

1 STATE OF WASHINGTON
2 DEPARTMENT OF FINANCIAL INSTITUTIONS
3 SECURITIES DIVISION

4 IN THE MATTER OF DETERMINING) Order Number S-04-138-04-SC01
5 Whether there has been a violation of the)
6 Securities Act of Washington by:) STATEMENT OF CHARGES AND NOTICE
7 Kevin Gerald Vanhook) OF INTENT TO ENTER AN ORDER TO
Respondent) CEASE AND DESIST AND TO IMPOSE A
FINE
)

8 THE STATE OF WASHINGTON TO: Kevin Gerald Vanhook

9
10 **STATEMENT OF CHARGES**

11 Please take notice that the Securities Administrator of the State of Washington has reason
12 to believe that Respondent, Kevin Gerald Vanhook, has violated the Securities Act of
13 Washington and that his violations justify the entry of an order of the Securities Administrator
14 under RCW 21.20.390 to cease and desist from such violations and to impose a fine pursuant to
15 RCW 21.20.395. The Securities Administrator finds as follows:

16 **TENTATIVE FINDINGS OF FACT**

17 **I. RESPONDENT**

18 From 1999 to 2003, Kevin Gerald Vanhook (“Vanhook”) was a Washington resident and
19 a securities salesperson for CLS Financial Services (“CLS”), a mortgage paper securities broker-
20 dealer in Lynnwood, Washington. Vanhook was a registered non-NASD securities broker-dealer
21 salesperson until October 20, 2003, when the CLS mortgage paper securities permit was
22 summarily suspended by the Securities Division with the entry of summary order #S-03-166-03-
23 TO01.
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25 STATEMENT OF CHARGES AND NOTICE OF INTENT TO ENTER AN ORDER TO CEASE AND DESIST AND TO IMPOSE A FINE

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

1 II. MISREPRESENTATIONS AND OMISSIONS ABOUT GRANITE NORTHWEST, L.L.C.

2 During 2002, CLS was trying to raise funds to operate a granite quarry in Arlington,
3 Washington. Granite Northwest, L.L.C. was a company that was formed to apply for a
4 conditional use permit to operate the quarry. The conditional use permit was never obtained.

5 In August 2002, Vanhook offered a \$50,000 investment in Granite Northwest, L.L.C.
6 membership units to a Washington resident. The investment was a passive investment that did
7 not require any participation by the investor and the invested funds were supposed to be pooled
8 with funds from other investors.

9 Vanhook gave the prospective investor some information showing that the investment
10 would have a projected annual return of approximately 40% over a seven-year period. Vanhook
11 failed to provide any reasonable basis for this profit projection. Vanhook also failed to disclose
12 significant risks of the investment, including the possibility that the company might not receive a
13 conditional use permit to conduct its granite quarry operations and the risk of inadequate
14 capitalization.

15 III. UNAUTHORIZED INVESTMENT AND FAILURE TO DISCLOSE SIGNIFICANT
16 INFORMATION ABOUT A GRANITE NORTHWEST, L.L.C. NOTE

17 During 2003, Vanhook offered and sold investments to Washington couple. At that time,
18 the husband had senile dementia and the wife had macular degeneration and could not easily
19 read printed material. Due to the incapacity of her husband, the wife made all of the couples'
20 investment decisions. She relied upon Vanhook to give her accurate information about
21 prospective investments and to follow her instructions.

22 Sometime around May 2003, Vanhook talked to the wife about using the proceeds from a
23 maturing investment to purchase a participation interest in a real estate secured note for
24 approximately \$5.4 million that was issued by Granite Northwest, L.L.C. The wife told
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1 Vanhook that she did not want to purchase the Granite Northwest, L.L.C. investment.
2 Thereafter, contrary to her instructions, Vanhook used the investors' funds to purchase a
3 participation interest in the Granite Northwest, L.L.C. note. In June 2003, after receiving an
4 interest payment and discovering the unauthorized note purchase, the wife decided to go ahead
5 and accept the investment.

6 However, Vanhook failed to disclose significant risks of the investment. Vanhook failed
7 to disclose that \$5.4 million had never been advanced to Granite Northwest, L.L.C. because CLS
8 had not been able to sell enough interests to fund the note. Vanhook failed to disclose that the
9 amount funded was not adequate to finance the operations of the business venture that were
10 supposed to repay the note. Vanhook failed to disclose how the investors' funds were being
11 used. Vanhook failed to disclose that Granite Northwest, L.L.C. had never obtained a
12 conditional use permit to conduct its operations and that there were significant environmental
13 concerns about traffic, noise, water quality and other issues that would make it difficult, if not
14 impossible, to obtain a conditional use permit. Vanhook failed to disclose that the deed of trust
15 that purportedly secured the investment was subject to two prior deeds of trust totaling \$525,000,
16 while the property had a tax assessed value of less than \$168,000. Vanhook failed to disclose the
17 risks associated with foreclosing junior deeds of trust.

