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Liquidating Trusts of PCHLI, PCFI and PCFC
8

9 **UNITED STATES BANKRUPTCY COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11 **LOS ANGELES DIVISION**

12 In re:
13 **PEOPLE'S CHOICE HOME LOAN, INC.,**
14 *et al.*,¹
15 Debtors.

Case No. 2:12-bk-15811-RK
(Jointly Administered with 2:12-bk-16200-RK and
2:12-bk-16201-RK)
(Transferred from 8:07-bk-10765-RK and Jointly
Administered with Case Nos. 8:07-bk-10767-RK
and 8:07-bk-10772-RK)

Chapter 11

**MOTION FOR ORDER DISALLOWING
PROOFS OF CLAIM OF JOHNNY & MARY
PRICE & LATRENDIA M. CITIZEN [PCHLI
CLAIMS DOCKET NOS. 337, 338; PCFI
CLAIMS DOCKET NO. 95; PCFC CLAIMS
DOCKET NO. 103]; DECLARATIONS OF
TAMARA D. MCGRATH AND GREGORY A.
MARTIN IN SUPPORT THEREOF**

Date: May 14, 2013
Time: 2:30 p.m.
Place: Courtroom 1675
255 East Temple Street
Los Angeles, CA 90012

Judge: Hon. Robert N. Kwan

28 ¹ The Debtors were People's Choice Home Loan, Inc., People's Choice Funding, Inc. and People's
Choice Financial Corporation.



1 The Liquidating Trusts of People's Choice Home Loan, Inc., People's Choice
2 Funding, Inc. and People's Choice Financial Corporation (collectively, the "PC Trusts"), by and
3 through Ronald F. Greenspan, solely as the duly authorized and acting Liquidating Trustee for each
4 of the PC Trusts (the "Liquidating Trustee" or "Trustee"), hereby objects (the "Objection") to the
5 claims asserted by Johnny & Mary Price & Latrenda M Citizen ("Claimants") against the Debtors
6 (as defined below), as more particularly set forth herein. Claimants assert general unsecured claims
7 against each of the Debtors for an unspecified amount, alleging violations of the Racketeer
8 Influenced and Corrupt Organizations Act ("RICO"), federal mail and wire fraud statutes, and other
9 "intentional torts." Ex. A at 13, 52, 91, 130. Claimants, however, have failed to provide the
10 Liquidating Trustee with any documentation supporting their allegations. Accordingly, the
11 Liquidating Trustee requests that this Court enter an order disallowing Claimants' claims in their
12 entirety.

13 In support of this Objection, the Liquidating Trustee submits the Declarations of
14 Tamara D. McGrath and Gregory A. Martin. In further support hereof, the Liquidating Trustee
15 respectfully represents as follows:

16 I.

17 BACKGROUND

18 A. **The Debtors' Cases**

19 1. Each of People's Choice Home Loan, Inc. ("PCHLI"), People's Choice
20 Funding, Inc. ("PCFI") and People's Choice Financial Corporation ("PCFC," and collectively, the
21 "Debtors") filed a voluntary petition for relief under Chapter 11 of Title 11 of the United States
22 Code, 11 U.S.C. § 101, *et seq.* (the "Bankruptcy Code") in the Bankruptcy Court for the Central
23 District of California (the "Court") on March 20, 2007 (the "Petition Date"), commencing the above-
24 captioned bankruptcy cases (collectively, the "Cases").

25 2. On August 6, 2008, the Court entered its order (the "Confirmation Order")
26 confirming the Committee's First Amended Liquidating Plan under Chapter 11 of the Bankruptcy
27 Code (the "Plan"). The "Effective Date" under and as defined in the Plan occurred on August 12,
28 2008.

1 3. On the Effective Date of the Plan, and subject to the terms and conditions of
2 the Plan and Confirmation Order, among other things, (i) the Liquidating Trust Agreements for each
3 of the PC Trusts became effective, and the Liquidating Trustee for each of the PC Trusts began to
4 manage and administer the PC Trusts subject to the terms and conditions of the Liquidating Trust
5 Agreements, (ii) the Official Committee of Unsecured Creditors appointed in the Cases by the Office
6 of the United States Trustee was dissolved and discharged from any further duties and obligations in
7 the Cases, and the Post-Effective Date Committees for each of the PC Trusts became operative,
8 (iii) except as provided in the Plan, all of the assets and property of the Debtors, including any and
9 all affirmative claims for relief, were transferred into the PC Trusts, and (iv) except as otherwise
10 provided in the Plan, each of the Debtors was deemed dissolved or directed to be dissolved as soon
11 as practicable following the Effective Date.

12 4. Pursuant to the Plan, and subject to the terms and conditions of the Plan, the
13 Confirmation Order and the Liquidating Trust Agreements, the Liquidating Trustee is directed to
14 administer the PC Trusts by, among other things, (i) reducing remaining property to cash,
15 (ii) evaluating Claims against the Debtors and objecting to, allowing or otherwise resolving such
16 Claims, (iii) evaluating and pursuing, releasing or otherwise resolving affirmative relief against
17 third-parties, and (iv) making distributions of cash to Beneficiaries under and as defined in the
18 Liquidating Trust Agreements.

19 5. The Plan provides that the Liquidating Trustee is the representative of the
20 estates under 11 U.S.C. § 1123(b)(3)(B), and is a liquidator of the assets of the estates.

21 **B. Claimants' Proofs of Claim**

22 6. On or about August 17, 2007, Claimants filed four identical proofs of claim in
23 the Debtors' Cases [PCHLI Claims Docket Nos. 337, 338; PCFI Claims Docket No. 95; PCFC
24 Claims Docket No. 103] (the "Claims"), asserting a general unsecured claim for an "unknown
25 amount" alleging violations of RICO, federal mail and wire fraud statutes, and other "intentional
26 torts." Ex. A. Although Claimants attached a complaint to their Claims, the Trustee has found no
27 evidence supporting the complaint's allegations. McGrath Decl. ¶ 3. And the Trustee's attempts to
28 obtain such information from Claimants' attorneys have gone unanswered. Martin Decl. ¶ 4.

1 C. **PC Trusts' Communications with Claimants**

2 7. Winston & Strawn, LLP ("Winston & Strawn"), counsel to the PC Trusts,
3 attempted to contact Claimants' counsel by telephone to seek information supporting the Claims.
4 Martin Decl. ¶ 4. After failing to reach Claimants' counsel by phone after several attempts, Winston
5 & Strawn sent Claimants' counsel a letter (the "Letter") articulating the Trustee's position with
6 respect to the complaint and noting that if Claimants failed to respond to the Trustee's evidentiary
7 concerns by August 2, 2012, the Trustee would object to the Claims for the reasons described in that
8 Letter, including that Claimants failed to provide proof that an allowable claim exists. Martin
9 Decl. ¶ 4. A true and correct copy of the Letter is attached hereto as Exhibit B. As of the date of
10 this Objection, Winston & Strawn has received no response from Claimants, necessitating this
11 Objection. Martin Decl. ¶ 4.

12 II.

13 RELIEF REQUESTED

14 8. By this Objection, the Liquidating Trustee requests that the Court enter an
15 order, pursuant to section 502 of the Bankruptcy Code, sustaining this Objection. Specifically, the
16 Liquidating Trustee requests that the Court disallow the Claims in full and on a final basis since
17 Claimants have failed to provide any evidence related to their Claims.

18 III.

19 OBJECTION

20 A. **The Claims Should Be Disallowed in their Entirety Because Claimants have
21 Failed to Present Any Evidence Showing That Allowable Claims Exist**

22 9. Claimants have failed to provide the Trustee with evidence demonstrating that
23 allowable claims exist. Adequate documentation is essential to establish a claim's *prima facie*
24 validity. In order for a claim to be *prima facie* valid, it must comply with Bankruptcy Rule 3001 and
25 set forth the facts necessary to support the claim. *See In re Stoecker*, 143 B.R. 879, 883 (N.D. Ill.
26 1992), *aff'd in part, vacated in part on other grounds*, 5 F.3d 1022 (7th Cir. 1993); *In re Chain*,
27 255 B.R. 278, 280-81 (Bankr. D. Conn. 2000). The Bankruptcy Rules and the official form
28

1 governing proofs of claim (Official Form 10) call for claimants to attach copies of supporting
2 documents to substantiate their claims. *See* Fed. R. Bankr. P. 3001(a); Official Form 10.

3 10. Although claimants attached a complaint to their Claims, that complaint
4 simply alleges that the Debtors made loans to Claimants through a mortgage broker. As noted in the
5 Letter, the complaint that is the purported basis for the Claims fails to state a valid claim against any
6 of the Debtors as a matter of law. Accordingly, the complaint, by itself, “fails to ‘allege facts
7 sufficient to support a legal liability, and thus does not constitute *prima facie* evidence of the validity
8 of the claim.” *Hilton v. Hongisto (In re Hongisto)*, 293 B.R. 45, 51 (N.D. Cal. 2003) (quoting *In re*
9 *Consol. Pioneer Mortg.*, 178 B.R. 222, 226 (9th Cir. B.A.P. 1995); *see also* *In re Roasters Corp.*,
10 Nos. 98-80704C-11D, 98-81049C-11D, 2001 WL 1699692, at *4 (Bankr. M.D.N.C. March 7, 2001)
11 (“A claimant who files a proof of claim that fails to set forth the necessary facts loses the benefit of
12 Rule 3001(f) and is not entitled to have the proof of claim treated as *prima facie* evidence of the
13 validity and amount of the claim.”) (citations omitted); 9 COLLIER ON BANKRUPTCY 3001.09[1]
14 (Resnick and Sommer eds., 16th ed. 2012) (“In order for a claim to be entitled to the weight [of
15 *prima facie* validity] afforded by Rule 3001(f), it must comply with the rules, including Rule 3001,
16 and set fort the facts necessary to support the claim. . . . [I]f the original proof of claim contains only
17 summary information and lacks the documentation necessary under Rule 3001 to establish a *prima*
18 *facie* validity, the claimant may have the burden of establishing its claim for the excess
19 amounts. . . .”).

20 11. Although a Rule 3001 violation is not by itself an objectionable ground in the
21 Ninth Circuit, the failure of a creditor to respond to a specific information request to substantiate its
22 claim “may raise an evidentiary basis to object to the unsupported aspects of the claim, or even a
23 basis for evidentiary sanctions, thereby coming within Section 502(b)’s grounds to disallow the
24 claim.” *Heath v. Am. Express Travel Related Servs. Co. (In re Heath)*, 331 B.R. 424, 437 (9th Cir.
25 B.A.P. 2005); *see also* *Campbell v. Verizon Wireless S-CA (In re Campbell)*, 336 B.R. 430, 436
26 (9th Cir. B.A.P. 2005) (“We emphasize, as we did in *Heath*, that a creditor who files a proof of claim
27 that lacks sufficient support under Rule 3001(c) and (f) does so at its own risk. That proof of claim
28 will lack *prima facie* validity, so any objection that raises a legal or factual ground to disallow the

1 claim will likely prevail absent an adequate response by the creditor. Moreover, a creditor's lack of
2 adequate response to a debtor's formal or informal inquiries 'in itself may raise an evidentiary basis
3 to object to the unsupported aspects of the claim, or even a basis for evidentiary sanctions, thereby
4 coming within Section 502(b)'s grounds to disallow the claim.'" (quoting *In re Heath*, 331 B.R. at
5 437); *In re Lasky*, 364 B.R. 385, 389 (Bankr. C.D. Cal. 2007) (same); *In re Shank*, 315 B.R. 799,
6 816 (Bankr. N.D. Ga. 2004) ("The Court expects creditors who file proofs of claim like the ones in
7 this case to respond promptly and fully to an appropriate request for information; if their failure to
8 do so precludes an objecting party from determining the debtor's liability or amount thereof, then an
9 objection asserting same will be appropriate. In the context of a legitimate basis for questioning a
10 claim and an appropriate request, formal or informal, for supporting documentation, a creditor who
11 stands on an unadorned proof of claim such as the ones in this case may well find itself with a
12 disallowed claim.").

13 12. The Debtor's records do not support the validity of the Claims. McGrath
14 Decl. ¶3. And the complaint attached to each of the Claims does nothing more than allege that
15 PCHLI made subprime loans to borrowers through mortgage brokers. This claim is not sufficient as
16 a matter of law because lenders do not ordinarily owe their borrowers a duty of care. *See, e.g.*,
17 *Quinteros v. Aurora Loan Servs.*, 740 F. Supp. 2d 1163,1173 (E.D. Cal. 2010) ("Lender-borrower
18 relations do not normally give rise to a duty supporting a negligence cause of action."); *Grant v.*
19 *Aurora Loan Servs., Inc.*, 736 F. Supp. 2d 1257, 1273 (C.D. Cal. 2010) ("As a general rule, 'a
20 financial institution owes no duty of care to a borrower when the institution's involvement in the
21 loan transaction does not exceed the scope of its conventional role as a mere lender of money.'")
22 (citations omitted); *Champlaine v. BAC Home Loans Servicing, LP*, 706 F. Supp. 2d 1029, 1061 (E.D.
23 Cal. 2009) ("[A]s a matter of law, the lender did not owe a duty in negligence not to place borrowers
24 in a loan even where there was a foreseeable risk borrowers would be unable to repay.") (citing
25 *Wagner v. Benson*, 101 Cal. App. 3d 27, 35 (Cal. Ct. App. 1980)).

26 13. More importantly, however, the Trustee reached out to Claimants several
27 times to obtain information that might support a claim against the Debtors. The Letter was the
28 Trustee's final request for evidence supporting the Claims. Ex. B; Martin Decl. ¶ 4. But before

1 sending the Letter, Winston & Strawn placed several calls to Claimants' counsel regarding the
2 Claims. The calls and messages left for the attorneys listed on the Claims were never answered or
3 returned. Martin Decl. ¶ 4.

