

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

IN THE MATTER OF DETERMINING) Order No.: S-09-466-12-SC01
Whether there has been a violation of the)
Securities Act of Washington by:) STATEMENT OF CHARGES AND NOTICE OF INTENT
) TO ENTER ORDER TO CEASE AND DESIST, TO
WA Real Estate Solutions, LLC; Kerwin Burton;) IMPOSE FINES AND TO CHARGE COSTS
Rosalyn Burton-Torres,)
)
)
Respondents.)

**THE STATE OF WASHINGTON TO: WA Real Estate Solutions, LLC
Kerwin Burton
Rosalyn Burton-Torres**

STATEMENT OF CHARGES

Please take notice that the Securities Administrator of the state of Washington has reason to believe that Respondents, WA Real Estate Solutions, LLC, Kerwin Burton, and Rosalyn Burton-Torres, 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 and to charge costs, and under RCW 21.20.395 to impose a fine. The Securities Administrator finds as follow:

TENTATIVE FINDINGS OF FACT

Respondents

1. WA Real Estate Solutions, LLC (“WRES”) was a Washington limited liability company with its former principal place of business in Bothell, Washington. The company was established on October 26, 2004. WRES held itself out as being in the business of buying and reselling or renting real estate for a profit. WRES was trustee for Snohomish County 128th St, Everett Trust (“Everett Trust”). Everett Trust was created to hold title to trust property in the form of real estate in Everett, Washington until WRES fulfilled its duty to sell the trust property. Everett Trust was structured to allow WRES to issue notes secured by mortgaging the trust property.
2. Kerwin Burton (“Burton”) acted as a salesperson for and was the registered agent of WRES. Burton and Rosalyn Burton-Torres (collectively “the Burtons”) are married.
3. Rosalyn Burton-Torres (“Burton-Torres”) acted as a salesperson for and was the manager of WRES.

Introduction

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4. Between September 2006 and March 2008, Respondents offered and sold a variety of promissory note investments to Washington residents, including an estimated \$170,000 in promissory notes to at least five investors. The investors' promissory notes were secured by deeds of trust on three properties located in Washington. Respondents also offered a variety of other investments through an offering document, mass emails, and websites.

5. The Burtons and most investors were associated with the Real Estate Association of Puget Sound ("REAPS"). Most investors heard about the investments through Burton, who approached investors during or after REAPS events. Burton typically explained the terms of the investment, informed investors that their funds would be used for real estate development, and explained which investments were available.

Promissory Note Investments

Background

6. Respondents outlined their investment program, discussed in further detail below, in a PowerPoint presentation. Respondents also followed real estate financing procedures derived from training products created by Reach Returns, Inc. and its owner, Gregory Pinneo. Investors did not participate in the management of the investment program and relied upon Respondents to generate a return on the investments.

Flier Solicitations

7. The Burtons created and distributed a series of fliers with the WRES logo through which Respondents offered promissory note investments as "Real Estate Secured Investments with a High Rate of Return." Several of these fliers appear to be created between October 2007 and March 2008. In at least one flier, Respondents offered multiple investments, each associated with a different listed property. In other fliers, Respondents offered an investment in only one property. In each flier, Respondents projected returns particular to those properties. Respondents projected that a \$55,297 investment in a property in Everett, Washington, would return \$6,635 annually. Respondents also projected that a \$37,750 investment in a property in Renton, Washington, would return \$4,050 annually. Respondents' did not include detailed bases for the projections on their fliers.

Notes

8. Respondents offered and sold promissory note investments to at least five different Washington investors.

1 WRES on behalf of Everett Trust issued separate promissory notes to three investors, each relating to the Everett
2 property solicitation. Respondents eventually used the funds from the third investor to pay off the notes of the first
3 two investors. WRES also issued a note to one investor relating to the Renton property solicitation. Burton-Torres
4 issued a note to another investor relating to an offer involving Seattle real estate. Respondents offered each investor a
5 note with substantially the same terms, including a one year period and an interest rate of at least 12 percent that
6 Respondents touted as a higher rate than what an investor could obtain at a bank. Respondents allowed investors to
7 sell their notes, but retained a right of first refusal to purchase the notes. The Burtons signed the notes on behalf of
8 Everett Trust and WRES. Burton-Torres signed one note in her individual capacity.

9 9. Respondents did not provide any prospectus, offering circular, financial statements, or disclosure documents
10 to investors. Respondents did not screen investors for net worth, income, investment experience, risk tolerance, or
11 investment objectives.

