

1  
2  
3  
4  
5  
6

**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING  
whether there has been a violation  
of the Securities Act of Washington by:

Order Number S-06-229-07-CO02

**CONSENT ORDER**

Paul Joseph Eberharter, Nor'West Properties  
LLC and Milestone Beneficial LLC  
Respondents

7  
8

**INTRODUCTION**

9 Pursuant to the Securities Act of Washington, ch. 21.20 RCW, the Securities Division of the  
10 Department of Financial Institutions ("Securities Division") and Respondents, Paul Joseph Eberharter,  
11 Nor'west Properties LLC and Milestone Beneficial LLC, do hereby enter into this CONSENT ORDER  
12 in settlement of the matters alleged herein. Respondents neither admit nor deny the Findings of Fact and  
13 Conclusions of Law stated below. Respondents consent to the entry of this order for the purposes of  
14 settlement in this proceeding and not for the benefit of, or use by, any other party, either as evidence of  
15 liability or as an admission of any fact or conclusion of law contained in this order.

16  
17

**FINDINGS OF FACT**

18  
19

**I. RESPONDENTS**

20  
21  
22

1. Nor'West Properties LLC ("Nor'West") is a Washington limited liability company with its  
principal place of business at 11003 California Street NE in Kingston, Washington.

2. Milestone Beneficial LLC ("Milestone") is a Washington limited liability company with its  
principal place of business at 11003 California Street NE in Kingston, Washington.

23  
24  
25

CONSENT ORDER

1 3. Paul Joseph Eberharter (“Eberharter”) is the managing member of Nor’ West and Milestone.  
2 Eberharter is a licensed architect and is the sole shareholder in Eberharter Architects Inc., which has its  
3 principal place of business at 11003 California Street NE in Kingston, Washington.

4 **II. OFFERING OF NOR’ WEST PROPERTIES LLC MEMBERSHIP INTERESTS**

5 4. During 2005 and 2006, Eberharter and Nor’ West offered and sold more than \$1.3 million worth  
6 of Nor’ West Properties LLC membership interests to more than 45 investors, most of whom were  
7 Washington residents. Eberharter and Nor’ West represented that investor funds would be used by  
8 Nor’ West to finance real property development projects. When offering and selling the Nor’ West  
9 membership interests, Eberharter and Nor’ West represented that investors would receive a proportionate  
10 share of net profits from the sale of the real property development projects. Investor funds were pooled  
11 together to pay project costs. Eberharter Architects charged Nor’ West investors a \$36,000 annual  
12 minimum management fee. During 2005 and 2006, Eberharter Architects billed Nor’ West for more than  
13 \$369,000 for architectural fees and it billed real property development project LLCs that were partially  
14 funded by Nor’ West for more than \$1.4 million for architectural fees. The investors did not participate in  
15 the management of Nor’ West or its real property development projects.

16 **III. OFFERING OF MILESTONE BENEFICIAL LLC MEMBERSHIP INTERESTS**

17 5. During 2006, Eberharter and Milestone offered and sold more than \$1.9 million worth of  
18 Milestone Beneficial LLC membership interests to more than 40 investors, most of whom were  
19 Washington residents. Eberharter and Milestone represented that investor funds would be used by  
20 Milestone to finance real property development projects. When offering and selling the Milestone  
21 membership interests, Eberharter and Milestone represented that investors would receive a 10% annual  
22

1 return on their investments. Investor funds were pooled together to pay project costs. Eberharter  
2 Architects charged investors a 2-1/2% annual management fee for Milestone investments. The investors  
3 did not participate in the management of Milestone or its real property development projects.

#### 4 IV. INFORMATION CONCERNING NOR'WEST MEMBERSHIP INTERESTS

5 6. When offering and selling Nor'West Properties LLC membership interests, Eberharter and  
6 Nor'West overstated the likely return on investment. Eberharter and Nor'West provided a Project Booklet  
7 for investors that included pro forma financial statements and showed highlighted projected returns on  
8 investment for various real property development projects. Some of the highlighted returns were more  
9 than 200%, but the returns were not annualized. Eberharter and Nor'West did not give investors historical  
10 financial statements for Nor'West and did not fully explain the risks of the investment, including  
11 undercapitalization and real property development risks for each project financed by Nor'West.

12 7. Eberharter and Nor'West sold more than \$1 million worth of LLC membership interests in  
13 Nor'West, but they continued to provide investors with an offering document describing a \$1 million  
14 offering and use of proceeds, without describing the actual use of proceeds. Eberharter and Nor'West  
15 failed to escrow adequate minimum proceeds to complete all of the real property development projects  
16 that were financed by Nor'West. Eberharter and Nor'West failed to disclose to investors that there was no  
17 established market for partially completed real estate development projects and that Eberharter and  
18 Nor'West had no track record for real property development.

