

1 **CONCLUSIONS OF LAW⁷**

- 2 1. The mortgage grants are investment contracts, and therefore securities.
- 3 2. Haragan sold unregistered securities in Oregon.
- 4 3. Haragan sold securities in Oregon without a securities license.
- 5 4. Haragan made a misrepresentation or omission in connection with the sales of
- 6 securities in Oregon.
- 7 5. Haragan did not operate as or purport to be a debt consolidating agency.
- 8 6. Haragan did operate as a credit services organization doing business in this state.
- 9 7. Haragan was not registered as a credit services organization.
- 10 8. Haragan engaged in prohibited conduct while operating as a credit services
- 11 organization.
- 12 9. Haragan did not provide the consumer with written disclosure of required
- 13 information while operating as a credit services organization.
- 14 10. Haragan is subject to civil penalties in the amount of \$23,000.

15 **OPINION**

16 **I. SECURITIES REGULATION**

17 ***A. Violations***

18 The Oregon Securities Law, ORS Chapter 59 and OAR Chapter 441, governs the

19 offer and sale of securities in Oregon. The underlying policy of Oregon's securities laws is

20 "to afford the greatest possible protection to the public." *Badger v. Paulson Investment Co.*,

21 311 Or 14, 20, 803 P2d 1178, 1181 (1991). Generally, the Oregon Securities Law requires

22 that securities sold in Oregon must be registered with the Agency, those who offer and sell

23 securities in Oregon must be licensed with the Agency, and securities transactions must be

24 free from fraud. ORS 59.055, ORS 59.165, ORS 59.135.

25 _____

26 ⁷ The Director rejects the ALJ's proposed Conclusions of Law regarding the securities regulation violations and makes the following Conclusions of Law, as more fully explained in the Opinion.

1 The Redwood Trust grant program offered and sold to Oregon consumers by the
2 Respondent is an investment contract, and therefore, a security. The Agency has no record
3 of securities registration for the Redwood Trust grant program. The record in this case
4 shows the Respondent was not licensed by the Agency to sell securities, that he offered to
5 sell, and sold, securities to Oregon residents, and those securities were not registered with
6 the Agency. Furthermore, Respondent made a misrepresentation of material fact in
7 connection with sale of securities in Oregon.

8 The Director rejects the ALJ's Opinion section regarding securities because the
9 ALJ's Proposed Order did not correctly apply the legal standard for determining whether the
10 Redwood Trust mortgage grants are investment contracts, and therefore, securities.⁸ The
11 ALJ opined that the mortgage grants do not meet the criteria for an investment contract;
12 however, the evidence in the record establishes an investment contract.⁹ The ALJ's
13 characterization of the mortgage grant transactions as "fee for service" is not supported by
14 legal precedent or case law.

15 **1. The Redwood Trust mortgage grants are securities.**

16 The Redwood Trust mortgage grant program is an investment contract, and
17 therefore, a security. According to ORS 59.015(19)(a), a security includes "a note, stock,
18 bond, debenture, evidence of indebtedness . . . **investment contract.**" (Emphasis added).
19 Case law has defined the term "investment contract." The leading case defining investment
20 contract is *SEC v. W.J. Howey* and is commonly referred to as the "*Howey test.*" *SEC v.*

21 _____
22 ⁸ The ALJ's Proposed Order defines "security" at pp. 17-18 using Webster's dictionary, instead of the applicable law,
23 which is ORS 59.015(19)(a). Also, the ALJ gave undue weight to note cases such as *Great Western Bank & Trust v. Kotz*,
24 *532 F.2d 1252 (9th Cir. 1976)* and *Reves v. Ernst & Young*, *494 U.S. 56 (1990)*, which are not entirely on point in this
25 matter. The ALJ's Proposed Order overlooked the pyramid scheme cases, such as *SEC v. Glenn W. Turner Enterprises* and
Webster v. Omnitrition Int'l. SEC v. Glenn W. Turner Enterprises, *474 F.2d 476, 480 (9th Cir. 1973)* and *Webster v.*
Omnitrition Int'l. *79 F.3d 776 (9th Cir. 1996)*. Those Ninth Circuit cases have established that investments in pyramid
26 schemes are investment contracts, and thus securities.

⁹ The ALJ erred when he opined that horizontal commonality has not been shown in this case, and specifically, the ALJ's
proposed order does not acknowledge the evidence in the hearing record that Redwood Trust and Ken Titus pooled the
mortgage grant applicants' funds in a bank account in New York. Finally, the ALJ erred by reasoning that a fixed rate of
return negated the consumers' expectations of profit.

1 | *W.J. Howey Co.*, 328 U.S. 293 (1946).

2 | Oregon adopted a modified version of the *Howey* test in 1976. In Oregon,
3 | the elements of an investment contract are: (1) an investment of money (or money's
4 | worth); (2) in a common enterprise; (3) with the expectation of a profit; (4) to be
5 | made through the management and control of others. *Pratt v. Kross*, 276 Or 483,
6 | 497, 555 P2d 765 (1976).

7 | In this case, Oregon consumers Fern Sanchez, Michelle Troxel and Michael Gray
8 | invested money, or money's worth, in the form of Jeffery A. Reilly's promissory note, in the
9 | Redwood Trust grant program.

10 | The Redwood Trust grant program was a common enterprise because the success of
11 | the consumers' investments were interwoven with and dependent upon the efforts and
12 | success of Bountiful and Redwood Trust. Because Bountiful and Redwood Trust were not
13 | successful in arranging to have the home mortgages of consumers Fern Sanchez, Jeffery A.
14 | Reilly, Michelle Troxel, and Michael Gray paid off, those home mortgages were not paid
15 | off, and their investments of money (or money's worth) in the Redwood Trust program were
16 | not successful.

