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5 **STATE OF OREGON**  
6 **DEPARTMENT OF CONSUMER AND BUSINESS SERVICES**  
7 **DIVISION OF FINANCE AND CORPORATE SECURITIES**

8 **BEFORE THE DIRECTOR OF THE DEPARTMENT**  
9 **OF CONSUMER AND BUSINESS SERVICES**

10 In the Matter of:

**Case No. M-11-0065**

11 Daniel Scott Register, Sara A. Roberts, and  
12 Kenn Nickell,

**Order to Cease and Desist, Order  
Assessing Civil Penalty, and  
Consent to Entry of Order  
as to Respondent Kenn Nickell**

13 Respondents.

14 WHEREAS the Director of the Department of Consumer and Business Services for the  
15 State of Oregon (“Director”) conducted an investigation of Respondent Kenn Nickell and others  
16 and determined that Respondent Nickell and others engaged in activities constituting violations  
17 of ORS 86A.100 *et seq.* formerly ORS 59.840 *et seq.* and Oregon Administrative Rules (“OAR”)  
18 441-850-0005 through 441-885-0010 (“Oregon Mortgage Lender Laws and Rules”);

19 WHEREAS on July 8, 2011, on the Director’s behalf, an Order to Cease and Desist,  
20 Proposed Order Assessing Civil Penalty, and Notice of Right to a Contested Hearing against  
21 Daniel Scott Register, Sarah A. Roberts, and Kenn Nickell was executed in *In the Matter of:*  
22 *Daniel Scott Register, Sara A. Roberts, and Kenn Nickell* Case No. M-11-0065;

23 WHEREAS Respondent Kenn Nickell wishes to resolve and settle this matter with the  
24 Director; and

25 WHEREAS Respondent Kenn Nickell neither admits nor denies the findings of fact and  
26 conclusions of law that are the subject of this Consent Order.

///



1 NOW THEREFORE, as evidenced by the authorized signature subscribed on this  
2 Consent Order, Respondent Kenn Nickell hereby CONSENTS to entry of this Consent Order  
3 upon the Director’s Findings of Fact and Conclusions of Law as stated hereinafter:

4 **FINDINGS OF FACT**

5 **A. Parties**

6 1. Sunset Mortgage Co (“Sunset”) was a domestic Oregon corporation, first registered  
7 (Registry Nbr. 304741-83) with the Oregon Secretary of State Corporations Division on July 20,  
8 1992 and continuously registered with the Corporations Division until the company was  
9 dissolved pursuant to articles of dissolution that were filed on October 21, 2011.

10 2. Sunset was first licensed as a mortgage lender (License No. ML-137) with the Oregon  
11 Division of Finance and Corporate Securities (“Division”) on January 1, 1994 and ultimately  
12 surrendered its license on August 9, 2011.

13 3. According to the Division’s records, Sunset listed Respondent Kenn Nickell  
14 (“Nickell”) as one of its loan originators for the period from July 1, 2008 to February 27, 2009.

15 4. According to the Division’s records, Sunset has never listed Respondent Sara Roberts  
16 (“Roberts”) as one of its loan originators.

17 5. According to the Division’s records, Sunset has never listed Respondent Daniel  
18 Register (“Register”) as one of its loan originators.

19 6. At all times relevant to this matter, E.B. was a resident of Albany, Oregon seeking a  
20 home loan refinance for his residential real property located in Albany, Oregon.

21 **B. E.B. Transaction**

22 7. 8. In a telephone conference with E.B. on or about December 5, 2008, Register  
23 represented himself as a loan originator working for Sunset.

24 8. After the telephone conversation between Register and E.B. on December 5, 2008,  
25 E.B. submitted to Register, an application for a mortgage loan refinance for E.B.’s residential  
26 real property located in Albany, Oregon (“Mortgage Property”).



1 9. Register subsequently quoted to E.B. a 30-year fixed rate loan at 5.5% interest with  
2 closing costs of \$190 and a \$400 appraisal fee for the refinance of the Mortgage Property.

3 10. In mid-December 2008, Register forwarded to Roberts E.B.'s mortgage loan  
4 refinance application and other documents related to the Mortgage Property ("E.B. Loan File").

5 11. On December 16, 2008, a second loan application, this time completed by Roberts  
6 through Sunset, was completed for the Mortgage Property.

7 12. In documents dated December 16, 2008, Roberts provided E.B. with a Good Faith  
8 Estimate ("GFE") and Truth in Lending Disclosure ("TIL"). The terms for the loan indicated a  
9 loan amount of \$222,190 with an interest rate of 5.5% for a 30-year fixed rate loan. Both the  
10 GFE and TIL list Sunset Mortgage as the mortgage broker.

11 13. In the signature line of an email message from Roberts to E.B sent approximately  
12 December 20, 2008, Roberts indicated her title as Private Mortgage Lender for Sunset Mortgage  
13 and provides a web address of [www.sunsetmortgageco.com](http://www.sunsetmortgageco.com).

14 14. E.B.'s Loan File was transferred to Nickell on or about January 20, 2009.

