

Terms Completed

ORDER SUMMARY – Case Number: C-20-2854

Name:	Prime Choice Funding, Inc.
Order Number:	C-20-2854-20-CO01
Effective Date:	August 26, 2020
License Number:	NMLS No. 117375
License Effect:	Voluntarily surrendered
Admissions:	<p>Respondent admitted that in 2018, DFI entered into a Consent Order (2018 Order) with Respondent resolving advertising violations of the Consumer Loan Act (Act). The 2018 Order imposed certain sanctions, and stayed certain sanctions, contingent upon Respondent's compliance with the Act and the 2018 Order.</p> <p>Respondent further admitted that in early December 2019, DFI conducted a compliance examination of Respondent pursuant to the 2018 Order. The examination found advertising in violation of both the Act and the 2018 Order.</p>

Investigation Costs:	\$ 0.00	Due: N/A	Paid: <input type="checkbox"/> Y <input type="checkbox"/> N	Date: N/A
Fine:	\$ 150,000	Due: Upon delivery	Paid: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 8/26/2020
Financial Literacy:	\$ 100,000	Due: Upon delivery	Paid: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Date: 8/26/2020

Comments: This is the third Consent Order entered into between the Department and Respondent for advertising in violation of either the Mortgage Broker Practices Act or the Consumer Loan Act.

CO ENTERED	FINES	INV FEES	EXAM FEES	FINANCIAL LITERACY	TOTAL
February 22, 2017	\$100,000.00 paid	\$3,002.40	\$9,524.70	\$0	\$112,527.10
July 10, 2018	\$100,000.00 paid, \$100,000.00 stayed	\$10,000.00	\$0	\$0	\$110,000.00
August 26, 2020	\$150,000.00 paid	\$0	\$0	\$100,000.00	\$250,000.00
	\$350,000.00	\$13,002.40	\$9,524.70	\$100,000.00	\$472,527.10

On July 22, 2020, the Bureau of Consumer Financial Protection (CFPB) imposed a civil money penalty of \$645,000 on Respondent Prime Choice Financial, Inc. for false and deceptive advertising of VA loans. The Stipulation and Consent Order are available at ConsumerFinance.gov:

https://files.consumerfinance.gov/f/documents/cfpb_prime-choice-funding_stipulation_2020-07.pdf

https://files.consumerfinance.gov/f/documents/cfpb_prime-choice-funding_consent-order_2020-07.pdf

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES**

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IN THE MATTER OF DETERMINING
Whether there have been violations of the
Consumer Loan Act of Washington by:

No. C-20-2391-20-CO01

CONSENT ORDER

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PRIME CHOICE FUNDING, INC.,
NMLS No. 117375,

Respondent.

COMES NOW the Director of the Department of Financial Institutions (Director), through his designee Lucinda Fazio, Director, Division of Consumer Services, and Prime Choice Funding, Inc. (Respondent) by and through its counsel, Michael Y. Kieval of Weiner Brodsky Kider PC, and finding that the issues raised in this matter may be economically and efficiently settled, agree to the entry of this Consent Order pursuant to Revised Code of Washington (RCW) 31.04, the Consumer Loan Act (Act), and RCW 34.05.060 of the Administrative Procedure Act (APA), based on the following:

I. FINDINGS OF FACT

1.1 Respondent Prime Choice Funding, Inc. The Washington State Department of Financial Institutions (Department) licensed Respondent as a consumer loan company under the Act on or about July 3, 2017, and it remains licensed in Washington to date.

1.2 2018 Consent Order. In 2018, the Department entered into a Consent Order (2018 Order) with Respondent resolving advertising violations. The 2018 Order imposed certain sanctions, and stayed certain sanctions, contingent upon Respondent's compliance with the Act and the 2018 Order.

1.3 2019 Examination. In early December 2019, the Department conducted a limited-scope off-site compliance examination of Respondent pursuant to the 2018 Order. The Report of Examination (ROE) found advertising in violation of both the Act and the 2018 Order.

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1 **1.4 License Surrender.** Prior to the start of the 2019 Examination, Respondent sought to surrender its
2 Washington consumer loan company license. Based on the existence of the 2018 Order, the Department put the
3 surrender request on hold pending the outcome of the 2019 Examination.

4 **II. CONCLUSIONS OF LAW**

5 **2.1** Based on the above Findings of Fact, Respondent violated the Act and the 2018 Order by advertising in
6 violation of RCW 31.04.027(1)(b) and WAC 208-620-630(5).

7 **III. AGREEMENT AND ORDER**

8 **3.1** The Department and Respondent have agreed upon a basis for resolution of the Findings of Fact and
9 Conclusions of Law identified in this Consent Order. Pursuant to RCW 31.04 and RCW 34.05.060 of the APA,
10 Respondent hereby agrees to the entry of this Consent Order. The parties intend this Consent Order to fully and
11 completely resolve all violations of the 2018 Order, all findings in the 2019 ROE, and all matters of which the
12 Department has knowledge or notice as of the date of this Consent Order.