4 14. As of the date of this Objection, the Trustee has received no additional
5 information regarding the Claims. Because Claimants have not provided evidence sufficient to
6 support their *prima facie* burden, the Claims should be disallowed. See *In re Sandifer*, 318 B.R.
7 609 (Bankr. M.D. Fla. 2004) (proofs of claim which failed to provide documentation of charges,
8 payments, fees, and interest, but simply set forth balances allegedly owing on debtor's accounts,
9 failed to satisfy the requirements of Bankruptcy rule and would be disallowed); *In re Parrish*,
10 326 B.R. 708 (Bankr. N.D. Ohio 2005) (creditor's failure to include supporting documentation
11 negates its *prima facie* validity).

12 15. The burden is upon the Claimants. If an objection to a proof of claim is made,
13 as it has been here with respect to the Claims, the ultimate burden of proof rests upon the purported
14 creditor. See *Cal. State Bd. of Equalization v. Official Unsecured Creditors' Comm. (In re Fidelity*
15 *Mortgage Holding Co., Ltd.)*, 837 F.2d 696, 698 (5th Cir. 1988) (affirming disallowance of claim;
16 "the claimant must . . . 'prove the validity of the claim by a preponderance of the evidence.'
17 The ultimate burden of proof always rests upon the claimant."); *Spencer v. Pugh (In re Pugh)*,
18 157 B.R. 898, 901 (9th Cir. B.A.P. 1993) (burden of proof rests upon the claimant).
19 Unless Claimants provide evidence sufficient to meet their *prima facie* burden, the Claims should be
20 disallowed.

21 IV.

22 RESERVATION OF RIGHTS

23 16. Nothing contained in this Objection shall be deemed an admission by the
24 Liquidating Trustee of liability on any claims against the Debtors' estates, and the Liquidating
25 Trustee does not waive any rights against any party. The Liquidating Trustee expressly reserves the
26 right to amend, modify, or supplement this Objection, respond to any opposition filed by Claimants
27 with respect hereto, file further objections to any claims asserted by Claimants in these Cases,
28 including, without limitation, objections as to the amounts and priority asserted in any proof of claim

1 or motion for administrative claim, whether filed or not, and to seek affirmative relief with respect to
2 Claimant.

3 17. Without limiting the generality of the foregoing, the Liquidating Trustee
4 reserves the right to bring other and further objections to the claims that are the subject of this
5 Objection whether or not such claims survive this Objection in whole or in part and to any other
6 claims.

7 V.

8 NOTICE

9 18. The Liquidating Trustee will serve copies of this Objection (together with all
10 exhibits) on: (a) Claimants; and (b) the Office of the United States Trustee. Claimants will be served
11 through their Counsel at the address listed on the Claims The Liquidating Trustee submits that such
12 service is consistent with Rule 7004 of the Federal Rules of Bankruptcy Procedure and that, in light
13 of the nature of the relief requested, no further notice is required.

14 VI.

15 CONCLUSION

16 **WHEREFORE**, based upon the foregoing, the Liquidating Trustee respectfully requests that
17 the Court enter its order (a) sustaining the Objection, (b) preserving other and further objections and
18 affirmative claims of the PC Trusts, (c) approving the form and scope of notice given of the relief
19 requested, and (d) granting such other and further relief as this Court may deem just and proper
20 under the circumstances of this Case.

21 Dated: April 8, 2013

WINSTON & STRAWN LLP

22
23 By: /s/ Gregory A. Martin

24 Gregory A. Martin
25 Counsel for Ronald Greenspan, as Trustee
26 of the Liquidating Trusts of PCHLI, PCFI
27 and PCFC
28

DECLARATION OF TAMARA MCGRATH

1 **DECLARATION OF TAMARA D. MCGRATH**

2 I, Tamara D. McGrath, declare and state as follows:

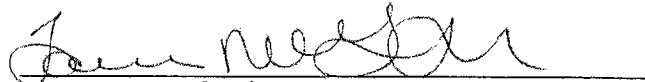
3 1. I am a Managing Director of Corporate Finance at FTI Consulting Inc.
4 (“FTI”), financial advisor in these chapter 11 cases to (a) the Committee prior to plan confirmation
5 and (b) the Liquidating Trustee since plan confirmation. In that capacity, I am custodian of and have
6 become personally familiar with the books, records, and files (the “Records”) of People’s Choice
7 Home Loan, Inc. (“PCHLI”), People’s Choice Funding, Inc. (“PCFI”), and People’s Choice
8 Financial Corporation (“PCFC”) (collectively, the “Debtors”). I am informed that the Records were
9 created and updated by the Debtors’ employees in the ordinary course of business at or near the time
10 of the events recorded. Those Records are now in the possession of the Liquidating Trustee, and as
11 to the following facts, I know them to be true from my review of the Debtors’ business records.
12 My business address is 633 West Fifth Street, 16th Floor, Los Angeles, CA 90071-2027.

13 2. I make this declaration in support of the Liquidating Trustee’s *Motion for*
14 *Order Disallowing Proofs of Claim of Johnny & Mary Price & Latrenda M. Citizen [PCHLI Claims*
15 *Docket Nos. 337, 338; PCFI Claims Docket No. 95; PCFC Claims Docket No. 103]* (the
16 “Objection”). Capitalized terms not defined in this declaration shall have the same meanings
17 ascribed to them in the Objection.

18 3. During my review of the Records I discovered no evidence that would support
19 a claim by the Claimants against PCHLI.

20 I declare under penalty of perjury under the laws of the United States of America that
21 the foregoing is true and correct. If called upon as a witness, I could and would testify competently
22 to the foregoing.

23 Executed on April 2, 2013, at Long Beach, California.

24 
25 Tamara D. McGrath

26
27
28

DECLARATION OF GREGORY A. MARTIN

DECLARATION OF GREGORY A. MARTIN

I, Gregory A. Martin, declare and state as follows:

1. I am an attorney at law admitted and in good standing to practice in the state of California and before the United States District Court for the Central District of California.

2. I am an attorney with Winston & Strawn. I am one of the lawyers responsible for the firm's representation of the PC Trusts. I have personal knowledge of the matters set forth below and, if called upon as a witness, I could and would testify competently thereto.

3. I make this declaration in support of the Liquidating Trustee's *Motion for Order Disallowing Proofs of Claim of Johnny & Mary Price & Latrenda M. Citizen [PCHLI Claims Docket Nos. 337, 338; PCFI Claims Docket No. 95; PCFC Claims Docket No. 103]* (the "Objection"). Capitalized terms not defined in this declaration shall have the same meanings ascribed to them in the Objection.

4. During the period of approximately April through June, 2012, I attempted to contact Claimants' counsel several times by telephone, at the phone number appearing on Lake Tindall LLP's website, to obtain evidence supporting the Claims. All of my calls went unanswered and the messages I left were unreturned. On July 12, 2012, I sent the Letter to Claimants' counsel requesting documentation supporting the Claims and stating that if such documentation was not received by August 2, 2012, the Liquidating Trustee would object to the Claims. As of the date of the Objection, Winston & Strawn has not received any communications from Claimants or their counsel since that time.

5. True and correct copies of the Claims, as on file with the Court, are attached as Exhibit A to the Objection.

6. A true and correct copy of the Letter is attached as Exhibit B to the Objection.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on April 8, 2013, at Los Angeles, California.

/s/ Gregory A. Martin
Gregory A. Martin

EXHIBIT A

People's Choice Home Loan, Inc.

Proof of Claim #337

Case 8:07-bk-10765-RK Claim 337-1 Filed 08/17/07 Desc Main Document Page 1 of 38

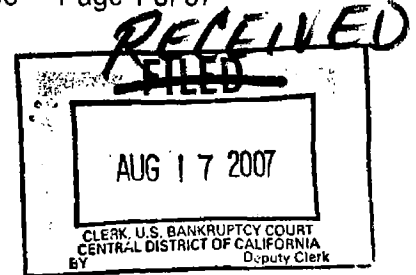
United States Bankruptcy Court for the Central District of California		PROOF OF CLAIM
Name of Debtor People's Choice Home Loan, Inc.		Case Number 07-10765
This Space For Court Use Only		
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (The person or other entity to whom the debtor owes money or property): JOHNNY AND MARY PRICE		<div style="border: 2px solid black; padding: 5px; width: fit-content; margin: auto;"> <p style="margin: 0;">FILED</p> <p style="margin: 0; font-size: 1.2em;">AUG 17 2007</p> <p style="margin: 0; font-size: 0.8em;">CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA BY _____ Deputy Clerk</p> </div>
Name and Address where notices should be sent: JOHNNY AND MARY PRICE C/O CW WALKER III & FRANK S THACKSTON JR LAKE TINDALL LLP PO BOX 918 GREENVILLE MS 38702-0918		
Telephone Number:		
Last four digits of account or other number by which creditor identifies debtor:		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.
Check here <input type="checkbox"/> replaces if this claim <input type="checkbox"/> amends a previously filed claim dated: _____		This Space For Court Use Only
1. Basis for Claim <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other intentional tort, mail & wire fraud, RICO violations (date) _____ to _____ (date) _____ <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Last four digits of your SS #: _____ Unpaid compensation for services performed from _____ to _____		
2. Date debt was incurred: 2/3/03 Price, 1/29/03 Citizen		3. If court judgment, date obtained: pending lawsuit
4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations. Unsecured Nonpriority Claim \$ unknown amount <input checked="" type="checkbox"/> Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority. Unsecured Priority Claim. <input type="checkbox"/> Check this box if you have an unsecured claim, all or part of which is entitled to priority. Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,000),* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5). <input type="checkbox"/> Secured Claim. <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____		
5. Total Amount of Claim at Time Case Filed: \$ unknown (Unsecured) _____ (Secured) _____ (Priority) _____ (Total) _____ <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. 7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. 8. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim		This Space For Court Use Only
Date: 8-14-07	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): [Signature]	

Penalty for presenting fraudulent claim: Fine up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571



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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**



**JOHNNY and MARY PRICE, and
LATRENDIA M. CITIZEN**

PLAINTIFFS

VS.

CIVIL ACTION NO. 4:05cv170-D-A

**COLDWELL BANKER REAL
ESTATE CORPORATION, COLDWELL
BANKER FIRST GREENWOOD-LEFLORE
REALTY, INC., LEFLORE PROPERTIES, INC.,
JIM PRUETT, LINDA PRUETT,
BANK OF COMMERCE, STATE BANK &
TRUST COMPANY, PEOPLE'S CHOICE
FUNDING, INC., d/b/a PEOPLE'S CHOICE
HOME LOANS, INC. and TERRY GREEN**

DEFENDANTS

AMENDED COMPLAINT

The above named Plaintiffs assert the causes of action to be hereafter stated against each Defendant named above, and in support thereof would state as follows.

Jurisdictional and Venue Allegations

1. Each Defendant named above, as is set forth in the paragraphs that follow, has violated the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §1962, *et seq.* (RICO).

2. In particular, each Defendant named above has participated in a pattern of "racketeering activity" by each committing two or more violations of Federal criminal statutes, including statutes relating to mail fraud and wire fraud.

3. These Defendants each were members of a group of persons, who invested in and/or maintained an interest in, and/or participated in an "enterprise," which was engaged in and/or which affected interstate commerce.

4. Subject matter jurisdiction and venue exists in this case, in whole and/or in part, pursuant to the following federal statutes:

- a) Section 1964(a) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1964(a);
- b) Section 1964(c) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1964(c);
- c) Section 1965(a) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(a);
- d) Section 1965(b) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(b);
- e) Section 1965(d) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(d);
- f) Federal Question Jurisdiction, Title 28 United States Code § 1331;
- g) Sections 2201-2202 of the Federal Declaratory Judgment Act of 1946, title 28 United States Code §§2201-2202;
- h) Federal Regulation of Commerce Jurisdiction, Title 28 United States Code §1337;
- i) Federal Supplemental Jurisdiction, Title 28 United States Code §1367(b);

j) Federal General Venue, Title 28 United States Code §1391(b).

Parties

5. Plaintiffs are adult resident citizens of Leflore County, Mississippi.

6. Defendant, Coldwell Banker Real Estate Corporation (hereafter "Coldwell Banker") is a corporation, which does and has in the past done business in Leflore County, Mississippi. Coldwell Banker may be served through its registered agent, Corporation Service Company, 506 South President Street, Jackson, Mississippi.

7. Defendant, Coldwell Banker First Greenwood-Leflore Realty, Inc. (hereafter "First Greenwood") is a Mississippi corporation, which has done business in Leflore County, Mississippi since approximately December of 1989. First Greenwood may be served through its registered agent, Linda Pruett, 605 Dunklin Avenue, Greenwood, Mississippi.

8. Defendant, Leflore Properties, Inc., (hereafter "Leflore Properties") is a Mississippi corporation, which has done business in Leflore County, Mississippi since February of 1994 and has operated out to the same office as First Greenwood. Leflore Properties may be served through its registered agent, Jim Pruett, 605 Dunklin Avenue, Greenwood, Mississippi.

9. Defendant, Jim Pruett, is an adult resident citizen of Leflore County, Mississippi, who at all relevant times herein, acted as an agent for Coldwell Banker, was the treasurer, secretary, and a director of First Greenwood, and was

an officer and director of Leflore Properties. Jim Pruett may be served at 605 Dunklin Avenue, Greenwood, Mississippi.

10. Defendant, Linda Pruett, is an adult resident citizen of Leflore County, Mississippi, who at all relevant times herein, served as president and a director of First Greenwood, served as president and a director of Leflore Properties, Inc., and was designated as a "responsible agent and/or broker" in the written Franchise Agreement that existed between Coldwell banker and First Greenwood. Ms. Pruett may be served at 605 Dunklin Avenue, Greenwood, Mississippi.

