

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

5 In the Matter of:

M-07-0017

6 Charles D. Rose dba Executive  
7 Mortgage & Financial Services,

ORDER TO CEASE AND DESIST  
ORDER ASSESSING CIVIL PENALTIES

8 Respondent.

And  
9 CONSENT TO ENTRY OF ORDER

10  
11 WHEREAS the Director of the Department of Consumer and Business Services  
12 for the State of Oregon (hereinafter "the Director") conducted an investigation of Charles  
13 D. Rose dba Executive Mortgage & Financial Services (hereinafter "Respondent") and  
14 determined that Respondent engaged in activities constituting violations of ORS 59.840  
15 through 59.965 (hereinafter cited as "the Oregon Mortgage Lender Law"); and

16 WHEREAS Respondent wishes to resolve and settle this matter with the  
17 Director,

18 NOW THEREFORE, as evidenced by the authorized signature subscribed on  
19 this order, Respondent hereby **CONSENTS** to entry of this order upon the Director's  
20 Findings of Fact and Conclusions of Law as stated hereinafter:

21  
22 **FINDINGS OF FACT**

23 The Director **FINDS** that:

24 1. Respondent is a sole proprietorship formed by Charles D. Rose in Oregon on  
25 December 1, 2001. Respondent is a mortgage broker and has been licensed by the  
26 Director to engage in Oregon residential mortgage loan transactions since December 5,





1 2001. At all times relevant herein, Respondent was licensed to operate only at 310  
2 North State Street Suite 202 in Lake Oswego, Oregon.

3 2. Respondent employed Luke Kost as a loan originator on December 9, 2004.

4 3. Respondent failed to provide any notice of Luke Kost's hire as a loan originator to  
5 the Director.

6 4. Respondent terminated Luke Kost on January 10, 2006.

7 5. Respondent failed to provide any notice of Luke Kost's termination to the  
8 Director.

9 6. Respondent reported to the Director that it had hired Stephanie Rust formerly  
10 known as Stephanie Spencer (hereinafter "Rust") to originate loans for the company on  
11 August 10, 2006.

12 7. On February 12, 2007, Respondent was unable to produce a personnel ledger  
13 for Rust at the request of the Director.

14 8. On February 13, 2007, Respondent provided notice to the Director that it had  
15 terminated Rust on December 11, 2006.

16 9. On August 9, 2006, the Director received a consumer complaint from Barbara  
17 Carlson (hereinafter "Carlson") regarding a loan originated for her by Respondent.

18 10. The Director requested and received Carlson's borrower file (hereinafter "the  
19 Carlson file") from Respondent.

20 11. The Carlson file contained a copy of a Good Faith Estimate disclosure  
21 (hereinafter "GFE") signed by Carlson and a final settlement statement signed by the  
22 escrow officer (hereinafter "HUD-1"). The HUD-1 showed that Respondent received a  
23 yield spread premium in connection with originating the loan for Carlson, however the  
24 GFE failed to disclose that payment to the consumer.

25 12. The Carlson file contained a Truth in Lending disclosure (hereinafter "TIL") that  
26 indicated that the consumer's payments would increase at 60 months, but would not

1 increase after that point. The actual loan received by Carlson provided for a fixed rate  
2 for a 60-month period and then adjustments every six months thereafter. Each time the  
3 rate adjusted, the monthly payments would also adjust.

4 13. In an October 17, 2006 letter, Respondent acknowledged that the GFE failed to  
5 disclose the yield spread premium and that the TIL did not accurately disclose the  
6 payment changes that would occur after the initial adjustment and noted that the error  
7 occurred as a result of computer miscalculations.

8 14. The Carlson file did not contain a rate lock or float agreement.  
9

### 10 CONCLUSIONS OF LAW

11 The Director **CONCLUDES** that:

12 1. Respondent violated ORS 59.969(1) by failing to provide notice to the Director of  
13 the hire of Luke Kost as a loan originator for Respondent within 30 days following his  
14 hire and by failing to provide notice to the Director of the termination of Luke Kost and  
15 Rust within 30 days following their termination.

16 2. Respondent violated OAR 441-865-0050(3) by failing to maintain a personnel  
17 ledger for employee Rust.

18 3. Federal Regulation X, at 24 CFR 3500.7(b) and (c), requires that Respondent  
19 provide each borrower with a GFE disclosing costs that the borrower will incur, including  
20 the payment of a yield spread premium.

21 4. Respondent violated OAR 441-865-0060(1)(d) by failing to maintain a GFE in the  
22 Carlson file that disclosed the payment of a yield spread premium as required by  
23 Federal Regulation X.

24 5. Federal Regulation Z, at 12 CFR 226.18(g) in connection with ORS 59.955,  
25 requires that Respondent provide each borrower with a TIL containing the number,  
26 amounts and timing of payments scheduled to repay the obligation.



