

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:

Robert Malecki; Homeowner  
Resources LLC; Kitsap Private  
Lending Group LLC;

Respondents

Order Number S-08-347-09-SC01

STATEMENT OF CHARGES AND NOTICE  
OF INTENT TO ENTER ORDER TO CEASE  
AND DESIST, IMPOSE FINES, AND  
RECOVER COSTS

THE STATE OF WASHINGTON TO:

Robert Malecki  
Homeowner Resources LLC  
Kitsap Private Lending Group LLC

**STATEMENT OF CHARGES**

Please take notice that the Securities Administrator of the State of Washington has reason to believe that Respondents, Robert Malecki; Homeowner Resources LLC; and Kitsap Private Lending Group LLC, have each violated the Securities Act of Washington and that their violations justify the entry of an order of the Securities Administrator under RCW 21.20.390 against each to cease and desist from such violations. The Securities Administrator finds as follows:

**TENTATIVE FINDINGS OF FACT**

Respondents

1. Robert Malecki ("Malecki") resides in Kingston, Washington.



1 7. Malecki hosted these seminars through Kitsap Private Lending in October 2008 and  
2 April 2009. Combined, approximately 25-30 people attended the seminars. Malecki asked  
3 attendees of the seminar fill out a form if interested in investing in promissory notes secured by  
4 deeds of trust. The form requested the individual's name, contact information, and amount of  
5 money to invest. Malecki stated that about half to two thirds of the people who attended the  
6 seminar filled out the form.

7  
8 8. Through its website, [www.kitsapprivatelending.com](http://www.kitsapprivatelending.com), and with advertisements in the  
9 form of mass mailings and craigslist postings, Kitsap Private Lending promoted investing in  
10 promissory notes secured by deeds of trust. The advertisements described private mortgage  
11 lending as a "local, secured, high-yielding economic alternative" to mutual funds, savings  
12 accounts and CD's. The mass mailing asked recipients to contact the company with note terms,  
13 rate, and property locations.

14 9. In the mass mailing Kitsap Private Lending claimed to have used private mortgage  
15 loans to purchase local homes for the past three years. Malecki had been purchasing, fixing, and  
16 renting homes for the past three years, but had only used promissory notes secured by deeds of  
17 trust to purchase properties since approximately August of 2008.

18 Promissory Note Transactions

19  
20 10. In the Spring of 2008 Homeowner Resources heard from a couple facing foreclosure  
21 on a home located in Kitsap County. Malecki contacted the couple's lender and negotiated a  
22 purchase of the property ("Property A") for the amount of the note owed to the lender.

23 11. Malecki used funds from an investor ("Investor A") to purchase Property A in or  
24 about May 2008. Malecki and Homeowner Resources entered into a promissory note with  
25 Investor A. Investor A invested \$240,000 with Malecki. The terms of the note provided for

1 Malecki to make 15% interest only monthly payments to Investor A for six months, at which  
2 point the remaining balance would come due. Malecki provided a deed of trust secured by  
3 Property A to Investor A.

4 12. Malecki then worked with various mortgage brokers to find a lender to replace the  
5 promissory note from Investor A. According to Malecki, banks would not lend to him because  
6 he was self-employed and did not intend to occupy the property as a primary residence. Malecki  
7 attempted to sell Property A in the fall of 2008, but the only offer he received fell through. The  
8 promissory note with Investor A came due and was extended with a penalty. Malecki then  
9 sought other investors to replace the promissory note with Investor A.  
10

11 13. In approximately November or December 2008 Malecki contacted another investor  
12 (“Investor B”) about replacing Investor A. Investor B is related to Malecki and previously  
13 invested funds with Malecki on another property. Investor B is not an accredited investor.

14 14. Malecki told Investor B that he sought \$240,000 to repay an existing first deed of  
15 trust and asked Investor B if he had any interest in investing funds. Investor B indicated an  
16 interest in investing \$100,000. Malecki informed Investor B that if he did not want to fund the  
17 entire \$240,000 then Malecki would have to find other investors to participate and Investor B  
18 would be in a second lien position behind Investor A.

