

1 STATE OF OREGON  
2 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES  
3 DIVISION OF FINANCE AND CORPORATE SECURITIES  
4 ENFORCEMENT SECTION  
5 BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

6 In the Matter of:

S-07-0006

7 Michael Patrick Kaiser

8 Respondent.

9 ORDER TO CEASE AND DESIST  
10 ORDER DENYING USE OF EXEMPTIONS  
11 ORDER IMPOSING CIVIL PENALTIES  
12 and  
13 CONSENT TO ENTRY OF ORDER

14 WHEREAS the Director of the Department of Consumer and Business Services  
15 (hereinafter, "the Director") has conducted an investigation of certain business activities  
16 conducted by Michael Patrick Kaiser (hereinafter, "Kaiser" or "Respondent"), and the  
17 Director has determined that Kaiser conducted business in the State of Oregon in  
18 violation of the Oregon Securities Law;

19 WHEREAS Kaiser wishes to resolve and settle this matter with the DIRECTOR;

20 NOW THEREFORE, as evidenced by the authorized signature subscribed on  
21 this Order, Kaiser hereby **CONSENTS** to entry of this Order to Cease and Desist upon  
22 the Director's Findings of Fact and Conclusions of Law as stated hereinafter.

23 **FINDINGS OF FACT**

24 The Director **FINDS** that:

- 25 1. At all times relevant herein, Respondent has never been licensed to sell  
26 securities or act as a financial advisor in Oregon.
- 27 2. Some time prior to June of 2005, Respondent solicited a group of investors  
28 headed by Carol Smith (hereinafter "Smith") to invest in a business venture that would  
29 rehabilitate residential real estate. Respondent represented that the investment funds

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Telephone: (503) 378-4140





1 would be used to purchase and remodel two homes located at 68 and 72 Pineridge  
2 Lane in Eagle Point, Oregon (hereinafter "the MIKCAR properties"). The MIKCAR  
3 properties would then be sold and the investment funds would be returned with interest  
4 and a division of any profits made from the sale of the homes. Respondent would be  
5 responsible to manage the projects.

6 3. Based upon Respondent's representations, seven members of the group  
7 (hereinafter "the Investors") invested with Respondent a total of \$225,500 (hereinafter  
8 "the MIKCAR investments"), expecting to make a profit through the efforts of  
9 Respondent who would remodel then sell the properties. Smith oversaw the MIKCAR  
10 investments for the Investors but did not invest as part of the MIKCAR investments.  
11 She did invest in other projects with Respondent.

12 4. At all times relevant herein, the offering of the MIKCAR investments were not  
13 registered as securities with Oregon.

14 5. Respondent and Smith began negotiating for the purchase of the MIKCAR  
15 properties on May 11, 2005. On May 12, 2005, Respondent and Smith entered into a  
16 contract (hereinafter "the Purchase Agreement") with Southern Oregon Development  
17 LLC (hereinafter "SOD") to purchase the MIKCAR properties for \$351,000 using a down  
18 payment of \$75,000 with SOD carrying the balance at no interest.

19 6. To facilitate the venture, Respondent suggested that he and Smith form a  
20 corporation. On June 1, 2005, Michael Kevins LLC, an Oregon domestic limited liability  
21 company, and Smith registered an Oregon domestic limited liability company called  
22 MIKCAR LLC (hereinafter "MIKCAR"). Although Michael Kevins LLC was the other  
23 organizer of the LLC, Respondent and Smith operated MIKCAR. Smith states that the  
24 purpose of the LLC was for investing in the residential real estate. Smith had a verbal  
25 agreement with Respondent that she would manage MIKCAR's financial affairs,  
26 including writing checks to pay the company's expenses, and Respondent would

1 supervise performance of the construction work and order materials required for  
2 construction.

3 7. On June 29, 2005, Respondent, signing for MIKCAR, and Smith executed a  
4 promissory note to SOD for \$276,000 to complete the purchase of the MIKCAR  
5 properties (hereinafter "MIKCAR Note"). SOD subsequently entered into an agreement  
6 to extend the time for payment of the promissory note as long as MIKCAR was making  
7 progress on the rehabilitation of the MIKCAR properties.

