

1
2
3 STATE OF WASHINGTON
4 DEPARTMENT OF FINANCIAL INSTITUTIONS
5 DIVISION OF CONSUMER SERVICES

6 IN THE MATTER OF:

DFI No. 97-083

7 NATIONSCAPITAL MORTGAGE CORP.,
8 JAMIE CHISICK, INDIVIDUALLY AND AS
9 PRESIDENT AND OWNER, et al.,

AGREED ORDER CONCERNING
JAMIE CHISICK'S FINANCIAL OBLIGATIONS
UNDER FINAL ORDER

Respondents.

10 COMES NOW the Director of the Department of Financial Institutions ("Director") and Jamie Chisick
11 ("Mr. Chisick"), individually, by and through his legal counsel, Evan C. Borges, of Irell & Manella LLP, and
12 finding that that there is good cause for the Department and Mr. Chisick to fully and finally settle, compromise
13 and resolve Mr. Chisick's financial obligations under the Department's Entry of Findings of Fact and Conclusions
14 of Law and Final Order, entered January 27, 2003 ("Final Order")¹, hereby agree to the entry of this Agreed Order
15 Concerning Respondent Jamie Chisick's Financial Obligations Under Final Order ("Agreed Order"). This Agreed
16 Order is entered pursuant to RCW 34.05.060 of the Administrative Procedure Act based on the following:

17 **AGREEMENT AND ORDER**

18 1. **Final Order Shall Remain Effective.** The Department and Mr. Chisick have agreed to fully and
19 finally settle, compromise and resolve Mr. Chisick's financial obligations under the Department's Entry of
20 Findings of Fact and Conclusions of Law and Final Order, entered January 27, 2003, in Cause No. 97-083 ("Final
21 Order"). A copy of the Final Order is attached hereto as Exhibit A. Except for the financial obligations of Mr.
22 Chisick under the Final Order, which are fully and finally settled, compromised and resolved by virtue of this
23

24 ¹ On June 20, 2006, Division II of the Washington State Court of Appeals issued a partially published decision affirming
25 the Final Order in its entirety. See *Nationscapital Mortgage Corp. v. Dep't of Financial Institutions*, 133 Wn. App. 723,
137 P.3d 78 (2006).

AGREED ORDER CONCERNING
JAMIE CHISICK'S FINANCIAL
OBLIGATIONS UNDER FINAL ORDER

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1 Agreed Order, all provisions of the Final Order shall remain effective against Mr. Chisick and other Respondents,
2 as the case may be, as set forth in the Final Order.

3 2. **Mr. Chisick's Financial Condition.** Mr. Chisick has represented that he currently has an
4 inability to pay the financial obligations imposed upon him by the Final Order. Mr. Chisick provided the
5 Department with a written statement made under oath comprehensively describing his finances and financial
6 situation (hereinafter "Financial Affidavit") prior to the entry of this Agreed Order.

7 3. **Fines Against Mr. Chisick.** Under the provisions of the Final Order, Mr. Chisick currently owes
8 the Department \$292,800.00 in fines. Subject to and upon Mr. Chisick's compliance with and completion of the
9 obligations (including, without limitation, the payment obligation) set forth in paragraph 4 below, the Department
10 agrees that Mr. Chisick will be released of and will not be obligated to pay the \$292,800.00 in fines imposed under
11 the Final Order.

12 4. **Payment of Partial Restitution.** Paragraph 5 on page 23 of the Final Order provides:

13 Nations and Jamie Chisick, jointly and severally, shall pay restitution in the amount of \$712,527.19
14 to 120 consumers as set out in Exhibit No. 66-Prater was removed since Nations has already paid
restitution to Prater. This restitution shall be paid only once by Nations and/or Jamie Chisick.

15 In full and final satisfaction and settlement of this \$712,527.19 owed to consumers as restitution under the Final
16 Order, it is agreed that Mr. Chisick shall pay the 120 consumers, as set forth in Exhibit No. 66 [*A Hearing*
17 *Exhibit*], a total aggregate restitution amount of \$250,000.00, as set forth herein. A copy of the list of consumers
18 owed restitution, taken from Exhibit No. 66, is attached hereto as Exhibit B. Restitution shall be paid to
19 consumers on a pro-rata basis as set forth in the schedule attached hereto as Exhibit C. It is agreed that prior to the
20 Director's entry of this Agreed Order, Mr. Chisick shall transfer the \$250,000.00 to the account of an independent
21 third party escrow company licensed in the state of Washington (the "Escrow Company") and shall provide the
22 Department with evidence that such money has been transferred to the Escrow Company. Upon entry of this
23 Agreed Order by the Director, Mr. Chisick shall promptly provide the Escrow Company with a copy of this
24 Agreed Order. After transfer to the Escrow Company and upon entry of this Agreed Order, Mr. Chisick shall not
25 be permitted to receive any portion of the \$250,000.00 transferred to the Escrow Company. Within sixty (60)

