

1 STATE OF OREGON
2 DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
3 DIVISION OF FINANCE AND CORPORATE SECURITIES

4 BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND
5 BUSINESS SERVICES

6 **In the Matter of:**) **X-11-0112-1**
7 **Toby Don Garus and Equity Options Inc.**)
8 **of Bend,**) **ORDER TO CEASE AND DESIST,**
9 **Respondents.**) **ORDER DENYING EXEMPTIONS,**
10) **ORDER ASSESSING CIVIL**
11) **PENALTY, AND CONSENT TO**
) **ENTRY OF ORDER**
)
)

12 WHEREAS, the Director of the Department of Consumer and Business Services for the
13 State of Oregon (hereinafter “the Director”), acting by the authority of the Oregon Securities
14 Law, Oregon Revised Statutes Chapter 59, has conducted an investigation of Toby Don Garus
15 and Equity Options Inc. of Bend (together referred to herein as the “Respondents”) and
16 concluded that violations of Oregon law had been committed; and

17 WHEREAS Respondents neither admit nor deny the Findings of Fact contained herein,
18 but wish to resolve this matter with the Director;

19 NOW THEREFORE, as evidenced by the signature(s) subscribed on this Order,
20 Respondents hereby CONSENT to entry of this Order upon the Director’s Findings of Fact and
21 Conclusions of Law as stated hereinafter.

22 **I.**

23 **FINDINGS OF FACT**

24 The Director FINDS that:

25 1. At all times relevant to this matter, Toby Don Garus (“Garus”) was a resident of Oregon
26 and conducted all business relevant to the matter herein while in Oregon.

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350 Winter Street NE, Suite 410
Salem, OR 97301-3281
Telephone: (503) 378-4387





1 2. Equity Options Inc. of Bend (“Equity Bend”) is an Oregon corporation organized on or
2 about October 27, 2006. At all times relevant to this matter, Garus was the president of Equity
3 Bend. Equity Bend was administratively dissolved on or about December 28, 2007.

4 3. In or about October 2006, Respondents started offering Oregon residents the opportunity
5 to invest in a Hard Money Investment Program (“HMIP”) offered by WCM Financial Services
6 (“WCM”), a California based entity. In an interview with an Oregon Division of Finance and
7 Corporate Securities (“DFCS”) investigator, Garus stated that he was the WCM representative in
8 Oregon.

9 4. The HMIP’s purpose was to use investor funds for providing home loans to individuals
10 who could not qualify for a conventional home loan.

11 5. Respondents represented to investors and provided investors documentation which states
12 that the HMIP is for the investor that “wants to make a guaranteed 10% return”, and that the
13 HMIP was a “Low Risk, High Return” “Liquid Investment.” These were untrue statements.

14 6. In an interview with a DFCS investigator, Garus stated that most of the investors he
15 obtained for the HMIP were Equity Bend clients who wanted to refinance their homes. Garus
16 stated that he would inform the client about the HMIP and that they could pull equity from their
17 home during the refinance process to invest in the HMIP. Garus stated that he informed
18 investors that they could expect to receive a ten percent return on their investment and that WCM
19 “would handle everything.” Additionally, Garus stated that potential investors were informed
20 that their investment was earmarked to fund a specific hard money loan and that the investment
21 would be secured through a note on the property. According to Garus, once he received the
22 investment funds, he would deposit the funds directly into WCM’s account.

23 7. At the end of each month, each investor would receive an interest payment from WCM of
24 approximately 5/6th of one percent of his or her investment principal.

25 8. In or about April 2009, investors stopped receiving monthly interest payments.

26 9. DFCS has no record of any securities offering ever being registered in the name of Garus

1 or any other person or entity related to this matter. Additionally, neither Garus nor any other
2 person or entity related to this matter has ever been licensed by any federal or state government
3 agency to sell securities.

4 10. To date, DFCS has received five complaints from Oregon investors in the HMIP, all of
5 whom expected a return on their investment made with WCM. While all of the complainants
6 received some payments from WCM, in total, the complainants lost over \$275,000.

7 11. In one complaint, the complainant states that after requesting the return of his investment,
8 he was informed that his investment would be returned to him once others invested in the HMIP.

9 12. According to records received by DFCS, it appears that the HMIP raised a total of at least
10 \$623,000 from at least nine Oregon investors between October 19, 2006 and September 7, 2007.
11 Based on these records, it is estimated that the nine Oregon investors have lost approximately
12 \$450,000.

13 II.

14 CONCLUSIONS OF LAW

15 The Director CONCLUDES that:

16 13. The HMIP offered and sold by the Respondents, as described herein, meets the definition
17 of an investment contract and “real estate paper” in Oregon, and as such, is considered a
18 “security” under ORS 59.015(19)(a).

19 14. The Respondents sold unregistered securities in Oregon in violation of ORS 59.055.

20 15. The Respondents sold securities in Oregon without being licensed in violation of ORS
21 59.165(1).

22 16. The Respondents made untrue statements of material fact in connection with the sale of
23 securities in violation of ORS 59.135(2) by representing that the HMIP was a “guaranteed 10%
24 return” and a “Low Risk, High Return” “Liquid Investment.”

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1 **III.**

2 **ORDERS**

3 NOW, THEREFORE, THE DIRECTOR ISSUES THE FOLLOWING ORDERS:

4 Order to Cease and Desist

5 17. Pursuant to the authority of ORS 59.245, the Director hereby ORDERS the Respondents
6 to CEASE AND DESIST from:

- 7 a. Selling securities without a license in violation of ORS 59.165;
8 b. Selling unregistered securities in the State of Oregon in violation ORS 59.055;
9 c. Violating any provision of the Oregon Securities Law, including ORS Chapter 59 and
10 OAR Chapter 441.