19 15. During this same time period Malecki began negotiating a promissory note on the  
20 same property with a third investor (“Investor C”). Investor C heard about Malecki’s October  
21 seminar for Kitsap Private Lending through a friend and called Malecki to express an interest in  
22 attending his next seminar. Investor C is not an accredited investor. Malecki informed Investor  
23 C that he sought \$240,000 for Property A to replace an existing first deed of trust. Investor C  
24 expressed an interest in investing \$60,000 with Malecki on Property A. Malecki told Investor C  
25

1 that based on that dollar amount Malecki would look for additional investors and Investor C's  
2 promissory note would be in a third lien position.

3 16. On or about February 24, 2009 Malecki, in his individual capacity, signed separate  
4 promissory notes with Investor B and Investor C for investments of \$100,000 and \$60,000  
5 respectively. Both promissory notes had three year terms with a 10% annual interest rate.  
6 Malecki negotiated the payments to monthly payments of 7%, with 3% of the total note interest  
7 paid at the end of the three year term. Malecki intended to use rental income to make the  
8 monthly payments to the investors. Investor B and Investor C understood that if Malecki did not  
9 have rental income, the payments would be made by Malecki personally or from cash in  
10 Homeowner Resources.  
11

12 17. Prior to receiving the funds from Investor B and Investor C, Malecki had each of  
13 them sign a receipt acknowledging that they had received a disclosure statement from Kitsap  
14 Private Lending. The disclosure statement stated that Kitsap Private Lending does not offer  
15 securities and claimed exemption from Washington securities law under RCW 21.20.320.  
16

17 18. On or about March 6, 2009 the Kitsap County auditor recorded two deeds of trust  
18 involving Malecki and Property A. One secured Investor B's promissory note and the other  
19 secured Investor C's note. Investor C's deed of trust included a clause that made the deed  
20 subordinate to Investor B's deed. Malecki signed the deeds of trust in his individual capacity.  
21

22 19. On or about March 25, 2009 the Kitsap County auditor recorded a quit claim of  
23 Property A from Malecki to Homeowner Resources. Around this same time period Malecki  
24 entered into another promissory note and deed of trust on Property A with a fourth investor  
25 ("Investor D"). Earlier in 2009 an employee of Investor D, a corporation, contacted Malecki

1 after seeing Kitsap Private Lending's craigslist advertisement. Malecki told Investor D's  
2 employee that he sought funds to replace an existing promissory note secured by Property A.

3 20. Investor D invested \$114,568.32 with Malecki on a 12 month term, paying 10%  
4 annual interest via monthly 7% payments followed by 3% total note interest paid at the end of  
5 the 12 month term. This time Malecki and his wife signed the promissory notes and deed of trust  
6 with Investor D. Malecki told Investor D that if he did not have a renter for Property A he would  
7 pay Investor D with cash reserves from Homeowner Resources or make the payments himself.  
8

9 21. On or about April 6, 2009 the Kitsap County auditor recorded a quit claim deed  
10 from Homeowner Resources to Malecki and his wife. On the same date the Kitsap County  
11 auditor recorded the deed of trust between the Maleckis and Investor D along with two  
12 subordination agreements. Malecki had Investor B and Investor C sign separate subordination  
13 agreements to keep their deeds of trust subordinate to Investor D.

14 22. Malecki used the funds from Investor D to pay off the investment of Investor A.

15 23. On or about April 27, 2009 Kitsap County recorded a quit claim deed on Property A  
16 from Malecki to Homeowner Resources. Homeowner Resources owned Property A subject to  
17 three deeds of trust between Malecki and investors.  
18

19 Misrepresentations and Omissions

20 24. Respondents Robert Malecki, Homeowner Resources, and Kitsap Private Lending  
21 failed to provide material information regarding investing in promissory notes secured by deeds  
22 of trust, including but not limited to: financial statements, the business background and  
23 experience of Robert Malecki, the general risks of investing in promissory notes secured by  
24 deeds of trust, and the specific risks of investing in a promissory note secured by deeds of trust  
25 on Property A.