1 days from entry of this Agreed Order, Mr. Chisick shall cause the Escrow Company to mail the restitution
2 payments to consumers totaling \$250,000.00, as set forth in Exhibit C. Each mailed restitution check must be
3 accompanied by the explanatory cover letter discussed in further detail in paragraph 5 of this Agreed Order.
4 Although mailing of the restitution payments must be completed within sixty (60) days, it is understood by the
5 parties that the Escrow Company shall promptly begin mailing payments upon entry of this Agreed Order. All
6 expenses associated with the Escrow Company, including but not limited to the cost of mailings and stop payment
7 fees, shall be borne by Mr. Chisick. It is further agreed that, within one hundred and twenty (120) days from the
8 entry of this Agreed Order, Mr. Chisick shall cause the Escrow Company to provide the Department with written
9 proof of such restitution payments. The "written proof" at a minimum must consist of (i) a declaration from the
10 Escrow Company that they have mailed the checks in the amounts and to the persons and addresses, along with
11 the required cover letter described in paragraph 5, as required by this Agreed Order, (ii) copies of the mailed
12 checks, and (iii) copies of the front and back of cancelled checks to the extent that checks are received and cashed
13 or negotiated by their payees. If restitution cannot be made to any particular consumer due to lack of a current
14 address or for any other reason, Mr. Chisick shall cause the Escrow Company to take the necessary steps to
15 escheat such funds to the State of Washington Department of Revenue as unclaimed property and provide the
16 Department with written proof of such action. If restitution payments are mailed and not returned, and if the
17 checks are uncashed or not negotiated for more than one hundred twenty (120) days from the date of mailing, Mr.
18 Chisick shall cause the Escrow Company to place a stop payment on those checks and escheat the funds to the
19 State of Washington Department of Revenue in the name of the payee. All restitution payments or payments to
20 escheat funds as unclaimed property must be completed within one hundred eighty (180) days from the entry of
21 this Agreed Order. Within fifteen (15) days of receipt of written proof of full compliance with the restitution
22 obligation of this paragraph, the Department agrees to provide to Mr. Chisick, in a writing signed by an authorized
23 representative of the Department, acknowledgement of satisfaction of the financial obligations of this Agreed
24 Order. It is further agreed that, within one hundred and ninety-five (195) days from the entry of this Agreed
25 Order, Mr. Chisick shall cause the Escrow Company to provide the Department with written proof of all

AGREED ORDER CONCERNING
JAMIE CHISICK'S FINANCIAL
OBLIGATIONS UNDER FINAL ORDER

1 restitution payments and payments to escheat funds, for which written proof has not already been provided to the
2 Department.

3 5. **Explanatory Message.** It is agreed that Mr. Chisick shall ensure that the Escrow Company
4 encloses, along with each restitution check, an explanatory message from the Department concerning the
5 restitution payment. A copy of the explanatory message is attached hereto as Exhibit D.

6 6. **Failure To Make Restitution Payments as Required.** It is agreed that in the event that Mr.
7 Chisick fails to make restitution or fails to escheat such restitution amounts as unclaimed property as set forth in
8 paragraph 4 above, then in the event of such breach, Mr. Chisick agrees to pay all sums due under the Final Order,
9 including the entire \$292,800.00 in fines and the entire \$712, 527.19 in restitution imposed under the Final Order.

10 7. **Rights of Consumers.** It is agreed that this Agreed Order shall not release, waive, or in any way
11 affect any legal rights that any consumers may have concerning Mr. Chisick. The Department does not represent
12 or have the consent of consumers to take any action concerning their personal legal rights.

13 8. **Authority of the Department.** It is agreed that nothing in this Agreed Order shall be construed
14 as preventing the Department from fully exercising its authority and enforcing any provision of chapter 19.146
15 Revised Code of Washington and Title 208 of the Washington Administrative Code.

16 9. **Voluntarily Entered.** It is agreed that Mr. Chisick has voluntarily entered into this Agreed
17 Order, which is effective when signed by the Director.

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

AGREED ORDER CONCERNING
JAMIE CHISICK'S FINANCIAL
OBLIGATIONS UNDER FINAL ORDER

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

10. Completely Read, Understood, and Agreed. It is agreed that Mr. Chisick has read this Agreed

Order in its entirety and fully understands and agrees to all of the same.

Signed and Agreed to this 14TH day of JUNE, 2007.

Jamie Chisick
JAMIE CHISICK

Approved as to Form:

Evan C. Borges
EVAN C. BORGES Irell & Manella LLP
Attorney for Jamie Chisick

DO NOT WRITE BELOW THIS LINE

THIS ORDER ENTERED THIS 2nd DAY OF July, 2007.



STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS

Scott Jarvis
SCOTT JARVIS
Director

AGREED ORDER CONCERNING
JAMIE CHISICK'S FINANCIAL
OBLIGATIONS UNDER FINAL ORDER

DEPARTMENT OF FINANCIAL INSTITUTIONS
Division of Consumer Services
150 Israel Rd SW
PO Box 41200
Olympia, WA 98504-1200
(360) 902-8795