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EXPO 1

DEPARTMENT OF
JUDICIAL ADMINISTRATION
KING COUNTY WASHINGTON

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STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS,

Plaintiff,

v.

HOSS MORTGAGE INVESTORS,
INC., TODD ALLAN HOSS, BORIS
PETRENKO DBA ORANGE
ESCROW, BALLARD ESCROW,
INC., FRONTIER BANK, VIKING
BANK, IRONSTONE BANK,

Defendants.

NO. 09-2-33731-4 SEA

ORDER APPOINTING RECEIVER

~~PROPOSED~~

This matter came before the Court on the motion of Plaintiff State of Washington, Department of Financial Institutions, Securities Division ("Department") for an Order to Show Cause why a Receiver should not be appointed with respect to Hoss Mortgage Investors, Inc. The Department appeared through its attorney Charles E. Clark, Assistant Attorney General. Defendant(s) _____ (were) (were not) present and were represented by _____.

The Court having heard argument of counsel, having considered the pleadings filed in this matter and the Declaration of Janet So and Declaration of Charles E. Clark in Support of Appointment of

1 a Receiver, finds that under RCW 21.20.390 and RCW 7.60.025(1)(s) good cause exists for the
2 appointment of a Receiver; now, therefore, the court makes the following:

3 **I. FINDINGS OF FACT**

4 1. Defendant Hoss Mortgage Investors, Inc. appears to be insolvent and unable to
5 satisfy all current obligations.

6 2. Defendants Hoss Mortgage Investors, Inc. and Todd Allan Hoss have violated the
7 Securities Act of Washington, chapter 21.20 RCW by making fraudulent misrepresentations
8 and omissions to investors in violation of RCW 21.20.010, offering and selling unregistered
9 securities in violation of RCW 21.20.140, and engaging in dishonest and unethical business
10 practices.

11 3. Defendants Hoss Mortgage Investors, Inc. and Todd Allan Hoss have not
12 adequately serviced loans, have not made required payments to investors, and have stopped
13 providing investors statements regarding their investments.

14 4. There is a risk of Defendants Hoss Mortgage Investors, Inc. and Todd
15 fraudulently conveying assets.

16 **II. ORDER**

17 IT IS HEREBY ORDERED as follows:

18 1. Steven K. Linkon is appointed as a Receiver with respect to Hoss Mortgage
19 Investors, Inc. with full powers of a general receiver, including but not limited to, full power over
20 all funds, assets, collateral, premises (whether owned, leased, occupied, or otherwise controlled),
21 choses in action, books, records, papers and other property belonging to, being managed by or in
22 the possession of or control of any entities in receivership, or in the possession or control of any
23 agents thereof (including Todd Allan Hoss), and that such receiver is immediately authorized,
24 empowered and directed:

25 A. to have access to and to collect and take custody, control, possession, and
26 charge of all funds, assets, collateral, premises (whether owned, leased, occupied, or otherwise

1 controlled), choses in action, books, records, papers and other real or personal property, wherever
2 located, of or managed by any of the entities in receivership, with full power to sue, foreclose,
3 marshal, collect, receive, and take into possession all such property;

4 B. to have control of, and to be added as the sole authorized signatory for, all
5 accounts of the entity in receivership, including all accounts at any bank, title company, escrow
6 agent, financial institution or brokerage firm which has possession, custody or control of any
7 assets or funds of any of the entities in receivership, or which maintains accounts over which any
8 of the entities in receivership and/or any of their employees or agents have signatory authority;

9 C. to conduct such investigation and discovery as may be necessary to locate
10 and account for all of the assets of or managed by the entity in receivership and to engage and
11 employ attorneys, accountants and other persons to assist in such investigation and discovery;

12 D. to take such action as is necessary and appropriate to preserve and take
13 control of and to prevent dissipation, concealment, or disposition of any assets of or managed by
14 the entities in receivership;

15 E. to make an accounting, as soon as practicable, to this Court and the
16 Department of Financial Institutions of the assets and financial condition of the entity in
17 receivership, and to file the accounting with the Court and deliver copies thereof to all parties;

18 F. to make such payments and disbursements from the funds and assets taken
19 into custody, control, and possession or thereafter received by him or her, and to incur, or
20 authorize the making of, such agreements as may be necessary and advisable in discharging his or
21 her duties as Receiver;

22 G. to employ attorneys, accountants and others to investigate and, where
23 appropriate, to institute, pursue, and prosecute all claims and causes of action of whatever kind
24 and nature which may now or hereafter exist as a result of the activities of present or past
25 employees or agents of the entity in receivership; and
26

1 H. to have access to and monitor all mail of the entity in receivership in order
2 to review such mail which he deems relates to the business of and the discharging of his duties as
3 Receiver.

