

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE
OF THE STATE OF IDAHO**

STATE OF IDAHO, DEPARTMENT OF)	Docket No. 2010-7-08
FINANCE, SECURITIES BUREAU,)	
Complainant,)	AGREEMENT AND ORDER
vs.)	
DOYLE G. RAY and FINANCIAL)	
CONSULTING INCORPORATED,)	
Respondents.)	
_____)	

The Director of the Department of Finance, State of Idaho (Director) has investigated the activities of Respondents Doyle G. Ray and Financial Consulting Incorporated. Pursuant to said investigation, it appears that violations of the Idaho Uniform Securities Act (2004) (“Act”), Idaho Code § 30-14-101 *et seq.* have occurred. The Director and Respondents have agreed to resolve this matter without a public hearing. Therefore, the Director deems it appropriate and in the public interest that this Agreement and Order be entered. Respondents consent to the entry of this Agreement and Order.

I. BACKGROUND

1. Doyle G. Ray (“Ray”) is and has been at all relevant times, a resident of Idaho. Ray resides at 1370 Helmandollar Drive, Inkom, Idaho.

2. Ray incorporated Professional Systems Management in the state of Idaho on or about December 12, 1983. Ray filed a certificate of amendment with the state of Idaho on March 17, 1997 reflecting a name change to Financial Consulting Incorporated. Financial Consulting Incorporated, aka Financial Consulting Corp., was administratively dissolved on or

around March 4, 2010. Financial Consulting Incorporated “(Financial Consulting”) engaged in the business of mortgage brokering and hard money lending.

3. From June 1984 through 2008, Ray owned and managed the mortgage business activities at Financial Consulting. Ray also specialized in matching individuals wanting to invest in real estate loans with borrowers who were not able to obtain mortgage financing through conventional lending sources such as banks – often described as hard money lending. Ray structured private hard money loans for existing homes as well as new residential construction.

4. Ray located potential investors through word of mouth and by advertising in a Pocatello, Idaho newspaper. Ray advertised investments with fixed interest rates from 12% to 16% that were secured by real estate and other property. Ray marketed his investment as having high rates of return with low risk factors and contrasted private investor returns of 14% to bank certificates of deposit paying returns of 4%. Additionally, Ray provided prospective investors with an information brochure that explained the mechanics of private investor loans.

5. As Ray became aware of various borrowers seeking hard money real estate loans, he would provide prospective investors with a copy of an appraisal on the proposed property, a credit report on the borrower seeking the loan, a title report and a borrower loan application.

6. If the investor chose to invest, Ray directed the investor to pay for the investment through the title company closing the mortgage transaction. Other than remitting a check to the title company, the investors were completely passive in the management of the investment. Ray stood in the shoes of the investors in that he provided the title company with all of the instructions relating to the disbursements and funding of the loan. Additionally, after the loan closed, Ray provided the escrow company with instructions relating to the investor’s monthly pro-rata disbursement of the borrower’s loan payments. If the loan was a residential construction

loan, Ray managed the construction loan disbursements and provided the title company with approval prior to the title company releasing any of the requested funds.

INVESTMENT CONTRACT 1 – JEROME, IDAHO PROPERTY

7. Around March 2008, Ray solicited individuals to invest a total of \$245,000.00 secured by a deed of trust on property located at 28 Horseshoe Circle, Jerome, ID. Ray represented the following information to the investors:

- a. their money would be used to fund a residential construction loan
- b. the couple who wanted to borrow the money to build the home had family living in the Twin Falls area and they wanted to build a home in Jerome to be closer to their family
- c. the borrowers were unable to obtain financing from a conventional bank because they had been unable to sell their home in California
- d. the investors would receive a full return on their investment within five years of the date they made their investment
- e. the home would be 2,245 sq ft with no basement
- f. Ray would control the disbursement of funds to the builder and to contractors as the home was under construction
- g. the home would have a loan to value of 75 %.

8. In mid-March and early April, five investors placed a total of \$245,000 with the escrow company to fund the Jerome construction project.

9. The investors understood that they would have no active role in managing the investment funds or managing the real estate investment offered by Ray.

10. Ray instructed the escrow company to pay fees totaling \$20,370 to Financial Consulting Corp.

11. On or around March 21, 2008, Ray instructed the escrow company to identify Financial Consulting Corp. as the lender on the HUD-1 settlement statement and other escrow closing documents such as the deed of trust and note. Ray never provided the investors with a copy of settlement statements associated with their investments – such as the HUD-1, nor did he provide the investors with documents relating to the construction draw requests or approvals for the draws.

12. Financial Consulting Corp.'s 100% beneficiary interest was assigned to the 5 investors on a pro rata basis, and the deed of trust was recorded on April 11, 2008.

13. On or around March 2009, Ray told the investors that the builder had increased the size of the house and was unable to obtain additional financing to complete the construction. The home remains partially finished.

14. The investors received eight payments on their investment and the value of the home is estimated to be worth only a fraction of their \$245,000 investment.