17 | The applicants for Redwood Trust mortgage grants expected to profit from
18 | the mortgage payoff program.¹⁰ In this case, Fern Sanchez expected to profit by
19 | having the \$85,000 balance of her home mortgage paid within 90 days. Jeffery
20 | Reilly believed that his mortgage of approximately \$224,000 would be paid within
21 | 60 days.

22 | Finally, the profits were to be made through the management and control of
23 | others. The mortgage grant applicants depended on Redwood Trust and Bountiful
24 |

25 | ¹⁰ In Oregon, a cash payout or other form of money is not required to meet the expectation of profit element of an
26 | investment contract. For instance, the Oregon Court of Appeals has found favorable tax consequences to fulfill the
expectation of profit element of an investment contract. *Black v. Corporation Division*, 54 Or App 432, 634 P2d 1383
(1981).

1 LLC to arrange for their home mortgages to be paid off. The applicants had no
2 control over whether Redwood would pay off those mortgages once they invested
3 their money. Kenneth G. Titus, Sr. acknowledged his plans to invest in a nebulous
4 offshore deal to actually have the funds to pay off the investors' mortgages. These
5 efforts were the significant managerial efforts that investors relied on to make the
6 scheme succeed and pay off their mortgages. Because Bountiful and Redwood Trust
7 did not succeed in arranging to have the home mortgages of consumers such as Fern
8 Sanchez and Jeffery A. Reilly paid off, their home mortgages were not paid off.

9 **2. The securities that Respondent Rex A. Haragan dba Bountiful LLC sold in**
10 **Oregon were not registered with the Agency.**

11 ORS 59.055 prohibits any person from offering or selling any security in Oregon
12 unless the security is registered, exempt, or a federal covered security for which a notice
13 has been filed and fees have been paid. In its regular course of business, the Agency
14 registers securities that are to be offered or sale in Oregon and maintains the records of
15 securities registration for the State of Oregon. None of the notes, promissory notes, or
16 investment contracts, offered or sold by Kenneth G. Titus, Sr., Redwood Trust, Rex A.
17 Haragan, or Bountiful LLC were registered or filed with the Agency.

18 The exemptions from securities registration under the Oregon Securities Law are
19 provided by ORS 59.025 and ORS 59.035. The Redwood Trust grant program does not
20 qualify for the exemptions allowed for government-issued securities, securities issued by
21 banks, securities listed on the major stock exchanges such as the New York Stock
22 Exchange, or any other exemption under ORS 59.025 or ORS 59.035. Therefore, the
23 securities the Respondent offered to sell and sold were not registered in Oregon, not exempt
24 from registration, and not federal covered securities for which a notice had been filed with
25 the Agency and a fee paid pursuant to ORS 59.049. The Respondents sold the securities in
26 violation of ORS 59.055. Any person who violates ORS 59.055 is subject to a civil penalty

1 of up to \$20,000 per violation, pursuant to ORS 59.995(1). The Director considers a \$5,000
2 civil penalty appropriate for the violations of ORS 59.055 committed by Respondents in
3 this case.

4 **3. Respondent Rex A. Haragan dba Bountiful LLC was not licensed to sell securities**
5 **in Oregon.**

6 ORS 59.165 prohibits any person from transacting business in Oregon as a broker-
7 dealer, investment adviser, or salesperson unless the person is licensed under the Oregon
8 Securities Law. ORS 59.015(18)(a) defines "salesperson" as "a person, other than a broker-
9 dealer, who represents or purports to represent a broker-dealer, issuer or owner of securities
10 in effecting or attempting to effect in any manner transactions in securities." In this case,
11 Redwood Trust was the issuer of the mortgage grant program. Respondent Rex A. Haragan
12 acted as a salesperson for Redwood Trust when he solicited an upfront fee and obtained the
13 promissory note for \$5,000 from Oregon resident Jeffery A. Reilly. Kenneth G. Titus, Sr.,
14 through the website he controlled, www.redwoodtrust.net, also acted as a salesperson for
15 Redwood Trust. Redwood Trust accepted the cashier's check for \$3,000 from Fern Sanchez
16 as part of the mortgage grant program. Also, Kenneth G. Titus, Sr. promoted the Redwood
17 Trust program in Oregon in person at the NWBA "Spectacular Seminar" held in May 2004.
18 Rex A. Haragan and other Bountiful representatives acted as agents for Kenneth G. Titus,
19 Sr. and Redwood Trust.

20 In its regular course of business, the Agency licenses securities salespersons, broker-
21 dealers and investment advisers and maintains records of those licenses. The agency has no
22 record of securities license for Mr. Titus or Mr. Haragan at any time material to this order.
23 Mr. Haragan acted as an unlicensed securities salesperson, in violation of ORS 59.165. Any
24 person who violates ORS 59.165 is subject to a civil penalty of up to \$20,000 per violation,
25 pursuant to ORS 59.995(1). The Director considers a \$5,000 civil penalty appropriate for
26 the violations of ORS 59.165 committed by Respondents in this case.

1 **4. Respondent Rex. A. Haragan made a misrepresentation of material fact in**
2 **connection with the sales of securities in Oregon.**

3 Respondent Rex. A. Haragan dba Bountiful LLC misrepresented to a mortgage grant
4 applicant, Mary Ann Jimmerson, and her lender, First Horizon, the time within which her
5 mortgage would be paid off. On October 13, 2004, Haragan and Bountiful LLC represented
6 to Jimmerson and First Horizon that: "Redwood Trust will release funds for this grant within
7 the next 60 days." The lender never received any funds from Redwood Trust to pay off the
8 mortgage. The house was auctioned off on December 21, 2004, and Jimmerson was evicted.
9 The statement that funds would be released "within the next 60 days" was false and
10 misleading.