11. Defendant, Bank of Commerce, is a Mississippi banking corporation whose principal place of business is at 310 Howard Street, Greenwood, Mississippi. Bank of Commerce may be served at 310 Howard Street, Greenwood, Mississippi.

12. Defendant, State Bank & Trust Company, is a Mississippi banking corporation whose principal place of business is at 500 West Park Avenue, Greenwood, Mississippi. State Bank & Trust can be served at 500 West Park Avenue, Greenwood, Mississippi.

13. Defendant, People's Choice Funding, Inc., d/b/a People's choice Home Loans, Inc., (hereafter "lender") is a residential mortgage lender who at all relevant times was doing business in Mississippi and may be served through its registered agent.

14. Defendant, Terry Green, is an adult resident citizen of Leflore County, Mississippi, who, at all times relevant herein, was an officer and employee of Bank of Commerce, serving as its vice president. Terry Green may be served at 1100 Jane Lane, Greenwood, Mississippi.

Persons Engaged in Enterprise Who Are Not Parties

15. Persons/entities who participated in a pattern of "racketeering activity" and who, along with Defendants named previously, participated in the "enterprise" at issue in this case include:

- a) Bobby F. Fisher, Jr., d/b/a Loan Closing Services Corporation (hereafter "Fisher"), an adult resident citizen of Leflore County, Mississippi, who was the incorporator of Leflore Properties, and who served as closing/settlement agent to close the Pilchers' loan. Fisher's address is 107 Grand Boulevard, Greenwood, Mississippi;
- b) Defendant, Terry Green, is an adult resident citizen of Leflore County, Mississippi, who, at all times relevant herein, was an officer and employee of Bank of Commerce, serving as its vice president.
- c) Defendant, Clark Patterson, is an adult resident citizen of Leflore County, Mississippi, who at all times relevant herein, was an officer and employee of State Bank & Trust Company.
- d) Daniel Floyd, 1413 North Park Avenue, Greenwood, Mississippi an employee of Bobby Fisher;

- e) Mississippi Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- f) Wholesale Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- g) Lincoln Mortgage Loans is a mortgage broker licensed by the State of Mississippi;
- h) Equiti Mortgage Corporation is a mortgage broker licensed by the State of Mississippi;
- i) Integrity Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- j) Statewide Mortgage Lending, Inc. is a mortgage broker licensed by the State of Mississippi;
- k) Prestige Title, Inc. is a closing settlement agent;
- l) Hope King is an employee of Prestige Title, Inc.
- m) Peggy Claiborne, address unknown, a mortgage broker licensed by the State of Mississippi;
- n) Wendy Hewlett, 117 County Road 317, Oxford, Mississippi, a mortgage broker licensed by the State of Mississippi;
- o) Family Mortgage, Inc., 2650 Levingston Road, Jackson, Mississippi, a mortgage broker, licensed by the State of Mississippi;
- p) Mid South Mortgage Corp., a mortgage broker, licensed by the State of Mississippi;

- q) Land Sure Title, LLC, 20 East Gate Drive, Suite C, Brandon, Mississippi, a closing settlement agent;
- r) Andrea Moore, address unknown, Jim Pruett's secretary;
- s) Loan Closing and Title Services, address unknown, a loan closing/settlement agent;
- t) Homeland Title & Abstract Company, Inc., 953 North Street, Jackson, Mississippi, a loan closing/settlement agency;
- u) James W. Abernathy, Jr., Pine Court, Starkville, Mississippi, is an attorney;
- v) Robert D. Harrison, 6700 Old Canton Road, Suite B, Ridgeland, Mississippi, is an attorney;
- w) Allison Miller, present address unknown, an employee of LandSure Title, LLC;
- x) William "Bill" Atkinson, present address unknown, an employee of LandSure Title, LLC;
- y) Stephen Colson, 2301 14th Street, Suite 580, Gulfport, Mississippi, an attorney/officer of Prestige Title, Inc.;
- z) Johnny Young, 617 Avenue G, Greenwood, Mississippi, a painter/carpenter who Jim Pruett and/or Leflore Properties, Inc. and/or Coldwell Banker First Greenwood Leflore Realty, Inc., used to act as a "straw man" in Pruett's real estate dealings;

aa) Johnny Rosa, 958 AHN seven Pines Road, Greenwood, Mississippi, a carpenter who also served as a "straw man" for Jim Pruett and/or Leflore Properties, Inc. and/or Coldwell Banker First Greenwood Leflore Realty, Inc.;

bb) Lee Pruett, 611 Puckett Street, Greenwood, Mississippi, a "straw man" appraiser and the son of Jim and Linda Pruett;

cc) Gary C. Ledbetter (hereafter "Ledbetter") who at relevant times herein was an employee of the United States Department of Agriculture (USDA), who worked in USDA's Greenwood, Mississippi office as Community Development Manager and as a loan approval officer for the USDA. Ledbetter's address is USDA office, 188 Highway 15 South, Pontotoc, Mississippi;

dd) Ken Ellis, address unknown, who was an employee of First Greenwood and an agent of Coldwell Banker;

ee) Mel Harris, address unknown, who was an employee of First Greenwood and an agent of Coldwell Banker;

ff) Jason O'Bryant is an appraiser licensed by the State of Mississippi;

gg) Del Cox, address unknown, who is an appraiser, licensed by the State of Mississippi;

hh) Larry Kennedy, address unknown, who is an appraiser, licensed by the State of Mississippi;

- ii) Kevin Steed, address unknown, who is an appraiser, licensed by the state of Mississippi;
- jj) Fransene Berry, Georgetown, Mississippi, who is an appraiser, licensed by the State of Mississippi;
- kk) Joni Goss, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- ll) Toby Goss, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- mm) John Emory, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- nn) Wayne White, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- oo) Rickey Walker, deceased, who was and employee of Bobby Fisher and later of Prestige Title;
- pp) Jason Ellis, 115 Dorchester Court, Brandon Mississippi, who is a mortgage broker, licensed by the State of Mississippi;
- qq) Lance Persac, 441 Northpark, Suite A, Ridgeland, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;
- rr) Brad Landry, address unknown, who is a mortgage broker, licensed by the State of Mississippi;

ss) Professional Mortgage Consultants Corporation, 115 Dorchester Court, Brandon, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

tt) Mortgage Stop, Inc., c/o Lance Persac, 441 Northpark, Suite A, Ridgeland, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

uu) Matt Howard, Pine Bluff Road, Greenwood, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

vv) John Doe is a real estate appraiser, whose name is presently unknown, who the USDA paid to appraise the property at 4307 County Road 160, Greenwood, Mississippi, prior to the purchase of such property by Plaintiff, the Pilchers.

16. As stated previously, at all relevant times herein, Coldwell Banker, First Greenwood, Leflore Properties, Jim Pruett, Linda Pruett, Bank of Commerce, State Bank & Trust, People's Choice Funding, Inc. d/b/a People's Choice Home Loans, Inc., and others engaged in racketeering activities, committed two or more violations of Federal Criminal Statutes, and were participants in and were parties to an "enterprise" as defined by 18 U.S.C. 1961(4).

17. All Defendants and entities named above knew or should have known that interstate wire and mail instrumentalities were used or likely would be used in furtherance of aspects of the scheme(s) to be hereafter discussed.

18. Specifically, the United States Mail and the interstate wire service were used to transmit fraudulent loan documents, on multiple occasions. These transmissions occurred during a time period beginning with the application date of each respective loan, and continued from time to time thereafter up to and until the final transmission of the executed loan documents by the closing agent after the loan had been closed.

**First Greenwood, Jim Pruett, and Others Acted as Agents for
Coldwell Banker with Apparent Authority**

19. Coldwell Banker and First Greenwood occupied a franchisor/franchisee relationship, which began in 1990.

20. Coldwell Banker authorized First Greenwood, employees of First Greenwood, and Jim Pruett, to use Coldwell Banker's trademark, its name, its colors, its logo, its insignia, its design, etc., in buying, selling and listing for sale residential real estate, in dealing with third parties, (including Plaintiffs) in the purchase/sale of such real estate, and in so doing, allowed First Greenwood to possess apparent authority to act as its agent.

21. Coldwell Banker advertised locally and nationally for the purpose of leading third parties, dealing with its franchisees (like First Greenwood) to believe in, and rely upon, the integrity of its franchisees.

22. Coldwell Banker, through its advertising programs, through its public support of its franchisees/agents, led third parties, dealings with its franchisees/agents, to reasonably believe that its franchisees/agents were trustworthy/honest, etc.

23. Thus, Coldwell Banker lent an "air of legitimacy" to the racketeering activities to be hereafter described. Coldwell Banker also agreed to, and participated in these activities.

Racketeering Activities – Jim Pruett's Involvement

24. Jim Pruett operated out of First Greenwood's office, which prominently displayed Coldwell Banker's colors, logo, insignia and name, with Coldwell Banker's full knowledge and consent. Third parties dealing with Jim Pruett could not reasonably distinguish business activities conducted by Jim Pruett individually from the business interests/activities of Coldwell Banker. Acting as agent for Coldwell Banker, with actual or apparent authority from Coldwell Banker, Jim Pruett routinely engaged in the following conduct:

- a) Mr. Pruett routinely purchased properties from third parties who desired to sell properties;
- b) Mr. Pruett routinely obtained market value appraisals on properties that were offered to him for purchase which he utilized to establish prices he paid on properties he purchased from third parties;
- c) Mr. Pruett conspired with appraisers to provide appraisals which expressed market values, at below market value rates, on properties which Mr. Pruett purchased from third parties;
- d) Mr. Pruett routinely misrepresented the value of properties he purchased from third parties, and he used such appraisals to support such

misrepresentations, thereby assisting him in misleading sellers of these properties as to the true values of properties purchased;

e) Mr. Pruett also frequently bid to purchase properties that had been financed through the United States Department of Agriculture, which were the subject of foreclosure proceedings;

f) In exchange for "kickbacks", which Mr. Pruett provided to Gary Ledbetter, the individual employed by the USDA to handle USDA foreclosures, Mr. Pruett was designated by Mr. Ledbetter as the "high bidder" on foreclosed properties offered by the USDA for sale, which enabled Mr. Pruett to purchase USDA foreclosed properties at below market rates on multiple occasions;

g) Mr. Pruett routinely took title to properties he acquired from third parties and via foreclosure, in the names of various "straw buyers," namely Johnny Young, Johnny Rosa, and on occasion his own son, Lee Pruett for the purpose of concealing Mr. Pruett's personal involvement in this enterprise;

h) Pruett obtained funds to purchase properties (via USDA foreclosure and from third parties) from loans made by Bank of Commerce as well as another co-conspirator, State Bank & Trust Company;

i) Mr. Pruett also paid a bank employee(s) kickbacks for agreeing to finance his property purchases through "straw men" owners;

- j) After Jim Pruett acquired properties – whether from third parties or by foreclosure from the USDA – Jim Pruett would advertise the property he acquired as being for sale by or through First Greenwood and/or by or through Coldwell Banker, leading prospective buyers of these properties to believe that they were owned by First Greenwood and/or Coldwell Banker;
- k) Mr. Pruett routinely misrepresented the value and condition of the properties that he advertised for sale to prospective purchasers, misrepresented the repairs he intended to make on these properties and thereby induced purchasers of such properties to agree to pay inflated values on properties Pruett owned, and to borrow monies in excess of the property's market in amounts which borrowers could not afford to repay;
- l) Mr. Pruett routinely prepared sales contracts, which he would have purchasers sign, that contained a selling price. He would then modify the selling price at which the purchaser could purchase the property to reflect a higher selling price to justify selling the property at a higher price and to satisfy lending requirements imposed by involved mortgage lenders;
- m) Mr. Pruett obtained inflated appraisals of the properties he held for resale for the purpose of persuading unsuspecting buyers to agree to pay values that exceeded the properties market values to satisfy lending requirements imposed by mortgage lenders, and to induce innocent borrowers to agree to borrow sums that exceeded the property's value;

n) Mr. Pruett conspired with selected mortgage brokers who, with full knowledge of Mr. Pruett's fraudulent conduct, proceeded to secure loans from mortgage lenders to enable purchasers to purchase said properties, paying excessive prices and borrowing amounts that exceed the property's values;

o) Mr. Pruett and mortgage brokers working in concert with Mr. Pruett prepared/falsified documents to distort borrowers' capacity to repay loans for the purpose of satisfying "paper" requirements imposed by mortgage lenders, who agreed to loan monies to purchasers, who did not qualify for loans in amounts applied for, under unfavorable loan terms, in amounts which borrowers could not afford to repay, secured by properties whose values were misrepresented;

p) Mr. Pruett and Coldwell Banker agents and mortgage brokers working in concert with Mr. Pruett would routinely advise borrowers that if they paid their house payments for a period of one to two years, the lender would refinance the property, thus lowering the borrower's monthly payment.

The Entire Coldwell Banker Office Participated in the Scheme

25. Defendant Linda Pruett was the President and a director of Coldwell Banker First Greenwood and Leflore Properties. Ms. Pruett worked in the Coldwell Banker office with Jim Pruett and was aware of all aspects of the

scheme being perpetrated by her husband, Jim Pruett, and actively participated in it.

26. Andrea Moore was Jim Pruett's secretary. As such, she had actual knowledge of acts of fraud being perpetrated by Jim Pruett and participated in the preparation of fraudulent documents utilized to qualify unqualified buyers for loans. These false/fraudulent loan documents were routinely sent by mail or wire to mortgage lenders who loaned monies to purchasers of Pruett owned properties and/or properties sold by/through Coldwell Banker. Additionally, Andrea Moore notarized numerous documents, which were forgeries.