19 8. Eberharter and Nor'West failed to disclose to Nor'West investors that Milestone investors  
20 would receive a prior recorded deed of trust against real properties for development projects that were  
21 partially funded by Nor'West investors, while Nor'West investors had no real property security for their  
22

1 investments. During 2006 and 2007, Eberharter recorded deeds of trust totaling more than \$1,250,000 in  
2 favor of Milestone investors for real property development projects that were partially financed by  
3 Nor'West investors. Eberharter and Nor'West also failed to adequately disclose the ownership of the  
4 project properties. Eberharter and Nor'West projected that Nor'West investors would earn approximately  
5 a 200% return on investment from the City Villa project, without clearly disclosing that Nor'West  
6 investors had no ownership in the underlying real property.

7 9. Eberharter and Nor'West gave four Nor'West investors the option to convert their Nor'West  
8 investments into a "loan" with 12% annual interest, without giving other Nor'West investors the same  
9 option. Eberharter and Nor'West represented that Nor'West investors could redeem their investments at  
10 the end of two years, without disclosing that there were no funds set aside from which to redeem  
11 investors' interests.

12 10. Eberharter and Nor'West offered and sold Individual Retirement Account and other retirement  
13 plan investments in Nor'West, without disclosing that there was no pre-approved custodian to handle the  
14 investments. Eberharter and Nor'West failed to disclose that investors could be subject to penalties and  
15 unanticipated taxes because they made ineligible retirement plan investments.

#### 16 V. INFORMATION CONCERNING MILESTONE MEMBERSHIP INTERESTS

17 11. When offering and selling Milestone Beneficial LLC membership interests, Eberharter and  
18 Milestone did not give investors historical financial statements for Milestone. Eberharter and Milestone  
19 described the investors as "Member Lenders," without giving the investors any promissory notes.

20 Eberharter and Milestone did not clearly explain the terms of the Milestone investment.

21 12. Eberharter and Milestone failed to adequately disclose the real property development risks for  
22 each project financed by Milestone. Eberharter and Milestone failed to disclose the ownership of the real

1 properties that were being developed. Eberharter and Milestone failed to disclose that Milestone invested  
2 more than \$600,000 in the City Villa project without having any ownership in the underlying real  
3 property.

4 13. Eberharter and Milestone failed to escrow adequate minimum proceeds to complete all of the  
5 development projects that were financed by Milestone and failed to adequately disclose the risks of having  
6 insufficient funds to complete all of the projects. Eberharter and Milestone failed to disclose to Milestone  
7 investors that there was no established market for partially completed real estate development projects and  
8 that Eberharter and Milestone had no track record for real property development. Eberharter and  
9 Milestone represented that investors could withdraw their Milestone investments upon request, without  
10 disclosing that there were no funds set aside from which to redeem investors' interests.

11 14. Eberharter and Milestone offered and sold Individual Retirement Account and other retirement  
12 plan investments in Milestone, without disclosing that there was no pre-approved custodian to handle the  
13 investments. Eberharter and Milestone failed to disclose that investors could be subject to penalties and  
14 unanticipated taxes because they made ineligible retirement plan investments.

## 15 VI. ADVERTISEMENTS

16 15. From August 2006 through December 2006, Eberharter, Nor'West and Milestone ran  
17 misleading newspaper advertisements to solicit investments in Nor'West and Milestone. Eberharter,  
18 Nor'West and Milestone advertised that the investments were safe, secure and profitable. Eberharter,  
19 Nor'West and Milestone ran an advertisement with a picture of the Roseway Lane condominium project,  
20 without disclosing that the picture was only a concept drawing and that the building did not exist.  
21 Eberharter and Milestone compared Milestone investments with a bank CD and represented that Milestone  
22 investors would be guaranteed a 10% return with excellent flexibility.

VII. REGISTRATION STATUS

16. Nor'West Properties LLC is not currently registered to sell its securities in the state of Washington and has not previously been so registered.

17. Milestone Beneficial LLC is not currently registered to sell its securities in the state of Washington and has not previously been so registered.

18. Paul Joseph Eberharter is not currently registered as a securities salesperson or broker-dealer in the state of Washington and has not previously been so registered.

Based upon the above Findings of Fact, the following Conclusions of Law are made:

**CONCLUSIONS OF LAW**

I.

As described in the Findings of Fact, the offer and/or sale of Nor'West Properties LLC membership interests and Milestone Beneficial LLC membership interests constitutes the offer and/or sale of a security as defined in RCW 21.20.005(10) and (12), either in the form of an investment contract or risk capital.