12 *Deeds of Trust*

13 10. Respondents encumbered at least three properties with deeds of trust to secure the promissory notes that they
14 sold to investors. WRES on behalf of Everett Trust acted as grantor on deeds of trust encumbering the Everett
15 property. Burton-Torres acted as grantor on deeds of trust encumbering the Renton and Seattle properties.
16 Respondents represented that investors' promissory notes were secured by second or third position deeds of trust.
17 Respondents initially gave one investor a fourth position deed of trust, three investors third position deeds of trust,
18 and another investor a second position deeds of trust. At one point, Respondents encumbered a single property with
19 four deeds of trust, of which the three subordinate deed of trust were held by individual investors. Two other
20 investors held deeds of trust that were subordinate to deeds of trust held by institutional lenders. Respondents did not
21 inform at least one investor of the position of the investor's deed of trust.

22 11. The promissory notes Respondents sold to investors incorporated by reference additional investment terms
23 found in documents known as "Maker and Beneficiary Agreements." At least three such agreements stated that at the
24 "maker's discretion, maker may transfer the collateral for promissory note to an alternate property(s)." A fourth
25 agreement substituted the word "option" for "discretion." Both Burton and Burton-Torres signed the Maker and

Beneficiary Agreements, either individually or on behalf of Everett Trust or WRES.

Services

12. In addition to interest and principal payments, Respondents assumed responsibility for payments necessary to protect the security of the promissory notes. Respondents offered or included such additional services as paying mortgage costs, homeowner’s dues, closing costs, and insurance costs for properties securing the notes. Respondents also sought renters and buyers for properties secured by promissory notes.

Payments and Use of Investor Funds

13. Respondents represented that the funds raised by the sale of at least two notes were “used for business, investment, or commercial purposes.” Respondents further indicated that they would use investor funds to buy, repair, and remodel the properties that secured the investments. Respondents collected investment funds into a bank account designated as a WRES account.

14. Respondents represented that they would use rent payments or profits from property sales to pay investors. Respondents paid promissory note investors approximately \$48,000 total, of which Respondents paid approximately \$35,000 using incoming investor funds. Respondents made payments from the WRES account to at least two investors, of whom one was issued a note by Burton-Torres and one was issued a note by WRES on behalf of Everett Trust. At least one investor received no payment.

15. Respondents unsuccessfully attempted to modify at least one note to extend repayment into 2020, waive all fees, remove all interest payments, and add a provision that the note “shall remain an unsecured note.”

16. In October 2009, Burton and Burton-Torres commenced a chapter 7 bankruptcy proceeding as joint, individual debtors. Burton and Burton-Torres included the debts owed to three investors in the bankruptcy proceeding, which amounted to \$135,000 and included debts owed pursuant to notes issued by WRES on behalf of Everett Trust. The bankruptcy proceeding resulted in a discharge of the debts as to Burton and Burton-Torres.

Misrepresentations and Omissions as to Promissory Note Investments

17. Respondents failed to provide material information regarding the promissory note investments that they offered and sold, including but not limited to: financial statements, use of proceeds, factors which might impact the ability of investors to enforce deeds of trust to recover their investments, Respondents’ financial situation and ability

1 to repay debts, the payment history for notes issued by Respondents, a reasonable basis for Respondents' profit
2 projections, Respondents' business background and experience, and the risks of investing in the promissory note
3 investments Respondents offered and sold.

4 18. Respondents misrepresented the priority that the deeds of trust would have after recording.

5 Other Offers

6 19. In addition to the investment opportunities discussed above, Respondents solicited investment in a variety of
7 projects through an offering document, mass emails, and websites. It does not appear that Respondents were able to
8 attract investor funds for these projects.

9 *Development Project Offering*

10 20. Respondents offered prospective investors an investment opportunity in a "development project" involving
11 the demolition and replacement of homes in Seattle. Respondents created an offering document to solicit prospective
12 investors to invest in the project, which contained representations that investors would receive monthly cash flow and
13 \$422,764 profit after raising \$330,000 for the project.

14 *Mass Emails*

15 21. Respondents sent out mass emails in which they offered at least six investment opportunities to potential
16 investors. Respondents indicated that four such investments offered annual interest payments ranging from 12 to 15
17 percent for a term of two years or more and were to be secured by real estate. Another investment involved putting a
18 down payment on a building that Respondents would "own, operate, and occupy," for which the investor would
19 receive a percentage return or profit share. Yet another investment involved payment for the development of plans
20 and permits for future construction, for which the investor would receive a percentage return or profit share over a
21 period of no less than three years.

22 *Websites*

23 22. Respondents maintained at least five websites: www.washingtonrealestatesolutions.com,
24 www.sellmyhousetoday.com, www.realestatesecuredinvestments.com, www.howinvestorsbuyrealestate.com,
25 and www.warealestatesolutions.com. Each website contained substantially similar content, though some alterations

1 were made over time. On at least one version of their websites, Respondents explained that they had a “starter
2 program” and a “wealth builder program.” Respondents described the “starter program” as an investment of \$12,500
3 earning 6 percent interest over 24 months, which would result in a profit of \$1,500 for the investor. Respondents
4 described the “wealth builder program” as an investment of \$245,000 earning 8 percent interest over 48 months,
5 which would result in a profit of \$78,400 for the investor.