27. Ken Ellis, like Jim Pruett, worked as an employee in the Coldwell Banker First Greenwood office. Ellis was aware of the scheme(s) being perpetrated by Jim Pruett and actively participated in it. Mr. Ellis, as an employee of Coldwell Banker First Greenwood, was paid commissions and "under the table" kickbacks for each home which Jim Pruett owned, as to which he found a buyer.

28. Mel Harris, like Jim Pruett, likewise worked as an employee in Coldwell Banker First Greenwood's office. Ms. Harris was aware of the scheme(s) being perpetrated by Jim Pruett and Coldwell Banker and actively participated in it. Ms. Harris, as an employee of Coldwell Banker First Greenwood, was paid commissions and kickbacks for each home which Jim Pruett owned, as to which she found a buyer.

**Involvement/Participation of Real Estate Appraisers in
Scheme/Enterprise**

29. Del Cox is a real estate appraiser, licensed by the State of Mississippi, who provided appraisals of properties purchased by Jim Pruett, (in whatever name selected by Jim Pruett (Leflore Properties, Johnny Young, Johnny Rosa, lee Pruett)) at whatever value Jim Pruett selected.

30. Mr. Cox's appraisals were used by Mr. Pruett to persuade property owners to whom Mr. Pruett sold properties to agree to purchase such properties for prices that exceeded the market value of the properties.

31. Larry Kennedy is a real estate appraiser, licensed by the State of Mississippi, likewise furnished appraisals to Jim Pruett at whatever values Pruett selected.

32. Mr. Kennedy's inflated appraisals were utilized by Mr. Pruett to persuade purchasers to pay amounts for properties owned by Pruett that exceeded the true values of the property.

33. Fransene Berry is an appraiser of residential real estate licensed by the State of Mississippi. Ms. Berry's role in the enterprise at issue in this case was to furnish appraisals of properties, acquired by Jim Pruett, which contained market value estimates determined by Pruett, knowing that these appraisals would be used by Pruett to justify both bank loans from third party lenders by/on behalf of buyers/purchasers of the property.

34. Jason O'Bryant is also an appraiser of residential real estate licensed by the State of Mississippi. Mr. O'Bryant's role in the enterprise at issue in this case was similar to that employed by Berry and previously described.

35. Kevin Steed is also an appraiser of residential real estate licensed in the State of Mississippi. Mr. Steed's role in the enterprise at issue in this case was similar to that employed by Berry and previously described.

**Interim Lenders, Two Banks, Participated In Enterprise
And "Bankrolled" the Scheme**

36. Defendant, Bank of Commerce, through its vice president Terry Green, and defendant State Bank & Trust, through its loan officer Clark Patterson, actively participated in the enterprise described previously in the following respects:

- a) Bank of Commerce and State Bank in effect "bankrolled" the enterprise by loaning monies to Jim Pruett to enable him to acquire properties at below market prices;
- b) Bank of Commerce and State Bank knew that Jim Pruett was taking title to properties he acquired in "straw purchasers" names and permitted Jim Pruett to secure loans on properties that Pruett did not own;
- c) Terry Green and Clark Patterson routinely employed Bobby Fisher and other attorneys to provide title opinions to Bank of Commerce and State Bank & Trust that Green, Patterson, and Pruett knew were false;

d) Green and Patterson, and perhaps others in the bank, knew that Pruett obtained appraisals of properties in amounts that exceeded market values of properties appraised;

e) Bank of Commerce and State Bank & Trust knew that properties that served as collateral for Bank of Commerce loans were being routinely "flipped";

f) Bank of Commerce and State Bank & Trust knew that properties that served as collateral for Bank of Commerce loans were being routinely sold to third parties, who had been induced to borrow monies in amounts that exceeded the market values of properties that such third parties were purchasing;

g) Bank of Commerce and State Bank & Trust knew that the proceeds such of loans made to such third parties, were utilized by Jim Pruett to repay Pruett's loans to Bank of Commerce and State Bank & Trust.

37. State Bank & Trust, through its loan officer Clark Patterson also knew about and participated in the foregoing enterprise. Mr. Patterson and State Bank & Trust, like Bank of Commerce, effectively "bankrolled" the "straw men" utilized by Jim Pruett to obtain properties, and then resell these properties to unsuspecting buyers at amounts that exceeded market value. Clark Patterson received kickbacks from Jim Pruett for approving loans to Jim Pruett's "straw men" and Mr. Patterson was fully aware of the fact that appraisals utilized to

support Jim Pruett's resale of these properties did not accurately reflect market values.

Participation of Mortgage Brokers in Enterprise/Scheme

38. Joni Goss is a mortgage broker licensed by the State of Mississippi who operated in the name of several corporate entities, including Mississippi Mortgage, Inc., Statewide Lending, Lincoln Mortgage Loans, Equiti Mortgage, and others. Ms. Goss was one of the mortgage brokers who Jim Pruett employed/contacted for the purpose of arranging mortgage financing on sales of properties which Pruett owned or which were offered for sale by/through Coldwell Banker, to third parties to whom Pruett intended to sell such properties. Ms. Goss had knowledge of and actually participated in the scheme which Jim Pruett employed to defraud buyers of property which Jim Pruett acquired and/or offered for sale by/through Coldwell Banker in the following respects:

- a) Ms. Goss knew that the potential buyers of such properties could not qualify for loans in the amounts that were needed to enable purchasers to acquire such properties and pay the inflated prices Pruett sought;
- b) Ms. Goss also knew that the economic status of such borrowers was such that even if they were able to obtain such loans, they would not be able to make payments to satisfy the loans, which were being arranged for them.

- c) Ms. Goss participated in the preparation of false documents, which were routinely sent to mortgage lenders by mail/fax, which distorted prospective buyer's ability to repay loans.
- d) Ms. Goss knew that other parties/participants in this scheme were likewise preparing false loan documents, applicable to potential buyers of properties, which also were being mailed to lenders.
- e) Ms. Goss knew of and participated in a kickback scheme in which loan proceeds were diverted to mortgage brokers, including herself, as well as to closing attorneys, and appraisers.

39. Toby Goss is a mortgage broker licensed by the State of Mississippi who has operated through several corporate entities, including Mississippi Mortgage, Inc. Mr. Goss engaged in fraudulent conduct similar to the conduct in which Joni Goss engaged, as described in the preceding paragraph.

40. John Emory is a mortgage broker licensed by the State of Mississippi. He has operated through several corporate entities, including Wholesale Mortgage, Inc., and others. Mr. Emory engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss, and as is outlined above.

41. Wayne White is a mortgage broker licensed by the State of Mississippi who has operated as a mortgage broker through several corporate entities, including Wholesale Mortgage, Inc. Mr. White engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss, and as is outlined above.

42. Jason Ellis, Brad Landry and Matt Howard are mortgage brokers, licensed by the State of Mississippi, who operated through several corporate entities, including Professional Mortgage Consultants, Inc. Mr. Ellis, Mr. Landry and Mr. Howard engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

43. Lance Persac is a mortgage broker, licensed by the State of Mississippi, who has operated through several corporate entities, including Mortgage Stop, Inc. Mr. Persac engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

44. Professional Mortgage Consultants Corp. is a mortgage broker licensed in the State of Mississippi, which engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

Participation Of Attorneys Hired To Prepare Loan Documents/Close Loans

45. Bobby Fisher is a Greenwood lawyer whose practice was at all relevant times herein, primarily limited to handling real estate transactions. Mr. Fisher's role/involvement in this scheme/enterprise included:

- a) Mr. Fisher attended the closings of sales of property owned by Jim Pruett, Pruett's employees, and properties owned by third party sellers which were sold by/through Coldwell Banker;
- b) Unsuspecting purchasers of such properties were led to believe, by Mr. Pruett and his employees, that Fisher was present at the closing to represent/protect their interests;

- c) Fisher had full knowledge of all aspects of the scheme that was being perpetrated by Jim Pruett;
- d) Fisher knew that appraisals utilized by Pruett were in amounts that exceeded market values;
- e) Fisher knew that Pruett was engaged in paying kickbacks;
- f) Fisher was aware that Pruett paid kickbacks to the representative with whom he was dealing with the USDA, and that kickbacks were also being paid to mortgage brokers from loan proceeds;
- g) Mr. Fisher maintained a bank account, which he utilized to divert monies from closings to third parties, which concealed the fraud that was being perpetrated on unsuspecting borrowers;
- h) Mr. Fisher, while purporting to act as attorney for purchaser/borrowers, in fact acted contrary to the interests of his so-called clients and deliberately refrained from disclosing to borrowers/purchasers the fact that they were being defrauded;
- i) Mr. Fisher knew that sales contracts in which Pruett was a party were altered by Pruett;
- j) Mr. Fisher knew about and participated in the preparation of false loan documents, which distorted/inflated borrower/purchasers' financial capacity to repay the loans which Fisher closed, which were routinely mailed to mortgage lenders;
- k) Fisher knew of Plaintiffs' inability to repay the loans that he closed;

I) Mr. Fisher conspired with the other members of the enterprise, namely Mr. Pruett, Mr. Green, and Mr. Patterson, to provide incorrect title opinions to the Bank of Commerce and to State Bank & Trust which inaccurately reflected that there had been no transfers of the properties within one year for the purpose of covering the exposure of these bankers to claims of "flipping".

46. Loan Closing Services Corporation was a corporate entity created by Bobby Fisher, which employed Bobby Fisher, Daniel Floyd, Christy Smith, Kristen Taylor, Diane Kelly, John Burton, Matt Howard, Randy Glover, Paul Blakely, Rickey Walker, Jason O'Bryant, and others. All persons affiliated with this entity knew about and participated in the enterprise and were paid kickbacks, by Fisher, following closing of these loans.

47. Prestige Title is a title insurance company, which was created by Steve Colson, an attorney with Maggio & Colson, LLC of Gulfport, Mississippi. Prestige Title was aware of the acts of fraud, as previously described, and attended loan closings, purporting to act as attorneys for borrowers/purchasers after Mr. Fisher was no longer able to do so due to the fact that he had lost his ability to write title insurance. Prestige Title/Steve Colson's knowledge of wrongdoing/fraud perpetrated by Pruett, mortgage brokers, etc., was identical to Fisher's knowledge/involvement previously described.

48. Landsure Title, Homeland Title, Loan Closing and Title Services, and Robert Harrison acted as closing agents for the involved lenders and were aware of the fraud and criminal activity and participated in it.

49. Rickey Walker, now deceased, was an employee of Bobby Fisher and later at Prestige Title, Inc. who engaged in the same type of fraudulent conduct as was perpetrated by Bobby Fisher and as is outlined previously.

Participation Of Mortgage Lenders In Enterprise

50. Before the dates of the transactions at issue in this lawsuit People's Choice Funding, Inc., d/b/a People's Choice Home Loans, Inc. (hereafter "lender") decided, as a corporate strategy, to engage in sub-prime lending, i.e., that it would be profitable to make high interest rate residential real estate loans to a particular, targeted, group of Mississippians, who hereafter referred to as "Targeted Borrowers."

51. The Mississippians from whom lender decided to solicit this business had limited education, had little expertise/sophistication in real estate transactions, had impaired credit, generally were first time homeowners, and often were members of a minority racial group.

52. This group of Mississippians was targeted by lender for this business because lender felt that this group of Borrowers could be easily misled and could easily be overreached.

53. Lender actively encouraged mortgage brokers (Mississippi Mortgage, Wholesale Mortgage, Mortgage Stop, etc.) to solicit applications for

sub-prime loans, to be secured by residential real estate, from Targeted Borrowers.

54. These mortgage brokers:

- a) Solicited loan applications from Borrowers which were sent, by mail, to mortgage lenders for review for accuracy/authenticity, etc. by employees of mortgage lenders;
- b) Gathered financial information from said Borrowers, which purportedly set forth the ability of these Borrowers to repay these loans;
- c) Assisted lender in procuring additional information needed by lender to facilitate its underwriting and closing of these loans;
- d) Selected Appraisers (or approved Appraisers selected by others, such as Jim Pruett/Coldwell Banker) to appraise properties utilized to secure these loans;
- e) Selected lawyers (or approved lawyers selected by others, such as Jim Pruett's/Coldwell Banker) to close the loans on terms/conditions prescribed by lender using loan-closing documents mandated by lender.

55. Jim Pruett also acted as agent for lender through various forms of advertisements (in the name of Coldwell Banker) located and identified "target borrowers" for lender who were interested in purchasing properties owned by Pruett.

56. Mortgage Brokers (or persons like Jim Pruett, acting in concert with these mortgage brokers), acting at the behest of and as agents for lender,

routinely contacted targeted borrowers desiring to purchase residential real estate for the purpose of securing loan applications from such prospective Borrowers.

57. Jim Pruett routinely assured such prospective borrowers that he had the capacity to "get them a loan".

58. Jim Pruett put persons who desired to purchase residential real estate that he owned as well as persons who desired to purchase real estate owned by third parties, which was listed for sale by/through Coldwell Banker in contact with these mortgage brokers.

59. These mortgage brokers promised prospective purchasers that they could "arrange" loans for these purchasers, usually with purchasers being relieved of any obligation to make any down payments on such loans.

60. These assurances led potential borrowers to believe that Jim Pruett and these Mortgage Brokers had ongoing business relationships with persons/entities who made real estate loans, (a belief which was both reasonable and true) or that Pruett/Coldwell Banker itself would loan monies to make these purchases.

61. These prospective Borrowers were led to believe that Jim Pruett and these mortgage brokers possessed information about the real estate loan procuring/closing process that was greater than/superior to that possessed by the prospective borrowers themselves. As a result, the prospective borrowers

reasonably believed the assurances and representations made by Jim Pruett/Coldwell Banker and the mortgage brokers.

62. Lender deliberately put these mortgage brokers in the position to foster that belief on the part of these borrowers by allowing these brokers to arrange mortgage loans on its behalf, by advising these brokers of its loan programs, by encouraging these brokers to solicit loan applications, etc.