4 I. take such further action as the Court shall deem equitable, just and
5 appropriate under the circumstances upon proper application by the Receiver.

6 2. IT IS FURTHER ORDERED the Receiver shall be authorized to act as Receiver
7 herein upon entry of this order and upon filing of his statutory oath, and filing of a bond in the
8 amount of \$100,000, provided that the duties of the Receiver will be faithfully discharged in this
9 action, and that the Receiver will obey the orders of this court. The premium of the Receiver's
10 bond shall be paid from the general funds of Hoss Mortgage Investors, Inc. Any liability of the
11 Receiver shall be limited as set forth in RCW 7.60.170.

12 3. IT IS FURTHER ORDERED that the Receiver shall be paid at the rate of
13 \$289.00/hour, and the Receiver may employ agents as necessary at the expense of the estate

14 4. IT IS FURTHER ORDERED that defendant Hoss Mortgage Investors, Inc., its
15 subsidiaries and affiliates, and its officers, agents, servants, employees and attorneys, and any
16 other persons who are in custody, possession or control of any assets, collateral, books, records,
17 papers or other property of or managed by the entity in receivership, shall forthwith give access to
18 and control of such property to the Receiver.

19 5. IT IS FURTHER ORDERED that no officer, agent, servant, employee, or attorney
20 of Hoss Mortgage Investors, Inc., or its subsidiaries or affiliates, shall take any action or purport
21 to take any action, in the name of or on behalf of any of Hoss Mortgage Investors, Inc. without the
22 written consent of the Receiver or order of this Court.

23 6. IT IS FURTHER ORDERED that defendant Hoss Mortgage Investors, Inc., its
24 officers, agents, servants, employees, and attorneys, shall cooperate with and assist the Receiver
25 and shall not take action, directly or indirectly, to hinder, obstruct, or otherwise interfere with the
26 Receiver or his attorneys, accountants, employees or agents, in the conduct of the Receiver's

1 duties or to interfere in any manner, directly, or indirectly, with the custody, possession,
2 management, or control by the Receiver of the funds, assets, collateral, premises, and choses in
3 action described above.

4 7. IT IS FURTHER ORDERED that defendant Hoss Mortgage Investors, Inc. shall
5 pay the costs, fees and expenses of the Receiver incurred in connection with the performance of
6 his duties described in this Order, including the costs and expenses of those persons who may be
7 engaged or employed by the Receiver to assist him in carrying out his duties and obligations. All
8 applications for costs, fees and expenses for services rendered in connection with the receivership
9 shall be made by application setting forth in reasonable detail the nature of the services and shall
10 be heard by the Court.

11 8. IT IS FURTHER ORDERED that defendant Todd Allan Hoss and the entity in
12 receivership, shall, within 24 hours of the issuance of this Order, cause to be prepared and
13 delivered to the Receiver, a detailed and complete schedule of all desk top computers, laptop
14 computers and/or personal digital assistants ("PDA") owned and/or used by him or Hoss
15 Mortgage Investors, Inc. in connection with the business. In the case of defendant Todd Allan
16 Hoss, he shall, within 24 hours of issuance of this Order, prepare and deliver to the Receiver, a
17 detailed and complete schedule of all desk top computers, laptop computers and/or personal
18 digital assistants ("PDA") owned and/or used by him for any purpose. The schedules required by
19 this section shall include at a minimum the make, model and description of each computer and/or
20 PDA, along with its location, the name of the person primarily assigned to use the computer
21 and/or PDA, all passwords necessary to access the computer and/or PDA, and all passwords
22 necessary to access and use the software contained on the computer and/or PDA. The Receiver
23 shall be authorized to make an electronic, digital or hard copy of all of the data contained on the
24 computers and/or PDAs.

25 9. IT IS FURTHER ORDERED that this Court shall retain jurisdiction over this
26 action for the purpose of implementing and carrying out the terms of all orders and decrees which

1 may be entered herein and to entertain any suitable application or motion for additional relief
2 within the jurisdiction of this Court.

3 10. _____
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8 Dated this 6 day of Oct, 2009.

9
10 
11 JUDGE/COURT COMMISSIONER

12 Presented by:

13 ROBERT M. MCKENNA
14 Attorney General

15 
16 CHARLES E. CLARK, WSBA No. 28918
17 Assistant Attorney General
18 Attorneys for Plaintiffs

ERIC WATNESS

OCT 06 2009

COURT COMMISSIONER

19 Approved as to form:
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21 _____
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