11 The Respondents made a misrepresentation of material fact in connection with the
12 sale of securities in Oregon, in violation of ORS 59.135. Any person who violates ORS
13 59.135 is subject to a civil penalty of up to \$20,000 per violation, pursuant to ORS
14 59.995(1). The Director considers a \$10,000 civil penalty appropriate for the violation of
15 ORS 59.135 committed by Respondents in this case.

16 **II. DEBT CONSOLIDATING AGENCY**

17 The ALJ considered whether Haragan and Bountiful LLC were acting as a "debt
18 consolidating agency" subject to registration and regulation under ORS 697.602 to 697.842.
19 Under Oregon law, a person is operating as a "debt consolidating agency" if:

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1 [T]he person in the regular course of the person's business directly or indirectly
2 solicits, offers to take or takes anything of value belonging to the debtor or an
3 assignment of the wages, salary, income, credits or any other thing of value of a
4 debtor for the purpose of paying to any creditor of the debtor the debtor's
wages, salary, income, credits or things of value, or the proceeds from the sale
of the things of value."¹¹

5 Money (income) was solicited by Bountiful LLC representatives and paid by
6 mortgage debtors to Redwood Trust for "assistance in debt elimination." Bountiful
7 representatives never received (or were not supposed to receive) any moneys directly from
8 applicants. Payments were made in the form of cashiers checks or money orders made out
9 to Redwood Trust. There is no evidence that Haragan or Bountiful LLC received "anything
10 of value" from the mortgage debtors. There was no direct contractual obligation between
11 Haragan and the applicants to pay anything over to the mortgage creditors.

12 On the theory that Haragan and Bountiful LLC representatives were acting as agents
13 of Titus and Redwood Trust, the evidence does not support that Titus and Redwood Trust
14 were acting as a "debt consolidating agency." While the government investigation revealed
15 that a small amount (2 percent) of the gross proceeds of Redwood Trust was used to pay off
16 one mortgage (land sales contract) and the arrears on three others, this appears to have been
17 an exception. The funds were being used primarily to pay operating expenses of Redwood
18 Trust and Titus was actively seeking other sources of funds from which to pay off the
19 mortgages.

20 ///

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22
23 ¹¹ ORS 697.612(1) A person shall not operate as a debt consolidating agency or in any way purport to be a debt-
24 consolidating agency unless the person is first registered with the Director of the Department of Consumer and Business
25 Services under ORS 697.632. For purposes of this section, a person operates as a debt consolidating agency and is subject
26 to ORS 697.602 to 697.842 if the person in the regular course of the person's business directly or indirectly solicits, offers
to take or takes anything of value belonging to the debtor or an assignment of the wages, salary, income, credits or any
other thing of value of a debtor for the purpose of paying to any creditor of the debtor the debtor's wages, salary, income,
credits or things of value, or the proceeds from the sale of the things of value.

(2) An employee of a debt-consolidating agency is not required to register with the director under subsection (1) of
this section if the debt-consolidating agency is registered under ORS 697.632.

(3) Subsection (1) of this section is subject to the exemptions in ORS 697.622.

(4) A person who violates subsection (1) of this section is subject to ORS 697.762, 697.832 and 697.990 (3).

1 The plain text of the statutory terms contemplates--taking a "thing of value" from *the*
2 debtor for the purpose of paying to any creditor "of *the* debtor" the "thing of value" (or the
3 proceeds from sale). The statute requires a one-to-one (debtor-to-creditor) payment to
4 qualify as "debt consolidating." In this case, the mortgage creditors who actually received
5 any funds (the mobile home land sales contract in Oregon and the three arrears) were paid
6 from funds that came from other mortgage debtors, not the debtors whose mortgages were
7 paid. This is not the type of transaction that qualifies as "debt consolidating."

8 The evidence does not preponderate in favor of finding either Haragan and Bountiful
9 LLC or Titus and Redwood Trust to have been operating as a "debt consolidating agency."
10 The funds solicited by Haragan and Bountiful LLC from the mortgage applicants (debtors)
11 were being used primarily by Redwood Trust to pay operating expenses and were not
12 intended to pay mortgage creditors. The Director concludes that Respondent did not engage
13 in unregistered debt consolidating agency conduct.

14 **III. CREDIT SERVICES ORGANIZATION**

15 *Registration*

16 Haragan and Bountiful LLC were acting as an unregistered "credit services
17 organization" in violation of ORS 646.386. Under Oregon law, any person is operating as a
18 "credit services organization" who:

19 [W]ith respect to the extension of credit by others, sells, provides, performs,
20 or represents that the organization can or will sell, provide or perform, in
return for the payment of money or other valuable consideration, any of the
following services:

- 21 (A) Improving, saving or preserving a consumer's credit record,
22 history or rating.
- 23 (B) Obtaining an extension of credit for a consumer.
- 24 (C) Providing advice, assistance, instruction or instructional materials
to a consumer with regard to either subparagraph (A) or (B) of this

25 ///

26 ///

1 paragraph.¹²

2 In the companion case,¹³ it was concluded that Titus and Redwood Trust were
3 operating as a "credit services organization" in Oregon. The pay off of a borrower's
4 mortgage would have the effect of "improving, saving or preserving a consumer's credit
5 record, history or rating." For the most part, Haragan and Bountiful LLC were acting in the
6 legal capacity as "representatives" or agents of Titus and Redwood Trust. Under the general
7 principles of agency, it would be the principal (Titus) who is liable for a civil penalty for a
8 violation, not the agent (Haragan).