63. Thus, these borrowers, in reliance upon the belief that Jim Pruett and these mortgage brokers possessed expertise in procuring and arranging loans of this type and that Mr. Pruett and these brokers would utilize that expertise in "getting them loans," provided basic financial data to Pruett, employees of Pruett, and these mortgage brokers, that was truthful and accurate.

64. The borrowers reasonably believed that the truthful and accurate financial data that they provided to Pruett, employees of Pruett, and these mortgage brokers would be submitted, without alteration, to the mortgage lenders with whom these parties had a business relationship.

65. However, Pruett, employees of Pruett, and the mortgage brokers themselves, deliberately modified data provided to them by borrowers and, in addition, prepared/falsified data and such fraudulent data was routinely mailed, as a part of this scheme/enterprise to mortgage lenders.

66. The mortgage lenders had, in place, guidelines/criteria which were designed to determine the accuracy of financial data submitted to them.

67. Upon receipt of borrower applications and supporting borrower financial data procured from Pruett or a mortgage broker, pursuant to underwriters employed by lenders were directed to review borrower applications/loan documents submitted by mortgage brokers.

68. But lender's underwriters routinely "overlooked"/failed to discover the existence of fraudulent documents in the data sent to them.

69. One of the job functions that lender's underwriters are supposed to perform was to look for forgeries. Lender's underwriters ignored the fraud and failed to discover forgeries in documents submitted to them for their review.

70. Such false loan documentation, in loan after loan, systematically distorted the financial ability of Borrower to repay these loans. Each and every false loan documentation was systematically "overlooked" by every lender representative whose job was to discover the presence of fraudulent documents.

71. Lender was perfectly content to make loans to borrowers who did not meet its credit criteria, who likely could not repay its loans, or who would experience extraordinary financial difficulty in repaying these loans.

72. Lender's failure to discover reoccurring, obvious fraudulent behavior by Pruett, by Pruett's employees and by the mortgage brokers with whom it dealt, by the closing attorneys selected by lender to close its loans, supports a finding that lender knew of such behavior and ratified it.

73. Put another way: if lender truly was interested in making sure that it made loans to persons who met its credit criteria, it would have certainly "discovered" this pattern of reoccurring/obvious fraud.

74. The fact that lender did not "discover" this fraud (by ignoring its own guidelines) supports a finding that it knew that Pruett, these brokers, Fisher, etc., were committing fraud in connection with its loans and nonetheless preceded to make these loans anyway.

75. Alternatively, lender's failure to discover this fraud is the product of its "willful blindness" or deliberate ignorance.

76. After being promised by Pruett, or employees of Pruett, or these mortgage brokers that they could and would "get them a loan," borrowers simply waited to see whether this promise would be fulfilled.

77. Then, usually, with no advance notice - "out of the blue"— these borrowers would get a call from someone working in First Greenwood/Coldwell Banker's office or from the mortgage brokers, to advise that their loans had been "approved" and that the closing of their loan was scheduled, usually rather immediately.

78. Telling these borrowers that their loan applications had been approved led these borrowers to reasonably believe that the mortgage lender who had agreed to make these loans had reviewed the financial documents that they had earlier provided and, based upon that review, had determined that they

possessed sufficient assets/wealth/credit to borrow the monies they sought to borrow/repay the loans that were being made to them.

79. These borrowers proceeded to go forward with the closing of these loans in reliance upon the mistaken belief that their assets/liabilities/income were sufficient, as far as lender was concerned, to enable them to repay these loans.

80. This reliance, made in good faith and reasonable, was misplaced. Borrower assets/liabilities/income/capacity to borrow these monies had been deliberately distorted/inflated by the fraudulent loan documents which were routinely mailed to these lenders by Pruett/employees of Pruett/mortgage brokers/ and Fisher.

81. After assuring Borrowers that they had been approved for a loan, the borrowers were "summonsed" to loan closings, which occurred at dates, places, and times, determined by Pruett, by someone in Pruett's office, or the mortgage brokers.

82. Many of these borrowers had never before owned a house or attended a closing of a real estate loan.

83. Borrowers appeared at loan closings with no advance idea about the amount of money they would be borrowing, the interest rates they would be charged, the identity of the lender, who had agreed to loan them monies, or any other term under which they would be loaned money.

84. Lender sent loan closing documents and instructions, as well as funds to be utilized to close these loans, by mail, fax and/or e-mail, to closing attorneys, before these loans were closed.

85. At these loan closings, Plaintiffs were routinely presented a stack of legally complex loan closing documents, and it was made clear to these Plaintiffs that they must sign the documents presented to them as a condition to securing these loans.

86. These Plaintiffs, as a condition to securing these loans, were directed to sign documents, prepared by lender, which lender knew to be fraudulent, and which these Plaintiffs did not know were fraudulent.

87. The attorneys who closed these loans provided no explanation to Plaintiffs as to the legal significance of any of the documents these Plaintiffs were told to sign. At best, documents were identified by the nature of the documents themselves. For example, Plaintiffs were told no more than: this is a deed; this is a deed of trust, etc.

88. Plaintiffs usually were afforded no opportunity to read any documents that they signed. Few Plaintiffs would have understood the documents had they read them, due to their complexity/legalese. Closings usually took 15 (fifteen) minutes or so, sometimes longer, but not much longer. Many Plaintiffs felt rushed to sign documents.

89. At no time before any of these loans were closed did Pruett, any employee of Pruett or any mortgage broker or any closing attorney ever tell any

Plaintiff that any false/fraudulent loan documents had been prepared in connection with their loans, and mailed to any involved lender.

90. The failure of Pruett, employees of Pruett, or these Mortgage Brokers to apprise these Plaintiffs of the fact that false loan documents had been prepared in connection with their loans, that documents which inflated/distorted their ability to repay these loans had been mailed to these lenders, that these lenders had prepared false loan documents for these Plaintiffs' signatures constitutes, as a matter of law, acts of fraud on the part of these parties.

91. These Plaintiffs were also not told that these lenders had made a determination that some groups of borrowers, with specified levels of wealth, could likely repay its loans while other groups of borrowers, who did not possess pre-described levels of wealth, likely could not repay its loans. In proceeding to close these loans to these Plaintiffs, by implication, these Plaintiffs were led to believe and reasonably relied upon the belief that these lenders had made a determination that they had the financial capacity to be able to repay these loans.

Defendants' Particular Dealings with Plaintiffs

92. Defendants conspired with each other to sell residential real estate that Jim Pruett acquired (in the name of Leflore Properties) to the Plaintiffs.

93. Jim Pruett, acting in the name of Leflore Properties or in the name of some other "straw man" purchaser, purchased USDA-owned property and previously foreclosed or third party owned property, at foreclosure sales, at a

fraction of the property's fair market value, and then through the process as previously described resold the properties at substantial profit to the Plaintiffs at a price that far exceeded the market value of the properties.

94. In other instances the same conduct accompanied the sale of third party-owned property listed for sale with Coldwell Banker with the same damages resulting to the Plaintiffs.

95. The Plaintiffs relied upon the misrepresentations of the defendants. The Plaintiffs were the victims of the fraudulent scheme or enterprise perpetrated by the defendants.

96. Funds utilized to close this transaction were sent to the closing agent by wire or by mail.

97. Each of the defendants was aware of, approved, was a willing participant in, and profited from all conduct set forth in the preceding paragraphs. In the alternative, the defendants were guilty of "willful blindness" with respect to such conduct.

98. Defendants' conduct constituted a violation of 18 U.S.C. §1962(a), (b), (c), and (d).

99. Plaintiffs suffered actual damages, including damages for emotional distress, humiliation, and economic damages, including the difference in the value of the house they purchased from Pruett/Leflore Properties as represented versus the true market value of such house in the amount of, at a minimum, \$100,000.00 each.

100. As a result of the foregoing wrongful acts and omissions, the Defendants are liable to Plaintiffs for all damages allowed pursuant to 18 U.S.C. §1964(c) and 15 U.S.C. §1639(h).

101. As a result of the foregoing wrongful acts and omissions, the Defendants are liable to Plaintiffs for damages sustained by Plaintiffs based upon, the following pendant state claims state:

- a) Breach of fiduciary duty;
- b) Misrepresentation;
- c) Deceptive sales practices;
- d) Fraudulent concealment;
- e) Intentional infliction of emotional distress.

102. Each of the above named persons/entities conspired to perform two or more predicate acts, which included numerous instances of wire fraud in violation of 18 U.S.C. §1343, numerous instances of mail fraud in violation of 18 U.S.C. §1341, and numerous instances of money laundering in violation of 18 U.S.C. §1956 and 18 U.S.C. §1957.

103. Defendants and entities named above violated 18 U.S.C. §1341 and 18 U.S.C. §1343 in devising, on multiple occasions, a scheme(s) or artifice(s) to obtain money or property by false and/or fraudulent pretenses, representations, and promises as contained in the various loan documents including, without limitation, sales contracts, loan applications, verification documents, and HUD-1 Settlement Statements.

104. All or some of the Defendants and entities named above used the U.S. mail and/or private or commercial interstate carriers in the furtherance of such scheme(s).

WHEREFORE, PLAINTIFFS DEMAND:

A. Actual damages, including the difference between the value of the house as represented, versus the true value of such house, damages for emotional distress, humiliation, and economic damages in the amount of \$100,000.00 against each defendant, jointly and separately.

B. Punitive damages against each defendant, individually and jointly, in an amount sufficient to deter such defendants from hereafter, engaging in such wrongful conduct in the future.

C. Attorneys fees and expenses and treble damages pursuant to 18 §U.S.C. 1964(c).

RESPECTFULLY SUBMITTED, this the 31st day of May, 2006.

Of Counsel:

Lake Tindall, LLP
P.O. Box 918
127 South Poplar Street
Greenville, MS 38702-0918
Telephone: 662-378-2121
Facsimile: 662-332-5325

s/C. W. Walker III
C.W. Walker III
MS Bar No. 6870

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of May, 2006, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Christopher A. Shapley, Esquire	cshapley@brunini.com
Joseph Anthony Sclafani, Esquire	jsclafani@brunini.com
H. Hunter Twiford III, Esquire	htwiford@mcglinchey.com
April D. Reeves, Esquire	areeves@watkinsludlam.com

and I further certify that I have mailed by United States Postal Service the document to the following non-ECF participants: None.

/s/ C.W. Walker III

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People's Choice Home Loan, Inc.

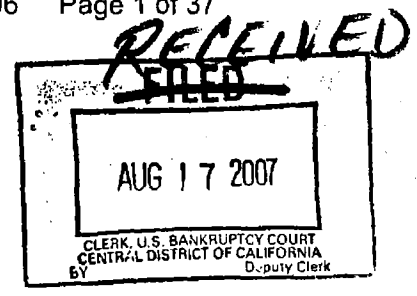
Proof of Claim #338

Case 8:07-bk-10765-RK Claim 338-1 Filed 08/17/07 Desc Main Document Page 1 of 38

United States Bankruptcy Court for the Central District of California		PROOF OF CLAIM
Name of Debtor People's Choice Home Loan, Inc.		Case Number 07-10765
This Space For Court Use Only		
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (The person or other entity to whom the debtor owes money or property): JOHNNY AND MARY PRICE AND LATRENDA M CITIZEN		<div style="border: 2px solid black; padding: 10px; width: fit-content; margin: auto;"> <p style="text-align: center; font-weight: bold; font-size: 1.2em;">FILED</p> <p style="text-align: center; font-size: 1.5em; font-weight: bold;">AUG 17 2007</p> <p style="text-align: center; font-size: 0.8em;">CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA Deputy Clerk</p> </div>
Name and Address where notices should be sent: JOHNNY AND MARY PRICE AND LATRENDA M CITIZEN C/O CW WALKER III & FRANK S THACKSTON JR LAKE TINDALL LLP PO BOX 918 GREENVILLE MS 38702-0918		
Telephone Number:		
Last four digits of account or other number by which creditor identifies debtor:		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.
Check here <input type="checkbox"/> replaces if this claim <input type="checkbox"/> amends a previously filed claim dated: _____		This Space For Court Use Only
1. Basis for Claim <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other intentional tort, mail & wire fraud, RICO violations (date) _____ to _____ (date) _____ <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Last four digits of your SS #: _____ Unpaid compensation for services performed from _____ to _____		
2. Date debt was incurred: 2/3/03 Price, 1/29/03 Citizen		3. If court judgment, date obtained: pending lawsuit
4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations. Unsecured Nonpriority Claim \$ <u>unknown amount</u> <input checked="" type="checkbox"/> Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or c) none or only part of your claim is entitled to priority. Unsecured Priority Claim. <input type="checkbox"/> Check this box if you have an unsecured claim, all or part of which is entitled to priority. Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,000),* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5). <input type="checkbox"/> Secured Claim. <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____ <input type="checkbox"/> Up to \$2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____). *Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.		
5. Total Amount of Claim at Time Case Filed: \$ <u>unknown</u> (Unsecured) _____ (Secured) _____ (Priority) _____ (Total) _____ <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. 7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. 8. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim		This Space For Court Use Only
Date: 8-14-07	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): [Signature]	

Penalty for presenting fraudulent claim: Fine up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571





**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

**JOHNNY and MARY PRICE, and
LATRENDIA M. CITIZEN**

PLAINTIFFS

VS.

CIVIL ACTION NO. 4:05cv170-D-A

**COLDWELL BANKER REAL
ESTATE CORPORATION, COLDWELL
BANKER FIRST GREENWOOD-LEFLORE
REALTY, INC., LEFLORE PROPERTIES, INC.,
JIM PRUETT, LINDA PRUETT,
BANK OF COMMERCE, STATE BANK &
TRUST COMPANY, PEOPLE'S CHOICE
FUNDING, INC., d/b/a PEOPLE'S CHOICE
HOME LOANS, INC. and TERRY GREEN**

DEFENDANTS

AMENDED COMPLAINT

The above named Plaintiffs assert the causes of action to be hereafter stated against each Defendant named above, and in support thereof would state as follows.