8 8. On July 22, 2005, Respondent and Smith opened a checking account ending in  
9 6365 at Liberty Bank (hereinafter "Account 6365"), which was to be used to deposit  
10 investor funds from a variety of projects involving Smith, the Investors and others,  
11 including the MIKCAR investments. On July 29, 2005, Respondent and Smith opened a  
12 checking account ending in 4850 at Liberty Bank (hereinafter "Account 4850"). Account  
13 4850 was intended to be used solely as the operational checking account for the  
14 MIKCAR properties. Investor funds deposited into Account 6365 were to be transferred  
15 to Account 4850 to pay the expenses of rehabilitating the MIKCAR properties. Smith  
16 was to handle the banking. Respondent had authority to sign checks to pay MIKCAR's  
17 expenses only when Smith was unable to do so.

18 9. Respondent commenced construction on the MIKCAR properties. SOD  
19 complained that the work on the MIKCAR properties was sporadic, Respondent often  
20 was not on the project site and Respondent failed to keep the projects moving forward.

21 10. On October 4, 2005, SOD provided notice that it intended to foreclose on the  
22 trust deed securing the MIKCAR Note. The MIKCAR properties were sold at auction on  
23 February 21, 2006.

24 11. A review of Account 6365, making all assumptions in favor of Respondent,  
25 indicates that Respondent made net deposits of not more than \$189,877.79, transferred  
26 \$9,350.00 to the HSBC Bank USA NA account ending in numbers 6883 (hereinafter

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1 "Kaiser Account"), which was used for Respondent's personal expenses, and made  
2 withdrawals of \$25,000.00. Therefore, Respondent's net deposit to Account 6365 was  
3 no more than \$155,527.79.

4 12. Between August 30, 2005 and March 31, 2006, Respondent made a series of  
5 wire transfers totaling approximately \$378,105.12 from Account 4850 to the Kaiser  
6 Account. The wire transfers were not authorized by Smith or the Investors. Twelve of  
7 the wire transfers were made after February 21, 2006, when the MIKCAR properties  
8 had been foreclosed.

9 13. A review of Account 4850, making all assumptions in favor of Respondent,  
10 indicates that Respondent made net deposits of not more than \$213,176.34, made cash  
11 withdrawals of \$6,650.00, withdrew \$11,500.00 to pay others for purposes not  
12 associated with operations of MIKCAR LLC and transferred \$398,605.12 to the Kaiser  
13 Account. Accordingly, Respondent withdrew approximately \$203,578.78 more than he  
14 deposited to Account 4850.

15 14. Because Respondent may have been entitled to as much as \$155,527.79 from  
16 Account 6365 but withdrew \$203,578.78 more than he deposited to Account 4850,  
17 Respondent directed the deposit of approximately \$48,050.99 into his Kaiser Account  
18 that came from Investors funds without their permission or other entitlement to those  
19 funds.

20 15. A review of the Kaiser Account indicates that funds paid from the account were  
21 for items for the personal benefit of Respondent, such as clothing, art, travel, food and a  
22 significant amount of Pay Pal purchases.

23 16. The Investors would not have invested if they had known that Respondent  
24 would use their investment funds to pay for Respondent's personal purchases.

25 17. Respondent was convicted of Forgery 1, a class C felony, on October 2, 1985 in  
26 Jackson County case number 853002ZC2. Respondent was convicted of Forgery 1, a

1 class C felony, on April 2, 1996 in Jackson County case number 951210C1.  
2 Respondent was convicted of Forgery 1, a class C felony, on July 13, 2004 in Jackson  
3 County case number 035315FE.

4 18. Respondent did not inform Smith or the Investors of his criminal convictions.  
5 The Investors would not have invested with Respondent if they had been aware of his  
6 criminal convictions.

7 **CONCLUSIONS OF LAW**

8 The Director **CONCLUDES** that:

- 9 1. The MIKCAR investments offered and sold by Respondent are a "security" as  
10 defined in ORS 59.015(19)(a).  
11 2. Respondent offered and/or sold unregistered securities in the form of the  
12 MIKCAR investments in the State of Oregon in violation of ORS 59.055.  
13 3. Respondent offered and/or sold securities in the form of the MIKCAR  
14 investments in the State of Oregon without a license in violation of ORS 59.165.  
15 4. Respondent, in connection with the offer and/or sale of the MIKCAR  
16 Investments, omitted to state that investor funds would be used for his personal  
17 expenses, which was an omission to state a material fact necessary in order to make  
18 the statements made, in the light of the circumstances under which they were made, not  
19 misleading in violation of ORS 59.135(2).  
20 5. Respondent, in connection with the offer and/or sale of the MIKCAR  
21 investments, omitted to state that he had three felony criminal convictions, which was  
22 an omission to state a material fact necessary in order to make the statements made, in  
23 the light of the circumstances under which they were made, not misleading in violation  
24 of ORS 59.135(2).