9 There is evidence to establish that Haragan and Bountiful LLC were operating as a
10 "credit services organization" independent of or in partnership with Titus and Redwood
11 Trust. Even though Bountiful LLC was never organized as a formal business entity, it
12 nonetheless operated as an unincorporated association controlled by Haragan. Bountiful
13 LLC was created by Haragan to have more control and organization over how the Redwood
14 Trust mortgage pay-off program was represented. Haragan set a standard for Bountiful
15

16 ¹² ORS 646.386(2)(a) "Credit services organization" means any person who, with respect to the extension of credit by
17 others, sells, provides, performs, or represents that the organization can or will sell, provide or perform, in return for the
18 payment of money or other valuable consideration, any of the following services:

19 (A) Improving, saving or preserving a consumer's credit record, history or rating.

20 (B) Obtaining an extension of credit for a consumer.

21 (C) Providing advice, assistance, instruction or instructional materials to a consumer with regard to either
22 subparagraph (A) or (B) of this paragraph.

23 (b) "Credit services organization" does not include:

24 (A) Any person authorized to make loans or extensions of credit under the laws of this state or the United States
25 who is subject to regulation and supervision by this state or the United States or a lender approved by the Secretary of
26 Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act.

(B) Any financial institution, financial holding company or bank holding company as those terms are defined in
ORS 706.008 or any subsidiary or affiliate of a financial institution, financial holding company or bank holding company.

(C) A mortgage banker or mortgage broker as defined in ORS 59.840.

(D) Any nonprofit organization exempt from taxation under section 501(c)(3) of the Internal Revenue Code,
provided that the organization does not require a fee for its services and does not receive any money or other valuable
consideration prior to the rendering of any services by the organization for the consumer.

(E) Any person licensed as a real estate broker or principal real estate broker by this state if the person is acting
within the course and scope of that license.

(F) Any person licensed to practice law in this state if the person renders services within the course and scope of
practice as an attorney.

(G) Any broker-dealer registered with the Securities and Exchange Commission or the Commodity Futures
Trading Commission if the broker-dealer is acting within the course and scope of that regulation.

(H) Any consumer reporting agency as defined in the Federal Fair Credit Reporting Act, 15 U.S.C. 1681 et seq.

(I) Any licensee licensed under ORS chapter 725.

¹³ See Proposed Order in Kenneth G. Titus, Sr. d/b/a Redwood Trust, OAH Case No. 120419.

1 representatives of two foreclosure grants to one mortgage grant. New representatives could
2 only be brought in with Haragan's permission. The new people had to speak directly with
3 Haragan, they had to know what they were talking about, and they had to be computer
4 literate. They had to agree to adhere to the same standards as the Haragans. Haragan had
5 the final approval of these individuals to become Bountiful representatives. Haragan had
6 them sign a "Bountiful, LLC Non-Circumvention, Non-Disclosure and Working
7 Agreement."

8 Once accepted, Bountiful LLC representatives were provided by Haragan with their
9 own personalized website. Bountiful had the main website at www.BountifulLLC.com.
10 This served as a template for the individualized websites. Other than the changes made to
11 personalize the website, the website in appearance looked substantially the same as the
12 Bountiful website, which in turn was substantially the same as the Redwood Trust website
13 developed by Haragan. To the extent that Bountiful LLC operated as an independent
14 "credit services organization," it incorporated and promoted the Redwood Trust mortgage
15 pay off program as its own. Haragan also created the document entitled "Frequently Asked
16 Questions," which restated the mortgage pay-off program for the benefit of Bountiful
17 representatives. Thus, any representations or misrepresentations by Redwood Trust also
18 became representations or misrepresentations by Bountiful LLC.

19 In addition, Haragan sent letters of intent to mortgage lenders assisting or seeking an
20 extension of credit on behalf of the mortgage debtor. On behalf of Mary Ann Jimmerson,
21 Haragan wrote a letter on Bountiful LLC letterhead requesting that the lender "temporarily
22 withdraw this home from auction so Redwood Trust can pay this mortgage and keep Mary
23 Ann Jimmerson in her home."

24 There was no evidence presented that any of these things were done at the direction
25 or control of Ken Titus and Redwood Trust. These are actions that Haragan took on his own
26 initiative. In creating Bountiful LLC as an independent association of Redwood Trust

1 representatives, giving it a separate identity through business cards and letterhead, and by
2 cloning the Redwood Trust website and giving it a Bountiful LLC personalized appearance,
3 Haragan was acting as more than just an agent of Titus and Redwood Trust. In a sense,
4 Haragan created his own multi-level marketing structure or franchise within his association
5 with Redwood Trust. While Haragan did not receive a payment of money directly from the
6 applicant, Haragan performed the services in consideration of the commissions he would
7 receive from Redwood Trust on payoff of the mortgages. Haragan and Bountiful LLC were
8 acting as a "credit services organization" in Oregon.

9 Haragan and Bountiful LLC were not registered as a "credit services organization" as
10 required under ORS 646.386(1).¹⁴ Agency sought a \$1,000 civil penalty for this violation,
11 the amount of which was not contested. The Director may impose a civil penalty in an
12 amount not to exceed \$1,000 per violation, pursuant to ORS 646.396. The Director
13 considers a \$1,000 civil penalty appropriate for the violations of ORS 646.386 committed by
14 the Respondents in this case.