II.

As described in the Findings of Fact, Respondents, Paul Joseph Eberharter, Nor'West Properties LLC and Milestone Beneficial LLC, have each offered or sold said securities in violation of RCW 21.20.140 because no registration for such offer or sale is on file with the Washington Securities Administrator.

III.

As described in the Findings of Fact, Paul Joseph Eberharter has violated RCW 21.20.040 by offering or selling said securities while not registered as a securities broker-dealer or securities salesperson in the state of Washington.

1 IV.

2 As described in the Findings of Fact, Respondents, Paul Eberharter, Nor'West Properties LLC and  
3 Milestone Beneficial LLC, have each offered or sold securities in violation of RCW 21.20.010(2) by  
4 making untrue statements of material fact or omitting to state material facts necessary in order to make the  
5 statements made, in the light of the circumstances under which they were made, not misleading.

6 **CONSENT ORDER**

7 Based upon the foregoing and finding it in the public interest:

8 IT IS AGREED AND ORDERED that Respondents, Paul Joseph Eberharter, Nor'West Properties  
9 LLC and Milestone Beneficial LLC, and their agents and employees each shall cease and desist from  
10 offering or selling securities in any manner in violation of RCW 21.20.140, the securities registration  
11 section of the Securities Act of Washington.

12 IT IS FURTHER AGREED AND ORDERED that Paul Joseph Eberharter and his agents and  
13 employees each shall cease and desist from offering or selling securities in any manner in violation of  
14 RCW 21.20.040, the securities broker-dealer and securities salesperson registration section of the  
15 Securities Act of Washington.

16 IT IS FURTHER AGREED AND ORDERED that Respondents, Paul Joseph Eberharter, Nor'West  
17 Properties LLC and Milestone Beneficial LLC, and their agents and employees each shall cease and desist  
18 from offering or selling securities in any manner in violation of RCW 21.20.010(2), the anti-fraud section  
19 of the Securities Act of Washington.

20 IT IS FURTHER AGREED AND ORDERED that Respondents, Paul Joseph Eberharter, Nor'West  
21 Properties LLC and Milestone Beneficial LLC, shall not be permitted to offer or sell securities pursuant to  
22 RCW 21.20.320(9) or RCW 21.20.320 (17) for a period of five years from the date this order is entered.

1 IT IS FURTHER AGREED that Respondents, Paul Joseph Eberharter, Nor'West Properties LLC  
2 and Milestone Beneficial LLC, shall not offer or sell any securities to existing security holders pursuant to  
3 RCW 21.20.320(11) except to "accredited investors" as defined in WAC 460-44A-501 or to existing  
4 security holders who receive a written purchase recommendation prior to the purchase of their securities  
5 from a federally registered or Washington state registered investment adviser who is not affiliated with or  
6 compensated by any Respondent.

7 IT IS FURTHER AGREED AND ORDERED that Paul Joseph Eberharter shall pay a fine of  
8 \$12,500 and investigative costs of \$2,500 prior to the entry of this order.

9 IT IS FURTHER AGREED that the Securities Division has jurisdiction to enter this order.

10 IT IS FURTHER AGREED that in consideration of the foregoing, Respondents, Paul Joseph  
11 Eberharter, Nor'West Properties LLC and Milestone Beneficial LLC, each waive their rights to a hearing  
12 in this matter and to judicial review of this order.

13  
14 WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

15 SIGNED this \_\_\_ 11th \_\_\_ day of \_\_\_\_\_ May \_\_\_\_\_, 2007

16  
17 Approved for entry by:

18 \_/s/ Margarita Latsinova\_\_\_\_\_  
19 Margarita Latsinova, WSBA #24447  
20 Attorney for Respondents

21  
22  
23 CONSENT ORDER



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

Signed by:

Nor'West Properties LLC

By /s/ Paul Joseph Eberharter  
Paul Joseph Eberharter, Managing Member

Signed by:

Milestone Beneficial LLC

By /s/ Paul Joseph Eberharter  
Paul Joseph Eberharter, Managing Member

Signed by:

/s/ Paul Joseph Eberharter  
Paul Joseph Eberharter, individually

-----  
SIGNED and ENTERED this 15<sup>th</sup> day of May, 2007



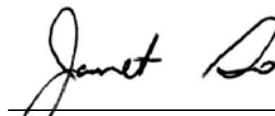
\_\_\_\_\_  
MICHAEL E. STEVENSON  
Securities Administrator

Approved by:



\_\_\_\_\_  
Martin Cordell  
Chief of Enforcement

Presented by:



\_\_\_\_\_  
Janet So  
Financial Legal Examiner

CONSENT ORDER