1 25. Respondents Robert Malecki and Kitsap Private Lending misrepresented to  
2 potential investors that they had been using promissory notes secured by deeds of trust to  
3 purchase homes for the past three years, when in fact they first used promissory notes secured by  
4 deeds of trust in mid 2008.

5 Registration Status

6 26. Respondent Robert Malecki is not currently registered to sell his securities in the  
7 state of Washington and has not previously been so registered nor has he filed a claim of  
8 exemption from registration.  
9

10 27. Respondent Homeowner Resources is not currently registered to sell its securities in  
11 the state of Washington and has not previously been so registered nor has it filed a claim of  
12 exemption from registration.

13 28. Respondent Robert Malecki is not currently registered as a securities salesperson in  
14 the state of Washington and has not previously been so registered.

15 29. Respondent Kitsap Private Lending is not currently registered as a securities  
16 salesperson or broker-dealer in the state of Washington and has not previously been so  
17 registered.

18 Based upon the Tentative Findings of Fact, the following Conclusions of Law are made:  
19

20 **CONCLUSIONS OF LAW**

21 1. The offer or sale of promissory notes secured by deeds of trust described above  
22 constitutes the offer or sale of a security as defined in RCW 21.20.005(10) and (12).

23 2. Respondents Robert Malecki, Homeowner Resources LLC, and Kitsap Private  
24 Lending Group LLC violated RCW 21.20.140, the securities registration provision of the  
25

1 Securities Act, because they offered and/or sold securities for which there was no registration on  
2 file with the Securities Administrator.

3 3. Respondent Robert Malecki violated RCW 21.20.040 by offering or selling said  
4 securities while not registered as a securities salesperson in the state of Washington.

5 4. Respondent Kitsap Private Lending violated RCW 21.20.040 by offering or selling  
6 said securities while not registered as a securities salesperson or broker-dealer in the state of  
7 Washington.

8 5. The offer or sale of said securities violated RCW 21.20.010 because, as set forth in  
9 the Tentative Findings of Fact, Respondents made misstatements of material facts or omitted to  
10 state material facts necessary in order to make the statements made, in light of circumstances  
11 under which they were made, not misleading.  
12

13 **NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

14 Based on the above Tentative Findings of Fact and Conclusions of Law, the Securities  
15 Administrator intends to order, pursuant to RCW 21.20.390(1), that Respondents Robert  
16 Malecki, Homeowner Resources LLC, and Kitsap Private Lending Group LLC, and their agents  
17 and employees, shall each cease and desist from violations of RCW 21.20.140, RCW 21.20.040,  
18 and RCW 21.20.010.  
19

20 **NOTICE OF INTENT TO IMPOSE FINES**

21 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and  
22 Conclusions of Law, the Securities Administrator intends to order that Respondent Robert  
23 Malecki shall be liable for and pay a fine of \$ .  
24  
25



1 **NOTICE OF INTENT TO RECOVER COSTS**

2 Pursuant to RCW 21.20.390(5), and based upon the Tentative Findings of Fact and  
3 Conclusions of Law, the Securities Administrator intends to order that the Respondents Robert  
4 Malecki, Homeowner Resources, and Kitsap Private Lending Group LLC shall be liable for and  
5 pay the costs, fees, and other expenses incurred in the investigation of this matter.  
6


7 **AUTHORITY AND PROCEDURE**

8 This Statement of Charges is entered pursuant to the provisions of the Securities Act and  
9 is subject to the provisions of RCW 21.20 and RCW 34.05. The Respondents, Robert Malecki,  
10 Kitsap Private Lending Group LLC, and Kitsap Private Lending Group LLC, may each make a  
11 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND  
12 AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges.

13 If a Respondent does not request a hearing, the Securities Administrator intends to adopt  
14 the above Tentative Findings of Fact and Conclusions of Law as final, enter a permanent cease  
15 and desist order as to that Respondent, and impose the fines and costs sought.  
16

17 DATED AND ENTERED this 2nd day of February, 2010

18  
19   
20 SUZANNE SARASON  
21 Chief of Enforcement

22 Presented by:  
23   
24 Jack McClellan  
25 Financial Legal Examiner