15 *Misrepresentation*

16 Agency alleged that Haragan and Bountiful LLC engaged in prohibited conduct as a
17 credit services organization by misrepresenting the nature of the services to be performed,
18 the time within which the services would be performed, the ability to improve a consumer's
19 credit report or credit rating, and the qualification, training or experience of the
20 organization's personnel. ORS 646.384(1) provides:

21 A credit services organization, its salespersons, agents, representatives and
22 independent contractors who sell or attempt to sell the services of a credit
services organization shall not do any of the following:

23 (a) Misrepresent directly or indirectly in any advertising, promotional
materials, sales presentation, or in any other manner:

24 (A) The nature of the services to be performed.

25
26 ¹⁴ ORS 646.386 (1) A credit services organization shall file a registration statement with the Department of Consumer and Business Services before conducting business in this state. The department by rule shall establish a registration system for credit services organizations. The system shall provide for annual renewals of registrations.

- 1 (B) The time within which the services will be performed.
2 (C) The ability to improve the consumer's credit report or credit rating.
3 (D) The amount or the type of credit a consumer can expect to receive
4 as a result of the performance of the services offered.
5 (E) The qualifications, training or experience of the organization's
6 personnel.

7 There was a misrepresentation as to the time within which the services would be
8 performed. Haragan and Bountiful LLC represented to Jimmerson and First Horizon that:
9 "Redwood Trust will release funds for this grant within the next 60 days." The letter of
10 intent was written on October 13, 2004. The lender never received any funds from
11 Redwood Trust to pay off the mortgage. The house was auctioned off on December 21,
12 2004, and Jimmerson was given a seven-day eviction notice. The statement that funds
13 would be released "within the next 60 days" was false and misleading. Agency sought a
14 \$1,000 civil penalty for this violation, the amount of which was not contested. Haragan and
15 Bountiful LLC misrepresented the time within which services would be performed, in
16 violation of ORS 646.384. The Director may impose a civil penalty in an amount not to
17 exceed \$1,000 per violation, pursuant to ORS 646.396. The Director considers a \$1,000
18 civil penalty appropriate for the violations of ORS 646.384 committed by the Respondents
19 in this case.

20 *Required Disclosures*

21 Haragan and Bountiful LLC failed to make the required disclosures as a credit
22 services organization. ORS 646.390(1)¹⁵ provides that the disclosures must be made before
23 any agreement is entered into or before any money is paid. ORS 646.390(2) provides for the
24 content of the required disclosure:

- 25 (a) A complete and accurate statement of the consumer's rights to
26 review any file on the consumer maintained by any consumer reporting

¹⁵ (1) Before any agreement is entered into, or before any money is paid by a consumer, whichever occurs first, the credit services organization shall provide the consumer with written disclosure of the information described in subsection (2) of this section. The credit services organization shall maintain on file for a period of two years an exact copy of the disclosure statement, personally signed by the consumer, acknowledging receipt of a copy of the disclosure statement.

1 agency, as provided under the Federal Fair Credit Reporting Act, 15 U.S.C.
2 1681 et seq.

3 (b) A statement that the consumer may review the consumer's file
4 under paragraph (a) of this subsection at no charge if the request is made to
5 the credit-reporting agency within 30 days after receiving notice that credit
6 has been denied.

7 (c) The approximate price the consumer will be charged by the credit-
8 reporting agency to review the consumer's file maintained by the credit-
9 reporting agency.

10 (d) A complete and detailed description of the services to be
11 performed by the credit services organization for the consumer and the total
12 amount the consumer will have to pay, or become obligated to pay, for the
13 services.

14 (e) A statement detailing the existence and purpose of the surety bond
15 or irrevocable letter of credit as described in ORS 646.388, and describing
16 the procedure for commencing an action on the bond or irrevocable letter of
17 credit.

18 (f) The name and address of the surety company or insured institution
19 that issued the bond or irrevocable letter of credit.

20 (g) A statement that a written, signed agreement is necessary between
21 the parties.

22 While the Redwood Trust application packet did provide a description of the services
23 to be performed by Redwood Trust (as represented by Bountiful LLC), there were confusing
24 statements in the Letter of Acceptance regarding the total amount of fees the consumer was
25 obligated to pay and whether the property was subject to a lien under the Limited Power of
26 Attorney to secure the fees. Most of these documents seem to have been drafted in relation
to a prior arbitration program that Redwood Trust offered to negotiate a settlement of
mortgage debts. Under the mortgage grant program, few of these documents were necessary
or served any purpose. To write out a check to a lender to pay off the mortgage balance,
Redwood Trust only needed the information provided by the applicant on the Settlement
Worksheet. Because there would be no direct interaction between the lender and Redwood
Trust, there was no purpose in making an Assignment of Debt or requiring a Limited Power
of Attorney. As for the fees, the website provided the applicant with all the relevant
information, while the fee structure described in the Letter of Acceptance appears totally

1 unrelated to the mortgage grant program. But despite all the confusing documents in the
2 application packet, none of the applicants who testified seemed to be confused about the
3 mortgage grant program itself or the fees that would be required if a mortgage was paid by
4 Redwood Trust. Thus, the evidence does not support a conclusion that there was a failure
5 by Redwood Trust or Bountiful LLC to disclose a "complete and detailed description of the
6 services to be performed" by Redwood Trust or "the total amount the consumer will have to
7 pay," as required under ORS 646.390(2)(d).