15 15. In an email message from Nickell to E.B. dated January 29, 2009, Nickell indicated  
16 that Register had given Nickell E.B.'s Loan File "before he left town at the end of last week".

17 16. The signature line of the January 29, 2009 email message lists Nickell as Greenspace  
18 Branch Manager of Sunset Mortgage Co.

19 17. According to the Division's records, on January 29, 2009, when the email message  
20 referenced in paragraph 15 and 16 above was sent, Nickell was listed by Sunset as a loan  
21 originator and the branch manager for the Greenspace Branch of Sunset.

22 18. In a subsequent conversation with a Division investigator, Nickell stated that, at the  
23 time that Register, Roberts and Nickell were working with E.B. on his mortgage loan refinance,  
24 Nickell was the branch manager of Sunset.

25 19. In the same conversation as in paragraph 18 above, Nickell indicated that he had  
26 intended to hire both Roberts and Register as loan originators for Sunset.





1 20. Neither Roberts nor Register were ever employed as loan originators for Sunset.

2 21. Nickell was aware that both Register and Roberts led E.B. to believe that they were  
3 employed by Sunset.

4 22. In early February 2009, Sunset transferred E.B.'s Loan File to another loan  
5 originator. The new loan originator requested documentation from E.B.

6 23. E.B. was concerned that he was being asked for documentation that he had already  
7 previously provided to Roberts and Register. In addition, Nickell had told him via an email sent  
8 from Sunset that the loan file was complete.

9 24. On February 27, 2009, Sunset terminated Nickell.

10 25. E.B. learned that Nickell had left Sunset with his entire loan file. Upon request,  
11 Nickell returned the loan file to E.B.

12 26. Due to the time that had elapsed, Sunset was unable to originate a loan based on the  
13 terms that were originally quoted by Roberts and Register to E.B. E.B. then filed a complaint  
14 with the Division.

15 **CONCLUSIONS OF LAW**

16 The Director **CONCLUDES** that Nickell violated ORS 86A.154(3) [formerly ORS  
17 59.930(3)] when he engaged Roberts and Register to seek out leads in the name of Sunset, when  
18 he knew that neither Roberts nor Register were employed by Sunset, and when he knew that  
19 Roberts and Register were representing themselves as employees of Sunset.

20 **ORDERS**

21 **NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:**

22 **BAN**

23 Nickell hereby consents to a three (3) year ban from acting as or owning a mortgage  
24 banker or mortgage broker, or acting as a control person, experienced person, branch manager  
25 and/or mortgage loan originator in Oregon ("Ban").

26 ///

Division of Finance and Corporate Securities  
Labor and Industries Building  
350 Winter Street NE, Suite 410  
Salem, OR 97301-3881  
Telephone: (503) 378-4387



1 CEASE AND DESIST ORDER

2 Pursuant to ORS 86A.127 [formerly ORS 59.885], the Director hereby ORDERS Nickell  
3 to CEASE AND DESIST from violating Oregon’s Mortgage Lender Laws and Rules and any  
4 order issued by the Director.

5 ORDER ASSESSING CIVIL PENALTY

6 Pursuant to ORS 86A.992 [formerly ORS 59.996], the Director may assess CIVIL  
7 PENALTIES of up to \$5,000 per violation against persons who violate the Oregon Mortgage  
8 Lender Laws and Rules. Pursuant to this provision, the Director, hereby ORDERS Nickell to pay  
9 to the State of Oregon a \$2,500 CIVIL PENALTY.

10 For so long as Nickell complies with the terms of this Consent Order, in order to ensure  
11 compliance with the terms of this Consent Order, and in exchange for Nickell’s agreement to the  
12 Ban, the Director agrees that \$2,000 of the civil penalty shall be suspended.

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

15 IT IS SO ORDERED.

16 Dated this 26<sup>th</sup> day of September, 2012.

17  
18 PATRICK M. ALLEN, Director  
Department of Consumer and Business Services

19  
20 /s/ David Tatman  
David C. Tatman, Administrator  
Division of Finance and Corporate Securities

21  
22 **CONSENT TO ENTRY OF ORDER**

23 I, Kenn Nickell, state that I have read the foregoing Consent Order and that I know and  
24 fully understand the contents hereof; that I have been advised of the right to a hearing and of the  
25 right to be represented by counsel in this matter; that I voluntarily and without any force or  
26 duress, consent to the entry of this Consent Order, expressly waiving any right to a hearing in

1 this matter; that I understands that the Director reserves the right to take further actions to  
2 enforce this Consent Order or to take appropriate action upon discovery of other violations of the  
3 Oregon Mortgage Lender Laws and Rules and that I will fully comply with the terms and  
4 conditions stated herein.

5 I understand that this Consent Order is a public document.

6 Dated this 13<sup>th</sup> day of September 2012.

7  
8 /s/ Kenn Nickell  
Kenn Nickell

9  
10 **NOTARY ACKNOWLEDGEMENT**

11 State of Oregon )  
12 )ss.  
County of Multnomah )

13  
14 This instrument was acknowledged before me on September 13, 2012 by Kenn Nickell.

15 Richard W. Todd  
16 Notary Public – State of Oregon

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