Jurisdictional and Venue Allegations

1. Each Defendant named above, as is set forth in the paragraphs that follow, has violated the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §1962, et seq. (RICO).

2. In particular, each Defendant named above has participated in a pattern of "racketeering activity" by each committing two or more violations of Federal criminal statutes, including statutes relating to mail fraud and wire fraud.

3. These Defendants each were members of a group of persons, who invested in and/or maintained an interest in, and/or participated in an "enterprise," which was engaged in and/or which affected interstate commerce.

4. Subject matter jurisdiction and venue exists in this case, in whole and/or in part, pursuant to the following federal statutes:

- a) Section 1964(a) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1964(a);
- b) Section 1964(c) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1964(c);
- c) Section 1965(a) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(a);
- d) Section 1965(b) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(b);
- e) Section 1965(d) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(d);
- f) Federal Question Jurisdiction, Title 28 United States Code § 1331;
- g) Sections 2201-2202 of the Federal Declaratory Judgment Act of 1946, title 28 United States Code §§2201-2202;
- h) Federal Regulation of Commerce Jurisdiction, Title 28 United States Code §1337;
- i) Federal Supplemental Jurisdiction, Title 28 United States Code §1367(b);

j) Federal General Venue, Title 28 United States Code §1391(b).

Parties

5. Plaintiffs are adult resident citizens of Leflore County, Mississippi.

6. Defendant, Coldwell Banker Real Estate Corporation (hereafter "Coldwell Banker") is a corporation, which does and has in the past done business in Leflore County, Mississippi. Coldwell Banker may be served through its registered agent, Corporation Service Company, 506 South President Street, Jackson, Mississippi.

7. Defendant, Coldwell Banker First Greenwood-Leflore Realty, Inc. (hereafter "First Greenwood") is a Mississippi corporation, which has done business in Leflore County, Mississippi since approximately December of 1989. First Greenwood may be served through its registered agent, Linda Pruett, 605 Dunklin Avenue, Greenwood, Mississippi.

8. Defendant, Leflore Properties, Inc., (hereafter "Leflore Properties") is a Mississippi corporation, which has done business in Leflore County, Mississippi since February of 1994 and has operated out to the same office as First Greenwood. Leflore Properties may be served through its registered agent, Jim Pruett, 605 Dunklin Avenue, Greenwood, Mississippi.

9. Defendant, Jim Pruett, is an adult resident citizen of Leflore County, Mississippi, who at all relevant times herein, acted as an agent for Coldwell Banker, was the treasurer, secretary, and a director of First Greenwood, and was

an officer and director of Leflore Properties. Jim Pruett may be served at 605 Dunklin Avenue, Greenwood, Mississippi.

10. Defendant, Linda Pruett, is an adult resident citizen of Leflore County, Mississippi, who at all relevant times herein, served as president and a director of First Greenwood, served as president and a director of Leflore Properties, Inc., and was designated as a "responsible agent and/or broker" in the written Franchise Agreement that existed between Coldwell banker and First Greenwood. Ms. Pruett may be served at 605 Dunklin Avenue, Greenwood, Mississippi.

11. Defendant, Bank of Commerce, is a Mississippi banking corporation whose principal place of business is at 310 Howard Street, Greenwood, Mississippi. Bank of Commerce may be served at 310 Howard Street, Greenwood, Mississippi.

12. Defendant, State Bank & Trust Company, is a Mississippi banking corporation whose principal place of business is at 500 West Park Avenue, Greenwood, Mississippi. State Bank & Trust can be served at 500 West Park Avenue, Greenwood, Mississippi.

13. Defendant, People's Choice Funding, Inc., d/b/a People's choice Home Loans, Inc., (hereafter "lender") is a residential mortgage lender who at all relevant times was doing business in Mississippi and may be served through its registered agent.

14. Defendant, Terry Green, is an adult resident citizen of Leflore County, Mississippi, who, at all times relevant herein, was an officer and employee of Bank of Commerce, serving as its vice president. Terry Green may be served at 1100 Jane Lane, Greenwood, Mississippi.

Persons Engaged in Enterprise Who Are Not Parties

15. Persons/entities who participated in a pattern of "racketeering activity" and who, along with Defendants named previously, participated in the "enterprise" at issue in this case include:

- a) Bobby F. Fisher, Jr., d/b/a Loan Closing Services Corporation (hereafter "Fisher"), an adult resident citizen of Leflore County, Mississippi, who was the incorporator of Leflore Properties, and who served as closing/settlement agent to close the Pilchers' loan. Fisher's address is 107 Grand Boulevard, Greenwood, Mississippi;
- b) Defendant, Terry Green, is an adult resident citizen of Leflore County, Mississippi, who, at all times relevant herein, was an officer and employee of Bank of Commerce, serving as its vice president.
- c) Defendant, Clark Patterson, is an adult resident citizen of Leflore County, Mississippi, who at all times relevant herein, was an officer and employee of State Bank & Trust Company.
- d) Daniel Floyd, 1413 North Park Avenue, Greenwood, Mississippi an employee of Bobby Fisher;

- e) Mississippi Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- f) Wholesale Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- g) Lincoln Mortgage Loans is a mortgage broker licensed by the State of Mississippi;
- h) Equiti Mortgage Corporation is a mortgage broker licensed by the State of Mississippi;
- i) Integrity Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- j) Statewide Mortgage Lending, Inc. is a mortgage broker licensed by the State of Mississippi;
- k) Prestige Title, Inc. is a closing settlement agent;
- l) Hope King is an employee of Prestige Title, Inc.
- m) Peggy Claiborne, address unknown, a mortgage broker licensed by the State of Mississippi;
- n) Wendy Hewlett, 117 County Road 317, Oxford, Mississippi, a mortgage broker licensed by the State of Mississippi;
- o) Family Mortgage, Inc., 2650 Levingston Road, Jackson, Mississippi, a mortgage broker, licensed by the State of Mississippi;
- p) Mid South Mortgage Corp., a mortgage broker, licensed by the State of Mississippi;

- q) Land Sure Title, LLC, 20 East Gate Drive, Suite C, Brandon, Mississippi, a closing settlement agent;
- r) Andrea Moore, address unknown, Jim Pruett's secretary;
- s) Loan Closing and Title Services, address unknown, a loan closing/settlement agent;
- t) Homeland Title & Abstract Company, Inc., 953 North Street, Jackson, Mississippi, a loan closing/settlement agency;
- u) James W. Abernathy, Jr., Pine Court, Starkville, Mississippi, is an attorney;
- v) Robert D. Harrison, 6700 Old Canton Road, Suite B, Ridgeland, Mississippi, is an attorney;
- w) Allison Miller, present address unknown, an employee of LandSure Title, LLC;
- x) William "Bill" Atkinson, present address unknown, an employee of LandSure Title, LLC;
- y) Stephen Colson, 2301 14th Street, Suite 580, Gulfport, Mississippi, an attorney/officer of Prestige Title, Inc.;
- z) Johnny Young, 617 Avenue G, Greenwood, Mississippi, a painter/carpenter who Jim Pruett and/or Leflore Properties, Inc. and/or Coldwell Banker First Greenwood Leflore Realty, Inc., used to act as a "straw man" in Pruett's real estate dealings;

aa) Johnny Rosa, 958 AHN seven Pines Road, Greenwood, Mississippi, a carpenter who also served as a "straw man" for Jim Pruett and/or Leflore Properties, Inc. and/or Coldwell Banker First Greenwood Leflore Realty, Inc.;

bb) Lee Pruett, 611 Puckett Street, Greenwood, Mississippi, a "straw man" appraiser and the son of Jim and Linda Pruett;

cc) Gary C. Ledbetter (hereafter "Ledbetter") who at relevant times herein was an employee of the United States Department of Agriculture (USDA), who worked in USDA's Greenwood, Mississippi office as Community Development Manager and as a loan approval officer for the USDA. Ledbetter's address is USDA office, 188 Highway 15 South, Pontotoc, Mississippi;

dd) Ken Ellis, address unknown, who was an employee of First Greenwood and an agent of Coldwell Banker;

ee) Mel Harris, address unknown, who was an employee of First Greenwood and an agent of Coldwell Banker;

ff) Jason O'Bryant is an appraiser licensed by the State of Mississippi;

gg) Del Cox, address unknown, who is an appraiser, licensed by the State of Mississippi;

hh) Larry Kennedy, address unknown, who is an appraiser, licensed by the State of Mississippi;

- ii) Kevin Steed, address unknown, who is an appraiser, licensed by the state of Mississippi;
- jj) Fransene Berry, Georgetown, Mississippi, who is an appraiser, licensed by the State of Mississippi;
- kk) Joni Goss, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- ll) Toby Goss, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- mm) John Emory, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- nn) Wayne White, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- oo) Rickey Walker, deceased, who was and employee of Bobby Fisher and later of Prestige Title;
- pp) Jason Ellis, 115 Dorchester Court, Brandon Mississippi, who is a mortgage broker, licensed by the State of Mississippi;
- qq) Lance Persac, 441 Northpark, Suite A, Ridgeland, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;
- rr) Brad Landry, address unknown, who is a mortgage broker, licensed by the State of Mississippi;

ss) Professional Mortgage Consultants Corporation, 115 Dorchester Court, Brandon, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

tt) Mortgage Stop, Inc., c/o Lance Persac, 441 Northpark, Suite A, Ridgeland, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

uu) Matt Howard, Pine Bluff Road, Greenwood, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

vv) John Doe is a real estate appraiser, whose name is presently unknown, who the USDA paid to appraise the property at 4307 County Road 160, Greenwood, Mississippi, prior to the purchase of such property by Plaintiff, the Pilchers.

16. As stated previously, at all relevant times herein, Coldwell Banker, First Greenwood, Leflore Properties, Jim Pruett, Linda Pruett, Bank of Commerce, State Bank & Trust, People's Choice Funding, Inc. d/b/a People's Choice Home Loans, Inc., and others engaged in racketeering activities, committed two or more violations of Federal Criminal Statutes, and were participants in and were parties to an "enterprise" as defined by 18 U.S.C. 1961(4).

17. All Defendants and entities named above knew or should have known that interstate wire and mail instrumentalities were used or likely would be used in furtherance of aspects of the scheme(s) to be hereafter discussed.

18. Specifically, the United States Mail and the interstate wire service were used to transmit fraudulent loan documents, on multiple occasions. These transmissions occurred during a time period beginning with the application date of each respective loan, and continued from time to time thereafter up to and until the final transmission of the executed loan documents by the closing agent after the loan had been closed.

**First Greenwood, Jim Pruett, and Others Acted as Agents for
Coldwell Banker with Apparent Authority**

19. Coldwell Banker and First Greenwood occupied a franchisor/franchisee relationship, which began in 1990.

20. Coldwell Banker authorized First Greenwood, employees of First Greenwood, and Jim Pruett, to use Coldwell Banker's trademark, its name, its colors, its logo, its insignia, its design, etc., in buying, selling and listing for sale residential real estate, in dealing with third parties, (including Plaintiffs) in the purchase/sale of such real estate, and in so doing, allowed First Greenwood to possess apparent authority to act as its agent.

21. Coldwell Banker advertised locally and nationally for the purpose of leading third parties, dealing with its franchisees (like First Greenwood) to believe in, and rely upon, the integrity of its franchisees.

22. Coldwell Banker, through its advertising programs, through its public support of its franchisees/agents, led third parties, dealings with its franchisees/agents, to reasonably believe that its franchisees/agents were trustworthy/honest, etc.

23. Thus, Coldwell Banker lent an "air of legitimacy" to the racketeering activities to be hereafter described. Coldwell Banker also agreed to, and participated in these activities.