8 With respect to Haragan and Bountiful LLC, there was no written agreement
9 between the mortgage debtor and Haragan or Bountiful LLC detailing the services to be
10 provided by Haragan and Bountiful LLC, and the payment for these services. Although for
11 the most part Haragan was acting in the legal capacity as a "representative" or agent of
12 Redwood Trust, the letters of intent are "credit services" that Haragan did on his own,
13 independent of Titus and Redwood Trust, in attempting to obtain an extension of credit on
14 behalf of the consumer. While this may have been a nice thing to do on behalf of applicants
15 in attempting to delay the foreclosure sale, it was not a service that was authorized or
16 described by any of the Redwood Trust documents and was not apparently done at the
17 direction of Ken Titus or Redwood Trust. At least one applicant (Jimmerson) relied to her
18 detriment on the letter of intent, by moving back into her home, apparently believing the
19 lender would honor the request to delay the sale until Redwood Trust paid the mortgage.
20 This seems to be exactly the kind of "credit service" from which the Legislature was trying
21 to protect the consumer public by requiring a detailed disclosure of the services to be
22 provided. Certainly it would have been in the best interests of Jimmerson had there been a
23 disclosure by Haragan that he could not guarantee that the lender would honor the request
24 and delay the sale.

25 Thus, Haragan and Bountiful LLC did not make the required disclosures as a "credit
26 services organization," as required under ORS 646.390(2)(e). Haragan and Bountiful LLC

1 did not have a written agreement with mortgage debtors detailing credit services to be
2 provided or reference any surety company or bond or irrevocable letter of credit in the
3 amount of \$25,000. There was no disclosure describing the procedure for commencing an
4 action on the bond or irrevocable letter of credit.

5 Agency sought a \$1,000 civil penalty for this violation, the amount of which was not
6 contested. Haragan and Bountiful LLC did not make the required disclosures as a "credit
7 services organization," in violation of ORS 646.390(2). The Director may impose a civil
8 penalty in an amount not to exceed \$1,000 per violation, pursuant to ORS 646.396. The
9 Director considers a \$1,000 civil penalty appropriate for the violations of ORS 646.390(2)
10 committed by the Respondents in this case.

11 EXCEPTIONS

12 Respondent Haragan filed exceptions to the ALJ's Proposed Order and the Amended
13 Proposed Order.¹⁶ The Director has reviewed Haragan's exceptions and concludes they are
14 without merit.

15 *Respondent's Exceptions to ALJ's Proposed Order*

16 Respondent Haragan filed exceptions to the ALJ's Proposed Order. Those
17 exceptions, which are dated August 20, 2006, concerned the violations of Oregon law
18 concerning credit services organizations, ORS 646.384, ORS 646.386, and ORS 546.390,
19

20 ¹⁶ Haragan's exceptions were not timely filed. Because they were not timely filed, the Director is not required
21 to consider them. Nevertheless, the Director has reviewed the exceptions and concludes they are without
22 merit.

23 Haragan's exceptions to the Proposed Order were not timely filed. The ALJ issued his Proposed Order on
24 July 24, 2006. The Notice of Review and Appeal Rights in the Proposed Order instructs parties to file
25 exceptions with the Administrator of the Division of Finance and Corporate Securities. Respondent Haragan
26 filed his exceptions with the ALJ, and Special Assistant Attorney General Caroline Smith received a copy on
27 August 24, 2006. The exceptions filed by Mr. Haragan were forwarded from Caroline Smith to David Tatman,
28 Administrator of the Division of Finance and Corporate Securities, on August 24, 2006.

29 Haragan's exceptions to the Amended Proposed Order were not timely filed. The Agency mailed the
30 Amended Proposed Order to Haragan on March 21, 2007. The Amended Proposed Order included notice of
31 the 30-day deadline to file exceptions. On or about Sunday, April 22, 2007, Haragan faxed to the Agency his
32 exceptions, dated April 20, 2007, to the Amended Proposed Order. The Division of Finance and Corporate
33 Securities received Haragan's exceptions to the Amended Proposed Order on Monday, April 23, 2007.

1 and the \$3,000 in civil penalties recommended by the ALJ.

2 Haragan's exceptions did not point to any law that the ALJ misapplied,
3 misinterpreted, or failed to follow in this case. Also, the Respondent failed to point to
4 evidence in the record that the ALJ overlooked, disregarded, or failed to give appropriate
5 weight in reaching his decision.

6 *Respondent's Exception 1: Misrepresentation*¹⁷

7 Respondent Haragan misrepresented the time within which credit services would be
8 performed for Jimmerson. Haragan's letter of intent is Exhibit A-27 at p. 4. The letter is
9 signed by Haragan and is printed on Bountiful LLC letterhead. The letter states "Redwood
10 Trust will release the funds for this grant within the next 60 days." There is no evidence in
11 the record that Haragan had any reasonable basis for that representation. The lender never
12 received any funds from Redwood Trust to pay off the mortgage, the home was auctioned
13 off in December 21, 2004, and Jimmerson was given a seven-day eviction notice.

14 Haragan formed, operated and controlled Bountiful LLC. He sent letters of intent to
15 lenders, including Jimmerson's lender, First Horizon. Consequently, Haragan is responsible
16 for misrepresentations made to Jimmerson and First Horizon by Haragan, Haragan's
17 organization, Bountiful LLC, and representatives of Bountiful LLC. Respondent's first
18 exception is without merit and is denied.