18 **IV. MISREPRESENTATION AND OMISSIONS AND FAILURE TO FOLLOW**
19 **INVESTOR INSTRUCTIONS TO CANCEL THE PURCHASE OF A REAL ESTATE**
20 **SECURED NOTE**

21 In January 2002, Vanhook offered and sold a participation interest in a real estate secured
22 note to another Washington investor without initially disclosing that the investor would be part
23 of a group of investors and decisions relating to the note would require the unanimous consent of
24 the other investors to conduct certain operations, including whether to pursue foreclosure actions.
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1 After receiving the paperwork documenting and describing the investment, the investor
2 instructed Vanhook to cancel and refund the investment, but Vanhook refused to do so.

3 When offering and selling the investment, Vanhook represented to the investor that he
4 would have a first position deed of trust against real property in Arizona to secure his
5 investment. In fact, the investor was given a second position deed of trust.

6 V. MISREPRESENTATIONS AND OMISSIONS ABOUT REAL ESTATE SECURED
7 NOTES

8 In October 2002, Vanhook offered to roll over a maturing investment for a Washington
9 investor. Vanhook represented that the new investment would be secured by a first position deed
10 of trust against property located in Whatcom County. On October 20, 2002, the investor
11 purchased a \$40,000 promissory note from CLS Properties, LLC. Vanhook failed to disclose
12 that the tax assessed value of the property that purportedly secured the investment was only
13 \$1,000. Vanhook also failed to disclose that the investor's deed of trust was in second position,
14 behind a \$42,000 deed of trust from CLS Properties, LLC to RMX REIT, Inc., an affiliated
15 company.

16 On October 27, 2003, the investor wrote a check for \$10,000 to add to his original
17 \$40,000 investment, for a total of \$50,000. Vanhook represented to the investor that he would
18 receive a \$50,000 deed of trust to secure his \$50,000 investment. Vanhook failed to disclose that
19 the tax assessed value of the property that purportedly secured the investment was only \$1,000.
20 Vanhook also failed to disclose that the investor's deed of trust was in second position, behind a
21 \$42,000 deed of trust from CLS Properties, LLC to RMX REIT, Inc., an affiliated company.

22 Based upon the Tentative Findings of Fact, the following Conclusions of Law are made:
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2 **CONCLUSIONS OF LAW**

3 **I.**

4 The offer of the membership interest in the limited liability company described in
5 paragraph II of the Tentative Findings of Fact constitutes the offer of a security, as defined in
6 RCW 21.20.005(10) and (12), in the form of an investment contract.
7

8 **II.**

9 The offer and sale of the notes described in paragraphs III through V of the Tentative
10 Findings of Fact constitutes the offer and sale of a security, as defined in RCW 21.20.005(10)
11 and (12), in the form of notes or evidences of indebtedness.

12 **III.**

13 The offer or sale of the securities described in paragraphs II through V of the Tentative
14 Findings of Fact were made in violation of RCW 21.20.010 because, in connection with the offer
15 or sale of the securities, Vanhook made untrue statements of material fact and omitted to state
16 material facts necessary in order to make the statements that were made, in the light of the
17 circumstances under which they were made, not misleading.
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19 **NOTICE OF INTENT TO ORDER THE RESPONDENT TO CEASE AND DESIST**

20 Based on the above Tentative Findings of Fact and Conclusions of Law, the Securities
21 Administrator intends to order that Kevin Gerald Vanhook and his agents and employees each
22 shall cease and desist from violations of RCW 21.20.010.
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1 **NOTICE OF INTENT TO IMPOSE FINES**

2 Pursuant to RCW 21.20.395, and based upon the Tentative Findings of Fact and
3 Conclusions of Law, the Securities Administrator intends to order that Kevin Gerald Vanhook
4 shall be liable for and pay a fine of \$20,000.

5 **AUTHORITY AND PROCEDURE**

6 This Statement of Charges is entered pursuant to the provisions of RCW 21.20 and is
7 subject to the provisions of RCW 34.05. The respondent, Kevin Gerald Vanhook, may make a
8 written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND
9 AND OPPORTUNITY FOR HEARING accompanying this order.
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11 If Kevin Gerald Vanhook fails to make a timely hearing request, the Securities
12 Administrator intends to adopt the above Tentative Findings of Fact and Conclusions of Law as
13 final and to enter a permanent order to cease and desist against Vanhook. The Securities
14 Administrator also intends to enter an order imposing a \$20,000 fine against Vanhook and may
15 file a certified copy of the order in superior court and proceed to collect the fine in accordance
16 with RCW 21.20.395.

17 Dated this 9th day of September, 2004
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21 MICHAEL E. STEVENSON
22 Securities Administrator
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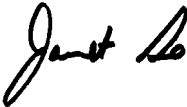
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Approved by:



Martin Cordell
Chief of Enforcement

Presented by:



Janet So
Financial Legal Examiner