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1 **ORDER**

2 1. The Director, pursuant to ORS 59.245 hereby **ORDERS** that Respondent  
3 shall **CEASE and DESIST** from violating any provision of the Oregon Securities Laws,  
4 including ORS Chapter 59 and OAR Chapter 441.

5 2. The Director, pursuant to ORS 59.996 hereby **ORDERS** the imposition of a  
6 civil penalty of \$80,000 (eighty thousand dollars) against the Respondent, based upon  
7 \$20,000 for the violation of ORS 59.055, \$20,000 for the violation of ORS 59.165, and  
8 \$20,000 for each of the two violations of ORS 59.135(2), with all \$80,000 (eighty  
9 thousand dollars) of the civil penalty **SUSPENDED** so long as Respondent fully  
10 complies with all of the terms of this Order; **PROVIDED HOWEVER**, that all \$80,000  
11 (eighty thousand dollars) of the civil penalty and statutory interest accruing from the  
12 date of this Order will be immediately due and payable upon a determination by the  
13 Director that the Respondent has violated any term of this Order, or any provision of  
14 ORS Chapter 59 or Oregon Administrative Rules Chapter 441.

15 3. The Director, pursuant to ORS 59.045(2) hereby permanently **DENIES**  
16 Respondent the use of the exemptions found in ORS 59.025 and ORS 59.035.

17 4. Respondent is permanently **BARRED** from all of the following financial  
18 services business activity in Oregon:

19 (a) directly or indirectly engaging in the business of, or acting as, an investment  
20 adviser, broker-dealer, securities salesperson, mortgage banker, mortgage broker, loan  
21 originator, or loan processor;

22 (b) applying for, holding, or renewing any investment adviser, broker-dealer or  
23 securities salesperson license in the State of Oregon;

24 (c) applying to register or renew any securities registration in the State of  
25 Oregon; and

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1 (d) applying for, holding, or renewing any license or registration required by the  
2 Director in Oregon, including but not limited to insurance, consumer finance, collection  
3 agency, manufactured home dealer or mortgage lending.

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

6 Dated this 23<sup>rd</sup> day of October, 2008 at Salem, Oregon.

8 CORY STREISINGER, Director  
9 Department of Consumer and Business Services

10   
11 David Tatman, Administrator  
12 Division of Finance and Corporate Securities

13 **CONSENT OF MICHAEL PATRICK KAISER TO ENTRY OF ORDER**

14 I, Michael Patrick Kaiser, state that I am a resident of the State of Oregon, that I  
15 have read the foregoing Order and that I know and fully understand the contents hereof;  
16 that I have been advised of my right to a hearing, that I have been advised of my right to  
17 be represented by counsel in this matter; that without admitting or denying the factual  
18 allegations contained in the foregoing Order, I voluntarily consent to the entry of this  
19 Order without any force or duress, expressly waiving any right to a hearing in this  
20 matter; that I understand that the Director reserves the right to take further actions  
21 against me to enforce this Order or to take appropriate action upon discovery of other  
22 violations of Oregon law by me; and that I will fully comply with the terms and conditions  
23 stated herein.

24 I further assure the Director that I will not offer or sell securities in Oregon unless  
25 such activities are in full compliance with the terms of this Order and with Chapter 59 of  
26 the Oregon Revised Statutes and Chapter 441 of the Oregon Administrative Rules.

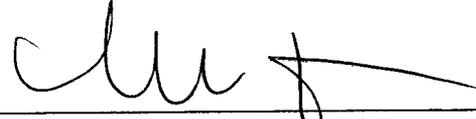
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I understand that this Consent Order is a public document.

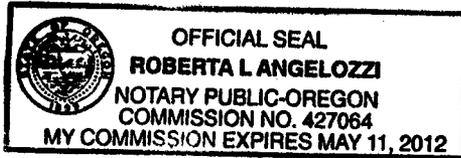
Dated this 15 day of Oct., 2008.



**MICHAEL PATRICK KAISER**

SUBSCRIBED AND SWORN to before me this 15<sup>th</sup> day of October, 2008.

Roberta L. Angelozzi  
(Printed Name of Notary Public)



Notary Public for the State of: Oregon  
My commission expires: May 11, 2012

Roberta L. Angelozzi

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