19 *Respondent's Exception 2: Discovery*¹⁸

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21
22 ¹⁷ Haragan's exception to the ALJ's proposed order, with regard to misrepresentation, states: "Regardless as to what was
23 said by Jimmerson, the request sent to First Horizon on good faith as told by and approved by Redwood Trust. Using the
24 stated date of October 13, 2004, the 60-day period was halted by no fault of our own. It was under orders of the State with
25 their Cease and Desist. Additionally, Jimmerson had her own Redwood representative, *NOT* myself." Emphasis original.
26 ¹⁸ Haragan's exception to the ALJ's proposed order, with regard to discovery, states: "On the bottom of the first page and
carrying into the second, you explained how discovery supposedly advanced. At no time am I aware of ever receiving any
certificate or notice of any kind from the state stating it had complied with my demand for full disclosure. Two sure
indicators the state failed to provide the full disclosure as demanded are (A) my and Mr. Titus's 'Demand for Hearing and
Disclosure' filed in early December were not provided to me with the usual 'Received' date stamp, and (B) Mr.
Fitzgerald's affidavit indicated he had spoken to many persons around the country in the course of persecuting us for this
case, yet despite the plain language of my Demand that disclosure, not discovery, including but not be limited to 'the
investigative report and accompanying documents of Patrick A. Fitzgerald,' no notes he made during those conversations
were ever included in any 'discovery' provided by the state's prosecution."

1 The ALJ's Proposed Order in Mr. Haragan's case does not make any discovery
2 rulings, and any exceptions regarding discovery are improper in Mr. Haragan's case. In any
3 event, the Agency met its obligation to provide the Respondent with copies of the
4 documents that the Agency intended to rely upon at hearing, and a list of witnesses, in
5 advance of the hearing. In presenting its case, the Agency only used documents that had
6 been provided to the Respondents prior to the hearing and only called witnesses who were
7 on the witness list. Respondent's second exception is without merit and is denied.

8 *Respondent's Exception 3: Disclosure*¹⁹

9 The Respondent did not make the required disclosures as a "credit services
10 organization," as required under ORS 646.390(2)(e). Respondent did not have a written
11 agreement with mortgage debtors detailing credit services to be provided or reference any
12 surety company or bond or irrevocable letter of credit in the amount of \$25,000. There was
13 no disclosure describing the procedure for commencing an action on the bond or irrevocable
14 letter of credit. Respondent's exception does not reference any evidence in the record
15 indicating otherwise. Respondent's third exception is without merit and is denied

16 *Respondent's Exception 4: Contracts*²⁰

17 The Respondent's failure to reduce some agreements to writing serves as further
18 evidence of the violations, not as a defense. Also, Respondent cannot escape liability for his
19 role in the scheme by hiding behind Redwood Trust, Titus or other representatives. Haragan
20 and Bountiful LLC were operating as a credit services organization independent of or in

21 _____
22 ¹⁹ Haragan's exception to the ALJ's proposed order, with regard to disclosure, states: "The notion that paying off
23 someone's home would require disclosure because his or her credit score would raise is specious at best. Am I to believe
24 that you have the capacity of understanding, and capable of factoring, the scoring matrix used by credit reporting agencies?
I think you [sic] simple made an unsupported assumption. To prove this point, the only home to be paid off by Redwood
Trust within Oregon did NOT result in ANY credit change at all. The assertion that paying off one's home would elevate
their credit is NOT correct. If it were so, then simply continuing to refinance your home would be a way of 'buying credit
scores'. Is it your contention that every person that sells a home improves his or her credit?" Emphasis original.

25 ²⁰ Haragan's exception to the ALJ's proposed order, with regard to contracts, states: "Contracts out weigh all other forms
26 of law. Each and every person who testified about their agreement to have their home paid had a written contract with
Redwood Trust. Signed, dated Notarized, and submitted by themselves to Redwood Trust. Nowhere, is there an agreement
with them by any Bountiful person or myself. We simply aided in allowing them to submit their requests accurately and in
the proper format."

1 partnership with Titus and Redwood Trust. Even though Bountiful LLC was never
2 organized as a formal business entity, it nonetheless operated as an unincorporated
3 association controlled by Haragan.

4 Although for the most part Haragan was acting in the legal capacity as a
5 representative or agent of Redwood Trust, the letters of intent are credit services that
6 Haragan did on his own, independent of Titus and Redwood Trust, in attempting to obtain
7 an extension of credit on behalf of the consumer. The Respondent's independent actions
8 establish that he is liable as a credit services organization. Whether or not Respondent's
9 agreements with debtors were reduced to writing is immaterial, except where failure to
10 provide written disclosures constitutes a violation of Oregon law governing credit services
11 organizations. Respondent's fourth exception is without merit and is denied.

12 *Respondent's Exceptions to Amended Proposed Order*²¹

13 Respondent Haragan filed exceptions to the Amended Proposed Order. The Director
14 has reviewed Haragan's Exceptions to the Amended Proposed Order and concludes
15 Haragan's exceptions are not substantive, and they are without merit.

16 Because they are without merit, all of Haragan's exceptions are denied.

17 **ORDER**

18 Based on the Findings of Fact and Conclusions of Law stated above, and the record
19 of this matter, the director now issues the following ORDER:

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23 _____
24 ²¹ Haragan's Exceptions to the Amended Proposed Order state, in part: "Personally, I agree with the conclusions and
25 recommendation reached by the Administrative Law Judge in this matter last year (except for the recommended civil
26 penalty of \$3000). His exhaustive tests of the laws seemed to be extremely complete."