15. When the home was not completed, the borrowers walked away from the project leaving the investors owning a partially finished residential construction project in a collapsed real estate market. The borrowers never intended to move to the area; instead, the borrower's strategy was to put no money down and once the home was completed, they planned on making a handsome profit by selling or "flipping" the home.

INVESTMENT CONTRACT 2 – DRIGGS, IDAHO PROPERTY

16. Around July 2008, Ray solicited individuals to invest a total of \$254,000.00 in a property located at 398 Palisade Trail, Driggs, ID. Ray represented the following information to the investors:

- a. their money would be used to fund a residential construction loan
- b. the builder who wanted to borrow the money to finish construction on the home needed the money for approximately six months
- c. there was very little risk to the investment
- d. Ray would manage the disbursement of funds to the builder and to contractors as the home was under construction
- e. the home would have a loan to value of 70 %.

17. In late July and early August, five investors placed a total of \$254,000 with the escrow company to fund the Driggs construction project.

18. All of the investors understood that the investment offered by Ray was passive and that they would not have an active role in managing the use of investment funds or the real estate investment.

19. Ray instructed the escrow company to pay fees totaling \$17,818 to Financial Consulting Corp.

20. Although Financial Consulting did not make any investment in the project, Ray instructed the escrow company to identify Financial Consulting Corp. as the lender. As such, the HUD-1 settlement statement and other escrow closing documents such as the note and deed of trust identified Financial Consulting as the lender. The deed of trust was recorded August 8, 2008.

21. Ray never provided the investors with the settlement statements associated with their investments – such as the HUD-1, nor did he provide the investors with documents relating to the construction draw requests or approvals for the draws.

22. On or around September 4, 2008, Ray directed the title company to assign Financial Consulting Corp.'s 100% beneficiary interest on the deed of trust to the 5 investors on a pro rata basis.

23. Investors received six payments on their investment. The builders/borrowers were unable to sell the home and quit making payments to the investors.

24. Ray failed to monitor the construction draw requests adequately and approved payments to contractors for charges not related to the Driggs property.

25. Ray directed the title company to use investor funds to make at least one payment to an investor for a purpose not associated with the Driggs property.

VIOLATIONS

26. Idaho Code § 30-14-301 provides that it is unlawful for any person to sell or to offer to sell any security in this state unless (a) the security is a federal covered security; (b) the security, transaction or offer is exempt from registration under sections 30-14-201 through 30-14-203, Idaho Code; or (c) the security is registered under the Act.

27. Violations of Idaho Code § 30-14-301 have occurred in that each investment concerning the properties in Jerome and Driggs, Idaho, described herein was an “investment contract” and therefore were securities as that term is defined by Idaho Code §30-14-102 (28) (d). Respondent Ray sold unregistered securities in the form of investment contracts to Idaho investors.

28. Idaho Code § 30-14-402 provides that it is unlawful for an individual to transact business in this state as an agent unless the individual is registered under the Act as an agent or is exempt from registration as an agent.

29. Respondent Ray offered and sold investment contracts to Idaho investors without the benefit of agent registration in violation of Idaho Code § 30-14-402.

30. Idaho Code § 30-14-501 (2) provides that it is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly, to make an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

31. Respondent Ray violated Idaho Code § 30-14-501 (2) by:

- i. Failing to disclose to investors that Financial Consulting would be identified as the lender on the Jerome and Driggs properties.
- ii. Failing to advise the Jerome investors that their investment was speculative and they may lose most if not all of their investment.
- iii. Failing to advise the Jerome investors that the information provided in the appraisal was only an estimate and that the builder could adjust the specifications of the home without the investor's approval.
- iv. Failing to advise Driggs investors that their investment proceeds would be used for purposes not associated with the Driggs property.
- v. Misrepresenting to investors that the investments recommended by Financial Consulting were low risk.

REMEDIES

32. Respondent Ray neither admits nor denies the findings and violations contained in this Agreement and Order.

33. Respondent Ray represents that the information provided to Complainant in its investigation of this matter is accurate and complete.

34. Respondent Ray agrees to pay a fine to Complainant in the amount of five hundred dollars (\$500.00) within thirty (30) days of the date of this order.

35. Respondents agree to comply with all provisions of the Idaho Uniform Securities Act (2004) in the future. In the event the Respondents commit violations of the Act within two (2) years of the date of this Order, Respondents acknowledge that Complainant can incorporate the allegations giving rise to this Order in any future proceeding.

36. If the Respondents fail to timely meet all terms and conditions set forth in this agreement, this agreement shall be null and void, and the Department may seek all remedies allowed by law that arise from the violations referenced in paragraphs 26 through 31 above.

DATED this 29 day of Aug 2013.

Financial Consulting Incorporated

By: Doyle G. Ray

Title: Pres

Doyle G. Ray
Doyle G. Ray

DATED this 3d day of September, 2013.

STATE OF IDAHO, DEPARTMENT OF
FINANCE, SECURITIES BUREAU

Marilyn Chastain

MARILYN CHASTAIN
Bureau Chief, Securities Bureau

IT IS SO ORDERED.

Gavin M. Gee
GAVIN M. GEE
Director, Department of Finance

