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**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:

NU WEST, INC., GEORG E. FREY, and  
DONALD W. JONES,

Respondents.

SDO - 075 - 01

CONSENT ORDER TO CEASE AND DESIST AND  
VACATING SUMMARY ORDER SDO 87 - 00 AS  
TO RESPONDENT NU WEST, INC.

Case No. 96 - 10 - 332

THE STATE OF WASHINGTON TO:

Nu West, Inc.  
c/o Richard P. Guy  
425 Pike Street, Suite 610  
Seattle, Washington 98101-4078

Pursuant to the Securities Act of Washington, RCW 21.20, the Securities Division of the Department of Financial Institutions, State of Washington, and Respondent Nu West, Inc. do hereby enter into this Consent Order in settlement of the matters alleged herein. Respondent admits to the Findings of Fact and Conclusions of Law stated below. Respondent wishes to obtain final disposition of this matter without invoking any rights to a hearing before the Securities Division.

**FINDINGS OF FACT**

**I. Respondent**

1. Nu West, Inc. ("Nu West") is an inactive Washington for-profit corporation authorized to do business September 21, 1990. Nu West was engaged in the business of financing commercial and residential real estate loans secured by promissory notes. Once Nu West arranged for a loan, Nu West would offer and sell fractional interests in the notes to investors. Nu West did business at 1900 112th Avenue NE, Building Six, Suite 101, in Bellevue, King County, Washington.

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DEPARTMENT OF FINANCIAL INSTITUTIONS  
Securities Division  
PO Box 9033  
Olympia, WA 98507-9033  
360-902-8760

1 2. On December 1, 2000, Georg Frey, the President, sole officer, and sole shareholder of Nu West  
2 committed suicide. On December 14, 2000, a receiver was appointed to manage the affairs of Nu  
3 West.

## 4 **II. Nu West's Offer and Sale of Securities**

5 3. From 1992 through November 2000, Nu West offered and sold fractional interests in promissory  
6 notes, described as "high-yield, fully secured deed of trust investments," to the general public. To  
7 facilitate such offers and sales, Nu West placed advertising with various newspapers and radio  
8 stations. During the late 1990's, Nu West advertised itself in the Greater Eastside U.S. West  
9 Telephone directory under the category "Investment Securities." Investors who responded to the  
10 advertisements were sent a brochure describing the Nu West investment program. Investors also  
11 received documents providing an "Executive Summary" of available investment opportunities.

12 4. Nu West's brochure, titled "Questions and Answers on Deed of Trust Investing," described Nu  
13 West's investments as safe, short-term, high-yield investments secured by real estate liens. In the  
14 brochure, Nu West claimed that Nu West would originate the loans and provide investors with a loan  
15 package describing each investment opportunity. The Executive Summary provided a brief property  
16 description; the loan amount requested; the interest rate and fee paid to the lender; and identified the  
17 borrower. In most cases the investments would purportedly be secured by a first-position deed of  
18 trust on the property, with interest-only payments being due from the borrower. An appraised value,  
19 loan to value percentage, and "collateral surplus" amount was also disclosed on the Executive  
20 Summary.  
21

22 5. Nu West's note program worked as follows: Nu West would locate borrowers, obtain credit  
23 applications from the borrowers, obtain executed promissory notes and deeds of trust, obtain credit  
24 reports on the borrowers, obtain title histories on the subject properties, and create Executive

1 Summaries describing the investment opportunity. Nu West would then locate investors using  
2 commissioned salespersons and print, radio, yellow-page advertising. When investors agreed to  
3 invest, Nu West would obtain signed escrow agreements and funds, pool the funds invested, and  
4 make the loans to the borrowers. Nu West would then record the required documents to perfect the  
5 investors' security interest, collect payments from the borrowers, and distribute the proportionate  
6 interest to each investor. Once the loan was paid off, Nu West would return the proportionate  
7 principal to each investor and record the required document to release the investors' interest in the  
8 property. In the event of a default by the borrower, Nu West would execute a non-judicial  
9 foreclosure on the property, sell the property, and return each investors' principal, the whole time  
10 continuing to make interest payments to investors out of its own funds.

11 6. Investors who indicated an interest in investing with Nu West were sent an escrow agreement  
12 identifying the borrower and the property securing the loan, the investor's proportionate interest in  
13 the note signed by the borrower, and naming Nu West as the escrow agent that would hold the funds  
14 in trust until the full loan amount was received. The investor, referred to as a "Proportionate  
15 Assignee" in the escrow agreement, agreed to deposit a specific amount of money in the loan escrow  
16 account. By doing so, investors obtained the right to receive a proportionate monthly interest  
17 payment from Nu West. Nu West agreed to provide investors with original documents, the note to  
18 be endorsed to the lender "and other assignees," together with other documents required to perfect  
19 the investors interest. Section 7 of the escrow agreement provides that the investor was relying on  
20 the "information, representations, and warranties" made by Nu West, and states that Nu West did not  
21 guarantee payment by the borrower. Section 8 of the escrow agreement authorized Nu West to  
22 enforce the note on the investor's behalf.  
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1 7. Investors were instructed to return the signed escrow agreement, along with their investment  
2 funds, to Nu West. Once sufficient investors were found to finance the loan, and the documents  
3 evidencing the loan were recorded, the funds were released from escrow to the borrower. The  
4 borrower made the interest-only payments to Nu West, which in turn distributed the money to the  
5 "Proportionate Assignees." When a borrower's note became due, borrowers had the option of  
6 extending the note for additional points. Investors were paid those points either at the time the note  
7 was extended or when the note was paid off.