6 Misrepresentations and Omissions as to Other Offers

7 23. Respondents failed to provide material information regarding the development project investment, investment
8 opportunities sent via mass emails, starter program investment, and wealth builder program investment that they
9 offered, including but not limited to: financial statements, use of proceeds, disclosures regarding the value of the
10 property offered as security, prior liens on such property, a detailed description of the intended use of investment
11 proceeds, Respondents’ financial situation and ability to repay debts, the payment history for notes issued by
12 Respondents, a reasonable basis for Respondents’ profit projections, Respondents’ business background and
13 experience, and the risks of investing in the development project investment, investment opportunities sent via mass
14 emails, starter program investment, and wealth builder program investment Respondents offered.

15 Registration Status

16 24. Respondent, WA Real Estate Solutions, LLC, is not currently registered to sell securities in the state of
17 Washington and has not previously been so registered.

18 25. Respondent, Kerwin Burton, is not currently registered as a securities salesperson, broker-dealer, or to
19 otherwise sell securities in the state of Washington and has not previously been so registered.

20 26. Respondent, Rosalyn Burton-Torres, is not currently registered as a securities salesperson, broker-dealer, or
21 to otherwise sell securities in the state of Washington and has not previously been so registered.

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

23 **CONCLUSIONS OF LAW**

24 1. The offer or sale of promissory notes and additional services as described above constitute the offer and/or
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1 sale of a security as defined in RCW 21.20.005(14), RCW 21.20.005(17) and WAC 460-44A-075, whether in the
2 form of a note, investment contract, risk capital, or evidence of indebtedness.

3 2. The offer or sale of the development project investment, investment opportunities sent via mass emails,
4 starter program investment, and wealth builder program investment as described above constitute the offer and/or sale
5 of a security as defined in RCW 21.20.005(14) and RCW 21.20.005(17).

6 3. The offer and/or sale of said securities by Respondents is in violation of RCW 21.20.140 because no
7 registration for such an offer and/or sale is on file with the Securities Administrator, state of Washington.

8 4. Respondent, Kerwin Burton, violated RCW 21.20.040 by offering or selling said securities while not
9 registered as a securities salesperson or broker-dealer in the state of Washington.

10 5. Respondent, Rosalyn Burton-Torres, violated RCW 21.20.040 by offering or selling said securities while not
11 registered as a securities salesperson or broker-dealer in the state of Washington.

12 6. The offer and/or sale of said securities were in violation of RCW 21.20.010 because, as set forth in the
13 Tentative Findings of Fact, Respondents made untrue statements of material fact and omitted to state material facts
14 necessary in order to make the statements made, in light of circumstances under which they were made, not
15 misleading.

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

17 Pursuant to RCW 21.20.390(1) and based upon the above Tentative Findings of Fact and Conclusions of
18 Law, the Securities Administrator intends to order that Respondents, WA Real Estate Solutions, LLC, Kerwin
19 Burton, and Rosalyn Burton-Torres, each shall cease and desist from violations of RCW 21.20.010 and RCW
20 21.20.140, and that Respondents Kerwin Burton and Rosalyn Burton-Torres, their agents and employees, each shall
21 cease and desist from violations of RCW 21.20.040.

22 **NOTICE OF INTENT TO IMPOSE A FINE**

23 Pursuant to RCW 21.20.395, and based upon the above Tentative Findings of Fact and Conclusions of Law,
24 the Securities Administrator intends to order that Respondents, WA Real Estate Solutions, LLC, Kerwin Burton, and
25 Rosalyn Burton-Torres, shall be jointly and severally liable for and shall pay a fine of \$5,000.

NOTICE OF INTENT TO CHARGE COSTS

Pursuant to RCW 21.20.390, and based upon the Tentative Findings of Fact and Conclusions of Law, the Securities Administrator intends to order that Respondents, WA Real Estate Solutions, LLC, Kerwin Burton, and Rosalyn Burton-Torres, shall be jointly and severally liable for and shall pay investigative costs of at least \$1,000.

AUTHORITY AND PROCEDURE

This Statement of Charges is entered pursuant to the provisions of Chapter 21.20 RCW and is subject to the provisions of Chapter 34.05 RCW. The Respondents, WA Real Estate Solutions, LLC, Kerwin Burton, and Rosalyn Burton-Torres, may each make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Order. If a respondent does not make a hearing request in the time allowed, the Securities Administrator intends to adopt the above Tentative Findings of Fact and Conclusions of Law as final and to enter a permanent order to cease and desist as to that respondent, to impose any fines sought against that respondent, and to charge any costs sought against that respondent.

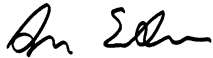
Signed and Entered this 19th day of October 2012.



William M. Beatty
Securities Administrator

Approved by:

Presented by:



Suzanne Sarason
Chief of Enforcement

Drew Stillman
Enforcement Attorney

Reviewed by:



Jack McClellan
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