1 6. Respondent violated OAR 441-865-0060(1)(g) by failing to maintain a TIL in the  
2 Carlson file that disclosed the correct number, amounts and timing of payments  
3 scheduled to repay the obligation as required by 12 CFR 226.18(g).

4 7. Respondent violated OAR 441-865-0060(1)(c) by failing to maintain an executed  
5 rate lock or float agreement in the Carlson file.

6  
7 **ORDER**

8 The Director, pursuant to ORS 59.885(4) hereby **ORDERS** that Respondent will  
9 **CEASE AND DESIST** from violating any provision of Oregon Mortgage Lender Law,  
10 OAR 441-850-0005 through 441-885-0010 and any rule, order or policy issued by the  
11 Division, including providing written notification of the hire and termination of loan  
12 originators within 30 days, maintaining personnel ledgers for all employees and loan  
13 originators, and maintaining copies of required disclosures in borrower files.

14 The Director, pursuant to ORS 59.996 hereby **ORDERS** Respondent to pay the  
15 State of Oregon a civil penalty of \$25,000 based upon \$5,000 for the violations of ORS  
16 59.969(1), \$5,000 for the violation of OAR 441-865-0050(3), \$5,000 for the violation of  
17 OAR 441-865-0060(1)(d), \$5,000 for the violation of OAR 441-865-0060(1)(g) and  
18 \$5,000 for the violation of OAR 441-865-0060(1)(c).

19 The Director suspends payment of \$15,000 of the assessed civil penalty for a  
20 three-year period. If in the period between the date of the Order to three years from the  
21 date of the Order, Respondent violates any provision of the Oregon Mortgage Lender  
22 Law, OAR 441-850-0005 through 441-885-0010 or any rule, order, or policy issued by  
23 the Director, the suspended portion of the assessed civil penalty will become  
24 immediately due and payable. If Respondent does not violate the Oregon Mortgage  
25 Lender Law, OAR 441-850-0005 through 441-885-0010 or any rule, order, or policy  
26 issued by the Director in three years from the date of the Order, the suspended portion

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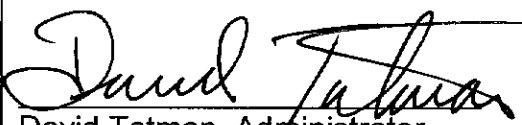
1 of the civil penalty is waived.

2 The remaining \$10,000 civil penalty may be paid in minimum monthly  
3 installments of \$834. The first payment is due no later than August 1, 2007 and  
4 payment shall be due thereafter on the first day of each month such that the entire  
5 \$10,000 civil penalty is paid in full on or before July 1, 2008. If any one payment is not  
6 received by the Director by the fifth day of the month in the month it is due, the entire  
7 civil penalty, comprised of any unpaid portion of the non-suspended portion of the civil  
8 penalty still unpaid along with the suspended portion of the civil penalty, becomes  
9 immediately due and payable.

10 The date of this order is the day the Director or Director's nominee signs the  
11 order. The entry of this Order in no way limits further remedies which may be available  
12 to the Director under Oregon law.

13 Dated this 13<sup>th</sup> day of July, 2007 at Salem, Oregon.

14  
15 CORY STREISINGER, Director  
16 Department of Consumer and Business Services

17   
18 David Tatman, Administrator  
19 Division of Finance and Corporate Securities

20 **CONSENT TO ENTRY OF ORDER**

21 I, Don Charles Rose, state that I have read the foregoing Order and that I know  
22 and fully understand the contents hereof; that I and this entity have been advised of the  
23 right to a hearing and of the right to be represented by counsel in this matter; that  
24 Respondent voluntarily and without any force or duress, consents to the entry of this  
25 Order, expressly waiving any right to a hearing in this matter; that Respondent  
26 understands that the Director reserves the right to take further actions to enforce this

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1 Order or to take appropriate action upon discovery of other violations of the Oregon  
2 Mortgage Lender Law; and that Respondent will fully comply with the terms and  
3 conditions stated herein.

4 Respondent further assures the Director that neither Respondent, nor its officers,  
5 directors, employees or agents will effect mortgage transactions in Oregon unless such  
6 activities are in full compliance with Chapter 59 of the Oregon Revised Statutes.

7 Respondent understands that this Consent Order is a public document.

8 Dated this 20 day of, June 2007

9  
10 By Charles Don Rose  
11 Charles Don Rose

12 **ACKNOWLEDGMENT**

13 Subscribed and sworn to before me this 20 day of June, 2007.

14  
15 Jerry Jenkins  
16 Notary Public  
17 for the State of: Oregon  
18 My commission expires: May 16, 2010

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