13 Based upon the foregoing:

14 **A. Jurisdiction.** It is AGREED that the Department has jurisdiction over the subject matter of the activities
15 discussed herein.

16 **B. Waiver of Hearing.** It is AGREED that Respondent hereby waives any right it has to an adjudicative hearing
17 and any and all administrative and judicial review of the issues raised in this matter or the resolution reached herein.

18 **C. Admission.** It is AGREED that Respondent admits the above Findings of Fact and Conclusions of Law. It is
19 further AGREED and ORDERED that Respondent will not take any action, or permit to be made, any public
20 statement creating the impression that the 2018 Order, the findings in the 2019 ROE, or this Consent Order are
21 without factual basis. Nothing in this paragraph affects Respondent's right to take legal or factual positions in
22 defense of litigation.

23 **D. Surrender.** It is AGREED that the Department will process Respondent's request to surrender its
24 Washington consumer loan company license upon entry of this Consent Order.

1 **E. Fine.** It is AGREED and ORDERED that Respondent shall pay the \$100,000 stayed fine for the breach of
2 the 2018 Order, and an additional fine of \$50,000 for advertising in violation of the Act, for a total of \$150,000 in
3 fines. Payment shall be made pursuant to Paragraph G.

4 **F. Financial Literacy Payment.** Pursuant to RCW 31.04.093(7), the Director may accept payments to the
5 Department for purposes of financial literacy and education programs authorized under RCW 43.320.150.
6 Accordingly, in addition to the fine, it is AGREED that Respondent shall pay \$100,000 to the Department for
7 purposes of financial literacy and education programs (the “Financial Literacy Payment”). The Department, while
8 reserving sole discretion to determine the use of the Financial Literacy Payment, acknowledges and will endeavor
9 to honor Respondent’s request that the Financial Literacy Payment be used to promote and support financial
10 literacy services and programs benefiting Washington service members, veterans, and their families. It is
11 FURTHER AGREED and ORDERED that Respondent shall not advertise the Financial Literacy Payment.
12 Payment shall be made pursuant to Paragraph G.

13 **G. Payment.** Payment of the \$150,000 fine and the \$100,000 Financial Literacy Payment shall be made in the
14 form of one \$250,000 cashier’s check made payable to the “Washington State Treasurer.” Payment is due upon
15 delivery of this Consent Order to the Department signed and dated by Respondent.

16 **H. Rights of Non-Parties.** It is AGREED that the Department does not represent or have the consent of any
17 person or entity not a party to this Consent Order to take any action concerning their personal legal rights, and this
18 Consent Order does not limit or create any private rights or remedies against Respondent, limit or create liability of
19 Respondent, or limit or create defenses of Respondent to any claims.

20 **I. Authority to Execute Order.** It is AGREED that the undersigned representative has represented and
21 warranted that he has the full power and right to execute this Consent Order on behalf of Respondent.

22 **J. Voluntarily Entered.** It is AGREED that Respondent has voluntarily entered into this Consent Order,
23 which is effective when signed by the Director’s designee.

24 **K. Completely Read, Understood, and Agreed.** It is AGREED that an authorized representative of
25 Respondent has read this Consent Order in its entirety and fully understands and agrees to all of the same.

1 **L. Counterparts.** This Consent Order may be executed by the authorized agents of and attorneys for
2 Respondent in any number of counterparts, including by facsimile or e-mail of a .pdf or similar file, each of which
3 shall be deemed to be an original, but all of which, taken together, shall constitute one and the same Consent
4 Order.

5 **M. Records Retention.** It is AGREED and ORDERED that Respondent, its owners, officers, and agents shall
6 maintain records relating to Respondent's consumer loan business in compliance with the Act, shall provide the
7 Department with the location of the records, and shall provide the Department with the name, address and
8 telephone number of the individual responsible for maintenance of such records.

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10 **BY RESPONDENT:**
11 PRIME CHOICE FUNDING, INC.

12
13 /s/ _____
14 Keith Carl McKay
15 President and Owner

8/20/2020 _____
Date

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17 **APPROVED FOR ENTRY:**

18 /s/ _____
19 Michael Y. Kieval, Esq.
20 Weiner Brodsky Kider PC
21 Attorneys for Respondent Prime Choice

8/17/2020 _____
Date

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DO NOT WRITE BELOW THIS LINE

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1 THIS ORDER ENTERED THIS 26th DAY OF AUGUST 2020.

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3 /s/
4 Lucinda Fazio, Director
5 Division of Consumer Services
6 Department of Financial Institutions

7 Presented by:

Approved by:

8
9 /s/
10 Anthony W. Carter
11 Senior Enforcement Attorney
12 Division of Consumer Services
13 Department of Financial Institutions

/s/
14 Steven C. Sherman
15 Chief of Enforcement
16 Division of Consumer Services
17 Department of Financial Institutions