11 Order Denying Exemptions

12 18. Pursuant to the authority of ORS 59.045, the Director ORDERS the Respondents, and
13 any entities owned by or affiliated with the Respondents, to be DENIED THE USE OF ANY
14 EXEMPTIONS that would otherwise be available to them under ORS 59.025 and ORS 59.035.

15 Prohibited From Investing for Others

16 19. The Respondents and any entities owned by or affiliated with the Respondents are
17 PROHIBITED in any capacity from: (1) investing for other individuals; (2) raising capital,
18 formally or informally, from other individuals for use or investment on their behalf; and (3)
19 providing advice on investing via any medium.

20 Prohibited From Ownership in an Investment Entity

21 20. The Respondents and any entities owned by or affiliated with the Respondents are
22 PROHIBITED from maintaining an ownership interest in or executive role with a broker-dealer
23 or investment adviser in or licensed by the State of Oregon.

24 Barred from Licensure

25 21. The Respondents and any entities owned by or affiliated with the Respondents are
26 permanently BARRED from applying for, holding, or renewing any license or registration

1 required by the Director in Oregon, including but not limited to any investment advisor, broker-
2 dealer or securities salesperson license.

3 Order Assessing Civil Penalty

4 22. The Director, pursuant to ORS 59.995, may assess a CIVIL PENALTY in an amount of
5 not more than \$20,000 for each violation of the Oregon Securities Law.

6 23. Pursuant to ORS 59.995, the Director hereby assesses the Respondents, jointly and
7 severally, a CIVIL PENALTY in the amount of \$250,000 (two hundred fifty thousand dollars)
8 for the following violations:

9 a. A CIVIL PENALTY of \$100,000 (one hundred thousand dollars) for nine violations of
10 ORS 59.055 for selling unregistered securities.

11 b. A CIVIL PENALTY of \$100,000 (one hundred thousand dollars) for nine violations of
12 ORS 59.165(1) for selling securities without a license.

13 c. A CIVIL PENALTY of \$50,000 (fifty thousand dollars) for the untrue statements of
14 material facts made in connection with the sale of securities in violation of ORS 59.135(2).

15 24. The Director agrees to SUSPEND the collection of \$230,000 (two hundred thirty
16 thousand dollars) of the \$250,000 (two hundred fifty thousand dollars) CIVIL PENALTY
17 assessed herein against the Respondents providing that the Respondents comply with all of the
18 following terms and conditions:

19 a. The Respondents shall cooperate in DFCS' continued investigation of the business
20 dealings of Walter Curtis Maddux, Equity Options, Inc., Equity Options Inc. of Bend, and WCM
21 Financial Services, which could include, but is not limited to, testifying at any trial or
22 administrative hearing or providing deposition testimony.

23 b. The Respondents shall comply with all terms and conditions set out in this Order and
24 commit no new violations of the Oregon statutes regulating securities, Oregon Revised Statutes
25 Chapter 59, and Oregon Administrative Rules Chapter 441.

26 25. If the Respondents comply with all of the terms and conditions set out in this Order and

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1 commits no new violations during the ten-year period from the effective date of this Order, the
2 Director WAIVES the collection of the suspended CIVIL PENALTY assessed herein.

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

5 IT IS SO ORDERED.

6 Dated this 3rd day of July, 2013, at Salem, Oregon.

7 PATRICK M. ALLEN, Director
8 Department of Consumer and Business Services

9 /s/ David Tatman
10 David C. Tatman, Administrator
11 Division of Finance and Corporate Securities

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CONSENT TO ENTRY OF ORDER

I, Toby Don Garus, state that I have read the foregoing Order and that I know and fully understand the contents hereof; that I have been advised of the right to a hearing and of the right to be represented by counsel in this matter; and that I desire to resolve and settle this matter with the Director without admitting or denying the findings or conclusions set forth herein, that I voluntarily and without any force or duress, consent to the entry of this Order, expressly waiving any right to a hearing in this matter; that I understand that the Director reserves the right to take further actions to enforce this Order or to take appropriate action upon discovery of other violations of the Oregon Securities Law; and that I will fully comply with the terms and conditions stated herein.

I understand that this Order is a public document.

By: /s/ Toby Don Garus
Toby Don Garus

State of OREGON

County of POLK

Signed or attested before me 6-3 2013 by TOBY DON GARUS.

/s/ Linda C. Baker
Signature of Notary Public

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CONSENT TO ENTRY OF ORDER

I, TOBY GARUS, state that I am the president of Equity Options Inc. of Bend (“Equity Bend”), and I am authorized to act on its behalf; that I have read the foregoing Order and that I know and fully understand the contents hereof; that I and Equity Bend have been advised of the right to a hearing and of the right to be represented by counsel in this matter; that Equity Bend, voluntarily and without any force or duress, consents to the entry of this Order, expressly waiving any right to a hearing in this matter; that Equity Bend, executes this Order as a settlement of the matters referred to in the foregoing Order; that Equity Bend understands that the Director reserves the right to take further actions to enforce this Order or to take appropriate action upon discovery of other violations of the Oregon Securities Law; and that Equity Bend will fully comply with the terms and conditions stated herein.

Equity Bend understands that this Order is a public document.

By: /s/ Toby Garus
Signature

By: Toby Garus
Printed Name

Office Held: President

ACKNOWLEDGMENT

State of OREGON

County of POLK

There appeared before me this 27th day of June, 2013, TOBY GARUS, who was first duly sworn on oath, and stated that he/she was and is an officer of Equity Bend, and that he/she is authorized and empowered to sign this Order on behalf of Equity Bend, and to bind it to the terms hereof.

/s/ Linda C. Baker
Signature of Notary Public

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