Racketeering Activities – Jim Pruett's Involvement

24. Jim Pruett operated out of First Greenwood's office, which prominently displayed Coldwell Banker's colors, logo, insignia and name, with Coldwell Banker's full knowledge and consent. Third parties dealing with Jim Pruett could not reasonably distinguish business activities conducted by Jim Pruett individually from the business interests/activities of Coldwell Banker. Acting as agent for Coldwell Banker, with actual or apparent authority from Coldwell Banker, Jim Pruett routinely engaged in the following conduct:

- a) Mr. Pruett routinely purchased properties from third parties who desired to sell properties;
- b) Mr. Pruett routinely obtained market value appraisals on properties that were offered to him for purchase which he utilized to establish prices he paid on properties he purchased from third parties;
- c) Mr. Pruett conspired with appraisers to provide appraisals which expressed market values, at below market value rates, on properties which Mr. Pruett purchased from third parties;
- d) Mr. Pruett routinely misrepresented the value of properties he purchased from third parties, and he used such appraisals to support such

misrepresentations, thereby assisting him in misleading sellers of these properties as to the true values of properties purchased;

e) Mr. Pruett also frequently bid to purchase properties that had been financed through the United States Department of Agriculture, which were the subject of foreclosure proceedings;

f) In exchange for "kickbacks", which Mr. Pruett provided to Gary Ledbetter, the individual employed by the USDA to handle USDA foreclosures, Mr. Pruett was designated by Mr. Ledbetter as the "high bidder" on foreclosed properties offered by the USDA for sale, which enabled Mr. Pruett to purchase USDA foreclosed properties at below market rates on multiple occasions;

g) Mr. Pruett routinely took title to properties he acquired from third parties and via foreclosure, in the names of various "straw buyers," namely Johnny Young, Johnny Rosa, and on occasion his own son, Lee Pruett for the purpose of concealing Mr. Pruett's personal involvement in this enterprise;

h) Pruett obtained funds to purchase properties (via USDA foreclosure and from third parties) from loans made by Bank of Commerce as well as another co-conspirator, State Bank & Trust Company;

i) Mr. Pruett also paid a bank employee(s) kickbacks for agreeing to finance his property purchases through "straw men" owners;

- j) After Jim Pruett acquired properties – whether from third parties or by foreclosure from the USDA – Jim Pruett would advertise the property he acquired as being for sale by or through First Greenwood and/or by or through Coldwell Banker, leading prospective buyers of these properties to believe that they were owned by First Greenwood and/or Coldwell Banker;
- k) Mr. Pruett routinely misrepresented the value and condition of the properties that he advertised for sale to prospective purchasers, misrepresented the repairs he intended to make on these properties and thereby induced purchasers of such properties to agree to pay inflated values on properties Pruett owned, and to borrow monies in excess of the property's market in amounts which borrowers could not afford to repay;
- l) Mr. Pruett routinely prepared sales contracts, which he would have purchasers sign, that contained a selling price. He would then modify the selling price at which the purchaser could purchase the property to reflect a higher selling price to justify selling the property at a higher price and to satisfy lending requirements imposed by involved mortgage lenders;
- m) Mr. Pruett obtained inflated appraisals of the properties he held for resale for the purpose of persuading unsuspecting buyers to agree to pay values that exceeded the properties market values to satisfy lending requirements imposed by mortgage lenders, and to induce innocent borrowers to agree to borrow sums that exceeded the property's value;

n) Mr. Pruett conspired with selected mortgage brokers who, with full knowledge of Mr. Pruett's fraudulent conduct, proceeded to secure loans from mortgage lenders to enable purchasers to purchase said properties, paying excessive prices and borrowing amounts that exceed the property's values;

o) Mr. Pruett and mortgage brokers working in concert with Mr. Pruett prepared/falsified documents to distort borrowers' capacity to repay loans for the purpose of satisfying "paper" requirements imposed by mortgage lenders, who agreed to loan monies to purchasers, who did not qualify for loans in amounts applied for, under unfavorable loan terms, in amounts which borrowers could not afford to repay, secured by properties whose values were misrepresented;

p) Mr. Pruett and Coldwell Banker agents and mortgage brokers working in concert with Mr. Pruett would routinely advise borrowers that if they paid their house payments for a period of one to two years, the lender would refinance the property, thus lowering the borrower's monthly payment.

The Entire Coldwell Banker Office Participated in the Scheme

25. Defendant Linda Pruett was the President and a director of Coldwell Banker First Greenwood and Leflore Properties. Ms. Pruett worked in the Coldwell Banker office with Jim Pruett and was aware of all aspects of the

scheme being perpetrated by her husband, Jim Pruett, and actively participated in it.

26. Andrea Moore was Jim Pruett's secretary. As such, she had actual knowledge of acts of fraud being perpetrated by Jim Pruett and participated in the preparation of fraudulent documents utilized to qualify unqualified buyers for loans. These false/fraudulent loan documents were routinely sent by mail or wire to mortgage lenders who loaned monies to purchasers of Pruett owned properties and/or properties sold by/through Coldwell Banker. Additionally, Andrea Moore notarized numerous documents, which were forgeries.

27. Ken Ellis, like Jim Pruett, worked as an employee in the Coldwell Banker First Greenwood office. Ellis was aware of the scheme(s) being perpetrated by Jim Pruett and actively participated in it. Mr. Ellis, as an employee of Coldwell Banker First Greenwood, was paid commissions and "under the table" kickbacks for each home which Jim Pruett owned, as to which he found a buyer.

28. Mel Harris, like Jim Pruett, likewise worked as an employee in Coldwell Banker First Greenwood's office. Ms. Harris was aware of the scheme(s) being perpetrated by Jim Pruett and Coldwell Banker and actively participated in it. Ms. Harris, as an employee of Coldwell Banker First Greenwood, was paid commissions and kickbacks for each home which Jim Pruett owned, as to which she found a buyer.

**Involvement/Participation of Real Estate Appraisers in
Scheme/Enterprise**

29. Del Cox is a real estate appraiser, licensed by the State of Mississippi, who provided appraisals of properties purchased by Jim Pruett, (in whatever name selected by Jim Pruett (Leflore Properties, Johnny Young, Johnny Rosa, lee Pruett)) at whatever value Jim Pruett selected.

30. Mr. Cox's appraisals were used by Mr. Pruett to persuade property owners to whom Mr. Pruett sold properties to agree to purchase such properties for prices that exceeded the market value of the properties.

31. Larry Kennedy is a real estate appraiser, licensed by the State of Mississippi, likewise furnished appraisals to Jim Pruett at whatever values Pruett selected.

32. Mr. Kennedy's inflated appraisals were utilized by Mr. Pruett to persuade purchasers to pay amounts for properties owned by Pruett that exceeded the true values of the property.

33. Fransene Berry is an appraiser of residential real estate licensed by the State of Mississippi. Ms. Berry's role in the enterprise at issue in this case was to furnish appraisals of properties, acquired by Jim Pruett, which contained market value estimates determined by Pruett, knowing that these appraisals would be used by Pruett to justify both bank loans from third party lenders by/on behalf of buyers/purchasers of the property.

34. Jason O'Bryant is also an appraiser of residential real estate licensed by the State of Mississippi. Mr. O'Bryant's role in the enterprise at issue in this case was similar to that employed by Berry and previously described.

35. Kevin Steed is also an appraiser of residential real estate licensed in the State of Mississippi. Mr. Steed's role in the enterprise at issue in this case was similar to that employed by Berry and previously described.

**Interim Lenders, Two Banks, Participated In Enterprise
And "Bankrolled" the Scheme**

36. Defendant, Bank of Commerce, through its vice president Terry Green, and defendant State Bank & Trust, through its loan officer Clark Patterson, actively participated in the enterprise described previously in the following respects:

- a) Bank of Commerce and State Bank in effect "bankrolled" the enterprise by loaning monies to Jim Pruett to enable him to acquire properties at below market prices;
- b) Bank of Commerce and State Bank knew that Jim Pruett was taking title to properties he acquired in "straw purchasers" names and permitted Jim Pruett to secure loans on properties that Pruett did not own;
- c) Terry Green and Clark Patterson routinely employed Bobby Fisher and other attorneys to provide title opinions to Bank of Commerce and State Bank & Trust that Green, Patterson, and Pruett knew were false;

d) Green and Patterson, and perhaps others in the bank, knew that Pruett obtained appraisals of properties in amounts that exceeded market values of properties appraised;

e) Bank of Commerce and State Bank & Trust knew that properties that served as collateral for Bank of Commerce loans were being routinely "flipped";

f) Bank of Commerce and State Bank & Trust knew that properties that served as collateral for Bank of Commerce loans were being routinely sold to third parties, who had been induced to borrow monies in amounts that exceeded the market values of properties that such third parties were purchasing;

g) Bank of Commerce and State Bank & Trust knew that the proceeds such of loans made to such third parties, were utilized by Jim Pruett to repay Pruett's loans to Bank of Commerce and State Bank & Trust.

37. State Bank & Trust, through its loan officer Clark Patterson also knew about and participated in the foregoing enterprise. Mr. Patterson and State Bank & Trust, like Bank of Commerce, effectively "bankrolled" the "straw men" utilized by Jim Pruett to obtain properties, and then resell these properties to unsuspecting buyers at amounts that exceeded market value. Clark Patterson received kickbacks from Jim Pruett for approving loans to Jim Pruett's "straw men" and Mr. Patterson was fully aware of the fact that appraisals utilized to

support Jim Pruett's resale of these properties did not accurately reflect market values.

Participation of Mortgage Brokers in Enterprise/Scheme

38. Joni Goss is a mortgage broker licensed by the State of Mississippi who operated in the name of several corporate entities, including Mississippi Mortgage, Inc., Statewide Lending, Lincoln Mortgage Loans, Eqiti Mortgage, and others. Ms. Goss was one of the mortgage brokers who Jim Pruett employed/contacted for the purpose of arranging mortgage financing on sales of properties which Pruett owned or which were offered for sale by/through Coldwell Banker, to third parties to whom Pruett intended to sell such properties. Ms. Goss had knowledge of and actually participated in the scheme which Jim Pruett employed to defraud buyers of property which Jim Pruett acquired and/or offered for sale by/through Coldwell Banker in the following respects:

- a) Ms. Goss knew that the potential buyers of such properties could not qualify for loans in the amounts that were needed to enable purchasers to acquire such properties and pay the inflated prices Pruett sought;
- b) Ms. Goss also knew that the economic status of such borrowers was such that even if they were able to obtain such loans, they would not be able to make payments to satisfy the loans, which were being arranged for them.

- c) Ms. Goss participated in the preparation of false documents, which were routinely sent to mortgage lenders by mail/fax, which distorted prospective buyer's ability to repay loans.
- d) Ms. Goss knew that other parties/participants in this scheme were likewise preparing false loan documents, applicable to potential buyers of properties, which also were being mailed to lenders.
- e) Ms. Goss knew of and participated in a kickback scheme in which loan proceeds were diverted to mortgage brokers, including herself, as well as to closing attorneys, and appraisers.

39. Toby Goss is a mortgage broker licensed by the State of Mississippi who has operated through several corporate entities, including Mississippi Mortgage, Inc. Mr. Goss engaged in fraudulent conduct similar to the conduct in which Joni Goss engaged, as described in the preceding paragraph.

40. John Emory is a mortgage broker licensed by the State of Mississippi. He has operated through several corporate entities, including Wholesale Mortgage, Inc., and others. Mr. Emory engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss, and as is outlined above.

41. Wayne White is a mortgage broker licensed by the State of Mississippi who has operated as a mortgage broker through several corporate entities, including Wholesale Mortgage, Inc. Mr. White engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss, and as is outlined above.

42. Jason Ellis, Brad Landry and Matt Howard are mortgage brokers, licensed by the State of Mississippi, who operated through several corporate entities, including Professional Mortgage Consultants, Inc. Mr. Ellis, Mr. Landry and Mr. Howard engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

43. Lance Persac is a mortgage broker, licensed by the State of Mississippi, who has operated through several corporate entities, including Mortgage Stop, Inc. Mr. Persac engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

44. Professional Mortgage Consultants Corp. is a mortgage broker licensed in the State of Mississippi, which engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

Participation Of Attorneys Hired To Prepare Loan Documents/Close Loans

45. Bobby Fisher is a Greenwood lawyer whose practice was at all relevant times herein, primarily limited to handling real estate transactions. Mr. Fisher's role/involvement in this scheme/enterprise included:

- a) Mr. Fisher attended the closings of sales of property owned by Jim Pruett, Pruett's employees, and properties owned by third party sellers which were sold by/through Coldwell Banker;
- b) Unsuspecting purchasers of such properties were led to believe, by Mr. Pruett and his employees, that Fisher was present at the closing to represent/protect their interests;

- c) Fisher had full knowledge of all aspects of the scheme that was being perpetrated by Jim Pruett;
- d) Fisher knew that appraisals utilized by Pruett were in amounts that exceeded market values;
- e) Fisher knew that Pruett was engaged in paying kickbacks;
- f) Fisher was aware that Pruett paid kickbacks to the representative with whom he was dealing with the USDA, and that kickbacks were also being paid to mortgage brokers from loan proceeds;
- g) Mr. Fisher maintained a bank account, which he utilized to divert monies from closings to third parties, which concealed the fraud that was being perpetrated on unsuspecting borrowers;
- h) Mr. Fisher, while purporting to act as attorney for purchaser/borrowers, in fact acted contrary to the interests of his so-called clients and deliberately refrained from disclosing to borrowers/purchasers the fact that they were being defrauded;
- i) Mr. Fisher knew that sales contracts in which Pruett was a party were altered by Pruett;
- j) Mr. Fisher knew about and participated in the preparation of false loan documents, which distorted/inflated borrower/purchasers' financial capacity to repay the loans which Fisher closed, which were routinely mailed to mortgage lenders;
- k) Fisher knew of Plaintiffs' inability to repay the loans that he closed;

l) Mr. Fisher conspired with the other members of the enterprise, namely Mr. Pruett, Mr. Green, and Mr. Patterson, to provide incorrect title opinions to the Bank of Commerce and to State Bank & Trust which inaccurately reflected that there had been no transfers of the properties within one year for the purpose of covering the exposure of these bankers to claims of "flipping".

46. Loan Closing Services Corporation was a corporate entity created by Bobby Fisher, which employed Bobby Fisher, Daniel Floyd, Christy Smith, Kristen Taylor, Diane Kelly, John Burton, Matt Howard, Randy Glover, Paul Blakely, Rickey Walker, Jason O'Bryant, and others. All persons affiliated with this entity knew about and participated in the enterprise and were paid kickbacks, by Fisher, following closing of these loans.

47. Prestige Title is a title insurance company, which was created by Steve Colson, an attorney with Maggio & Colson, LLC of Gulfport, Mississippi. Prestige Title was aware of the acts of fraud, as previously described, and attended loan closings, purporting to act as attorneys for borrowers/purchasers after Mr. Fisher was no longer able to do so due to the fact that he had lost his ability to write title insurance. Prestige Title/Steve Colson's knowledge of wrongdoing/fraud perpetrated by Pruett, mortgage brokers, etc., was identical to Fisher's knowledge/involvement previously described.

48. Landsure Title, Homeland Title, Loan Closing and Title Services, and Robert Harrison acted as closing agents for the involved lenders and were aware of the fraud and criminal activity and participated in it.

49. Rickey Walker, now deceased, was an employee of Bobby Fisher and later at Prestige Title, Inc. who engaged in the same type of fraudulent conduct as was perpetrated by Bobby Fisher and as is outlined previously.