1 1. The Director, pursuant to ORS 59.245 and ORS 646.386²², hereby **ORDERS** Respondent
2 Rex A. Haragan dba Bountiful LLC to cease and desist from:

3 (a) Offering or selling securities without a license, in violation of ORS 59.165;

4 (b) Offering or selling unregistered securities in Oregon, in violation of ORS 59.055;

5 (c) Violating any provision of the Oregon Securities Law, including ORS Chapter 59
6 and OAR Chapter 441;

7 (d) Transacting any business as a credit services organization without first having
8 registered with the Department of Consumer and Business Services, in violation of ORS
9 646.384; and

10 (e) Violating any provision of the Oregon law governing credit services
11 organizations, including ORS Chapter 646 and OAR Chapter 441.

12 2. The Director, pursuant to ORS 59.045, hereby **DENIES** the Respondent Rex A. Haragan
13 dba Bountiful LLC, and any business owned, operated or under the control of Rex A.
14 Haragan, the use of any securities or transaction exemption that would otherwise be
15 available to him under ORS 59.025 or ORS 59.035.

16 3. The Director, hereby **ORDERS** Respondent Rex A. Haragan dba Bountiful LLC to pay
17 the following **CIVIL PENALTIES**:

18 (a) \$5,000 for violation of ORS 59.055 (sale of unregistered securities), pursuant to
19 ORS 59.995(1);

20 (b) \$5,000 for violation of ORS 59.165 (sale of securities by unlicensed person),
21 pursuant to ORS 59.995(1);

22 (c) \$10,000 for violation of ORS 59.135 (making a misrepresentation or omission of
23 material fact in connection with sale of securities), pursuant to ORS 59.995(1);
24

25

26 ²² The 2005 Oregon legislature clarified the Director's authority to issue an order to cease and desist. 2005 Or. Law Ch.
338 § 5.

1 (d) \$1,000 for violation of ORS 646.386 (operating as a credit services organization
2 without being registered), pursuant to ORS 646.396;

3 (e) \$1,000 for violation of ORS 646.390 (failing to make required disclosures as a
4 credit services organization), pursuant to ORS 646.396; and

5 (f) \$1,000 for violation of ORS 646.384 (prohibited conduct by a credit services
6 organization), pursuant to ORS 646.396.

7 IT IS SO ORDERED.

8 Dated this 15th day of June 2007 in Salem, Oregon.

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10 

11

CORY STREISINGER, Director
12 Department of Consumer & Business Services

13 ISSUANCE AND MAILING DATE:

14 June 18, 2007
15

16 **NOTICE OF REVIEW AND APPEAL RIGHTS**

17 NOTICE: You are entitled to judicial review of this Order by the Oregon Court of
18 Appeals pursuant to the provisions of ORS 183.480 and 183.482. Judicial review may be
19 obtained by filing with the court a petition for review within sixty (60) days from the service
20 of this Order. If you file a petition, you are requested to also send a copy of the Division of
Finance and Corporate Securities, Enforcement Section.

21 **NOTICE OF EFFECT OF FAILURE TO PAY CIVIL PENALTY AND COSTS**

22 You are hereby notified that, unless you timely appeal this Final Order, payment of
23 the civil penalty is due within seventy (70) days after the date of service of this Final Order,
24 and that if payment is not so made then, pursuant to ORS 183.745(6), the civil penalty will
become a judgment against you that can be filed with the county clerk of any county in
Oregon.

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APPENDIX A

LIST OF EXHIBITS CITED

- Ex. A-1: Verified Complaint for Forfeiture In Rem, United States District Court for the Northern District of New York.
- Ex. A-2: Indictment, Criminal No. 05-CR-337, United States District Court for the Northern District of New York.
- Ex. A-3: Transcript of a proceeding held on July 6, 2005, United States District Court for the Northern District of New York.
- Ex. A-4: DOJ interview of Rex Haragan.
- Ex. A-5: DCBS interview of Rex Haragan.
- Ex. A-6: Letter dated November 13, 2004.
- Ex. A-10: Deposition of Christos Mandalides.
- Ex. A-11: Mandalides Application Packet.
- Ex. A-12: Deposition of Mary Ann Mathis.
- Ex. A-13: Redwood Application Packet.
- Ex. A-16: <http://www.redwoodtrust.net/>, Thursday, November 04, 2004.
- Ex. A-17: Letter dated December 6, 2004.
- Ex. A-21: Bountiful LLC business card.
- Ex. A-23: Questionnaire, U.S. Attorney's Office, Northern District of New York.
- Ex. A-24: Troxel Application Packet.
- Ex. A-25: Gray Application Packet.
- Ex. A-26: Mathis flyer (yellow).
- Ex. A-27: Jimmerson Consumer Complaint.
- Ex. A-29: Reilly Application Packet.
- Ex. A-30: Letter addressed to National City Mortgage.
- Ex. A-32: Redwood Trust Associate Application.

- 1 Ex. A-33: DCBS Securities Registration Certification.
- 2 Ex. A-34: DCBS Securities Registration Certification.
- 3 Ex. A-35: Letter dated October 14, 2005 (and fax cover sheet).
- 4 Ex. A-36: Affidavit of Patrick A. Fitzgerald.
- 5 Ex. A-37: Affidavit of Fern Sanchez.
- 6 Ex. A-38: Affidavit of Jeffery A. Reilly.
- 7 Ex. A-39: Affidavit of David Stauffer.
- 8 Ex. A-40: Subpoena Duces Tecum.
- 9 Ex. A-42: Bountiful Associate Agreement.
- 10 Ex. R-1: Spectacular Seminar Flyer.
- 11 Ex. R-2: Letter dated May 31, 2006, from Don Curtis.
- 12 Ex. R-4: Letter dated December 2, 2004, from Theresa M. Sirocco.
- 13 Ex. R-6: Escrow Deposit Receipt dated December 3, 2004

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