8 8. Washington residents who invested in the Nu West investments were investing in a fractional  
9 interest in a promissory note. Their primary interest was receiving a return on their investment  
10 funds. The investors were not commercial lenders. The investors were members of the general  
11 public seeking fixed income investments providing high rates of return and monthly income. The  
12 notes were advertised in newspapers, on radio, and in yellow-page advertising, and were offered to  
13 anyone who responded to the advertisements, without qualification. The notes were advertised as  
14 fixed-income investments, promising high-yield returns exceeding those offered by certificates of  
15 deposit. Nu West's investment program was not submitted to the Securities Division for registration  
16 review as required. In the absence of review pursuant to registration, there were no significant risk  
17 reducing elements protecting investors.

19 9. Each investor made an investment of money in a common enterprise with an expectation of  
20 profit based on the efforts of Nu West. Respondent sold fractional interests in promissory notes  
21 paying a high rate of interest. Washington residents invested money said notes for an investment  
22 purpose, intending to profit from their investments in Nu West's purported "high yield 14-20% fully  
23 secured DOT investments." The investors' funds were pooled and used to make loans to borrowers  
24 selected and qualified by Nu West. The investors relied solely on Nu West to locate suitable

1 borrowers, pool investor funds, perfect the investors' security interest, and collect and distribute  
2 interest payments.

3 10. Starting sometime in the mid-1990's Nu West began fabricating borrowers, forging promissory  
4 notes and deeds of trust, fabricating Executive Summaries, and providing investors with these forged  
5 and fabricated documents. In many cases investors were not provided with documents detailing  
6 material aspects of the transaction. In many cases, particularly in the late 1990's, the only document  
7 Nu West provided investors was the Executive Summary. Nu West offered and sold these  
8 fraudulent notes in the same manner it had previously marketed the legitimate notes. Instead of  
9 using investor monies to fund loans, Nu West converted part of the investment proceeds to its own  
10 use and used the balance to make interest payments to investors as part of a Ponzi scheme.

11 11. Neither Nu West, nor the securities they offered and sold, were ever registered with the  
12 Securities Division as required.

13  
14 Based upon the above Findings of Fact, the following Conclusions of Law are made:

15 **CONCLUSIONS OF LAW**

16 1. The offer and/or sale of Nu West notes as described above constitutes the offer and/or  
17 sale of a security as defined in RCW 21.20.005(10) and (12). Such offer and/or sale of Nu West  
18 notes was also determined to be "securities" by Judge Catherine Shaffer, King County Cause No.  
19 00-2-32291-7SEA, by Court Order, dated November 9, 2001.

20 2. The offer and/or sale of securities by Respondent Nu West, Inc. violated RCW 21.20.140  
21 because the offers and sales were not registered in Washington.

22 3. Respondent Nu West, Inc. violated RCW 21.20.010 (2) in connection with the offer  
23 and/or sale of securities by omitting facts necessary in order to make its statements, in light of the  
24 circumstances in which they were made, not misleading.

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**CONSENT ORDER**

The Securities Division and Respondent Nu West, Inc. have agreed upon a basis for the resolution of the matters alleged above. Respondents agree to the entry of this Order pursuant to the Securities Act of Washington and acknowledge the Securities Division's jurisdiction over this matter and its authority to enter this order.

Based on the foregoing, NOW, THEREFORE, IT IS AGREED AND ORDERED that Respondent, its agents, employees, affiliates, and successors, shall each cease and desist from offering and/or selling securities in violation of RCW 21.20.140, the registration section of the Securities Act of Washington.

It is further AGREED AND ORDERED that Respondent, its agents, employees, affiliates, and successors, shall each cease and desist from violating RCW 21.20.010, the antifraud section of the Securities Act of Washington.

It is further AGREED that in consideration of the foregoing, Respondent waives their right to a hearing on this matter and to judicial review of this Order under RCW 21.20.440.

**WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.**

SIGNED this \_\_\_\_ day of \_\_\_\_\_, 2001.

Approved as to form by:

Richard P. Guy, WSBA #3973  
Receiver for Nu West, Inc.

Stefan E. Biberfeld, WSBA #26415  
Shulkin Hutton Inc., P.S.  
Attorneys for Receiver

ENTERED this 20th day of November, 2001.

*Deborah R Bortner*

Deborah R. Bortner, WSBA #11300  
Securities Administrator

Approved by:

Presented by:

Michael E. Stevenson, WSBA #4875  
Chief of Enforcement

Anthony W. Carter, WSBA #29578  
Securities Examiner

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