Participation Of Mortgage Lenders In Enterprise

50. Before the dates of the transactions at issue in this lawsuit People's Choice Funding, Inc., d/b/a People's Choice Home Loans, Inc. (hereafter "lender") decided, as a corporate strategy, to engage in sub-prime lending, i.e., that it would be profitable to make high interest rate residential real estate loans to a particular, targeted, group of Mississippians, who hereafter referred to as "Targeted Borrowers."

51. The Mississippians from whom lender decided to solicit this business had limited education, had little expertise/sophistication in real estate transactions, had impaired credit, generally were first time homeowners, and often were members of a minority racial group.

52. This group of Mississippians was targeted by lender for this business because lender felt that this group of Borrowers could be easily misled and could easily be overreached.

53. Lender actively encouraged mortgage brokers (Mississippi Mortgage, Wholesale Mortgage, Mortgage Stop, etc.) to solicit applications for

sub-prime loans, to be secured by residential real estate, from Targeted Borrowers.

54. These mortgage brokers:

- a) Solicited loan applications from Borrowers which were sent, by mail, to mortgage lenders for review for accuracy/authenticity, etc. by employees of mortgage lenders;
- b) Gathered financial information from said Borrowers, which purportedly set forth the ability of these Borrowers to repay these loans;
- c) Assisted lender in procuring additional information needed by lender to facilitate its underwriting and closing of these loans;
- d) Selected Appraisers (or approved Appraisers selected by others, such as Jim Pruett/Coldwell Banker) to appraise properties utilized to secure these loans;
- e) Selected lawyers (or approved lawyers selected by others, such as Jim Pruett's/Coldwell Banker) to close the loans on terms/conditions prescribed by lender using loan-closing documents mandated by lender.

55. Jim Pruett also acted as agent for lender through various forms of advertisements (in the name of Coldwell Banker) located and identified "target borrowers" for lender who were interested in purchasing properties owned by Pruett.

56. Mortgage Brokers (or persons like Jim Pruett, acting in concert with these mortgage brokers), acting at the behest of and as agents for lender,

routinely contacted targeted borrowers desiring to purchase residential real estate for the purpose of securing loan applications from such prospective Borrowers.

57. Jim Pruett routinely assured such prospective borrowers that he had the capacity to "get them a loan".

58. Jim Pruett put persons who desired to purchase residential real estate that he owned as well as persons who desired to purchase real estate owned by third parties, which was listed for sale by/through Coldwell Banker in contact with these mortgage brokers.

59. These mortgage brokers promised prospective purchasers that they could "arrange" loans for these purchasers, usually with purchasers being relieved of any obligation to make any down payments on such loans.

60. These assurances led potential borrowers to believe that Jim Pruett and these Mortgage Brokers had ongoing business relationships with persons/entities who made real estate loans, (a belief which was both reasonable and true) or that Pruett/Coldwell Banker itself would loan monies to make these purchases.

61. These prospective Borrowers were led to believe that Jim Pruett and these mortgage brokers possessed information about the real estate loan procuring/closing process that was greater than/superior to that possessed by the prospective borrowers themselves. As a result, the prospective borrowers

reasonably believed the assurances and representations made by Jim Pruett/Coldwell Banker and the mortgage brokers.

62. Lender deliberately put these mortgage brokers in the position to foster that belief on the part of these borrowers by allowing these brokers to arrange mortgage loans on its behalf, by advising these brokers of its loan programs, by encouraging these brokers to solicit loan applications, etc.

63. Thus, these borrowers, in reliance upon the belief that Jim Pruett and these mortgage brokers possessed expertise in procuring and arranging loans of this type and that Mr. Pruett and these brokers would utilize that expertise in "getting them loans," provided basic financial data to Pruett, employees of Pruett, and these mortgage brokers, that was truthful and accurate.

64. The borrowers reasonably believed that the truthful and accurate financial data that they provided to Pruett, employees of Pruett, and these mortgage brokers would be submitted, without alteration, to the mortgage lenders with whom these parties had a business relationship.

65. However, Pruett, employees of Pruett, and the mortgage brokers themselves, deliberately modified data provided to them by borrowers and, in addition, prepared/falsified data and such fraudulent data was routinely mailed, as a part of this scheme/enterprise to mortgage lenders.

66. The mortgage lenders had, in place, guidelines/criteria which were designed to determine the accuracy of financial data submitted to them.

67. Upon receipt of borrower applications and supporting borrower financial data procured from Pruett or a mortgage broker, pursuant to underwriters employed by lenders were directed to review borrower applications/loan documents submitted by mortgage brokers.

68. But lender's underwriters routinely "overlooked"/failed to discover the existence of fraudulent documents in the data sent to them.

69. One of the job functions that lender's underwriters are supposed to perform was to look for forgeries. Lender's underwriters ignored the fraud and failed to discover forgeries in documents submitted to them for their review.

70. Such false loan documentation, in loan after loan, systematically distorted the financial ability of Borrower to repay these loans. Each and every false loan documentation was systematically "overlooked" by every lender representative whose job was to discover the presence of fraudulent documents.

71. Lender was perfectly content to make loans to borrowers who did not meet its credit criteria, who likely could not repay its loans, or who would experience extraordinary financial difficulty in repaying these loans.

72. Lender's failure to discover reoccurring, obvious fraudulent behavior by Pruett, by Pruett's employees and by the mortgage brokers with whom it dealt, by the closing attorneys selected by lender to close its loans, supports a finding that lender knew of such behavior and ratified it.

73. Put another way: if lender truly was interested in making sure that it made loans to persons who met its credit criteria, it would have certainly "discovered" this pattern of reoccurring/obvious fraud.

74. The fact that lender did not "discover" this fraud (by ignoring its own guidelines) supports a finding that it knew that Pruett, these brokers, Fisher, etc., were committing fraud in connection with its loans and nonetheless proceeded to make these loans anyway.

75. Alternatively, lender's failure to discover this fraud is the product of its "willful blindness" or deliberate ignorance.

76. After being promised by Pruett, or employees of Pruett, or these mortgage brokers that they could and would "get them a loan," borrowers simply waited to see whether this promise would be fulfilled.

77. Then, usually, with no advance notice – "out of the blue"— these borrowers would get a call from someone working in First Greenwood/Coldwell Banker's office or from the mortgage brokers, to advise that their loans had been "approved" and that the closing of their loan was scheduled, usually rather immediately.

78. Telling these borrowers that their loan applications had been approved led these borrowers to reasonably believe that the mortgage lender who had agreed to make these loans had reviewed the financial documents that they had earlier provided and, based upon that review, had determined that they

possessed sufficient assets/wealth/credit to borrow the monies they sought to borrow/repay the loans that were being made to them.

79. These borrowers proceeded to go forward with the closing of these loans in reliance upon the mistaken belief that their assets/liabilities/income were sufficient, as far as lender was concerned, to enable them to repay these loans.

80. This reliance, made in good faith and reasonable, was misplaced. Borrower assets/liabilities/income/capacity to borrow these monies had been deliberately distorted/inflated by the fraudulent loan documents which were routinely mailed to these lenders by Pruett/employees of Pruett/mortgage brokers/ and Fisher.

81. After assuring Borrowers that they had been approved for a loan, the borrowers were "summonsed" to loan closings, which occurred at dates, places, and times, determined by Pruett, by someone in Pruett's office, or the mortgage brokers.

82. Many of these borrowers had never before owned a house or attended a closing of a real estate loan.

83. Borrowers appeared at loan closings with no advance idea about the amount of money they would be borrowing, the interest rates they would be charged, the identity of the lender, who had agreed to loan them monies, or any other term under which they would be loaned money.

84. Lender sent loan closing documents and instructions, as well as funds to be utilized to close these loans, by mail, fax and/or e-mail, to closing attorneys, before these loans were closed.

85. At these loan closings, Plaintiffs were routinely presented a stack of legally complex loan closing documents, and it was made clear to these Plaintiffs that they must sign the documents presented to them as a condition to securing these loans.

86. These Plaintiffs, as a condition to securing these loans, were directed to sign documents, prepared by lender, which lender knew to be fraudulent, and which these Plaintiffs did not know were fraudulent.

87. The attorneys who closed these loans provided no explanation to Plaintiffs as to the legal significance of any of the documents these Plaintiffs were told to sign. At best, documents were identified by the nature of the documents themselves. For example, Plaintiffs were told no more than: this is a deed; this is a deed of trust, etc.

88. Plaintiffs usually were afforded no opportunity to read any documents that they signed. Few Plaintiffs would have understood the documents had they read them, due to their complexity/legalese. Closings usually took 15 (fifteen) minutes or so, sometimes longer, but not much longer. Many Plaintiffs felt rushed to sign documents.

89. At no time before any of these loans were closed did Pruett, any employee of Pruett or any mortgage broker or any closing attorney ever tell any

Plaintiff that any false/fraudulent loan documents had been prepared in connection with their loans, and mailed to any involved lender.

90. The failure of Pruett, employees of Pruett, or these Mortgage Brokers to apprise these Plaintiffs of the fact that false loan documents had been prepared in connection with their loans, that documents which inflated/distorted their ability to repay these loans had been mailed to these lenders, that these lenders had prepared false loan documents for these Plaintiffs' signatures constitutes, as a matter of law, acts of fraud on the part of these parties.

91. These Plaintiffs were also not told that these lenders had made a determination that some groups of borrowers, with specified levels of wealth, could likely repay its loans while other groups of borrowers, who did not possess pre-described levels of wealth, likely could not repay its loans. In proceeding to close these loans to these Plaintiffs, by implication, these Plaintiffs were led to believe and reasonably relied upon the belief that these lenders had made a determination that they had the financial capacity to be able to repay these loans.

Defendants' Particular Dealings with Plaintiffs

92. Defendants conspired with each other to sell residential real estate that Jim Pruett acquired (in the name of Leflore Properties) to the Plaintiffs.

93. Jim Pruett, acting in the name of Leflore Properties or in the name of some other "straw man" purchaser, purchased USDA-owned property and previously foreclosed or third party owned property, at foreclosure sales, at a

fraction of the property's fair market value, and then through the process as previously described resold the properties at substantial profit to the Plaintiffs at a price that far exceeded the market value of the properties.

94. In other instances the same conduct accompanied the sale of third party-owned property listed for sale with Coldwell Banker with the same damages resulting to the Plaintiffs.

95. The Plaintiffs relied upon the misrepresentations of the defendants. The Plaintiffs were the victims of the fraudulent scheme or enterprise perpetrated by the defendants.

96. Funds utilized to close this transaction were sent to the closing agent by wire or by mail.

97. Each of the defendants was aware of, approved, was a willing participant in, and profited from all conduct set forth in the preceding paragraphs. In the alternative, the defendants were guilty of "willful blindness" with respect to such conduct.

98. Defendants' conduct constituted a violation of 18 U.S.C. §1962(a), (b), (c), and (d).

99. Plaintiffs suffered actual damages, including damages for emotional distress, humiliation, and economic damages, including the difference in the value of the house they purchased from Pruett/Leflore Properties as represented versus the true market value of such house in the amount of, at a minimum, \$100,000.00 each.

100. As a result of the foregoing wrongful acts and omissions, the Defendants are liable to Plaintiffs for all damages allowed pursuant to 18 U.S.C. §1964(c) and 15 U.S.C. §1639(h).

101. As a result of the foregoing wrongful acts and omissions, the Defendants are liable to Plaintiffs for damages sustained by Plaintiffs based upon, the following pendant state claims state:

- a) Breach of fiduciary duty;
- b) Misrepresentation;
- c) Deceptive sales practices;
- d) Fraudulent concealment;
- e) Intentional infliction of emotional distress.

102. Each of the above named persons/entities conspired to perform two or more predicate acts, which included numerous instances of wire fraud in violation of 18 U.S.C. §1343, numerous instances of mail fraud in violation of 18 U.S.C. §1341, and numerous instances of money laundering in violation of 18 U.S.C. §1956 and 18 U.S.C. §1957.

103. Defendants and entities named above violated 18 U.S.C. §1341 and 18 U.S.C. §1343 in devising, on multiple occasions, a scheme(s) or artifice(s) to obtain money or property by false and/or fraudulent pretenses, representations, and promises as contained in the various loan documents including, without limitation, sales contracts, loan applications, verification documents, and HUD-1 Settlement Statements.

104. All or some of the Defendants and entities named above used the U.S. mail and/or private or commercial interstate carriers in the furtherance of such scheme(s).

WHEREFORE, PLAINTIFFS DEMAND:

A. Actual damages, including the difference between the value of the house as represented, versus the true value of such house, damages for emotional distress, humiliation, and economic damages in the amount of \$100,000.00 against each defendant, jointly and separately.

B. Punitive damages against each defendant, individually and jointly, in an amount sufficient to deter such defendants from hereafter, engaging in such wrongful conduct in the future.

C. Attorneys fees and expenses and treble damages pursuant to 18 §U.S.C. 1964(c).

RESPECTFULLY SUBMITTED, this the 31st day of May, 2006.

Of Counsel:

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Greenville, MS 38702-0918
Telephone: 662-378-2121
Facsimile: 662-332-5325

s/C. W. Walker III
C.W. Walker III
MS Bar No. 6870

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of May, 2006, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Christopher A. Shapley, Esquire	cshapley@brunini.com
Joseph Anthony Sclafani, Esquire	jsclafani@brunini.com
H. Hunter Twiford III, Esquire	htwiford@mcglinchey.com
April D. Reeves, Esquire	areeves@watkinsludlam.com

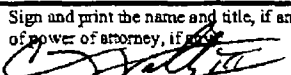
and I further certify that I have mailed by United States Postal Service the document to the following non-ECF participants: None.

/s/ C.W. Walker III

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People's Choice Funding, Inc.

Proof of Claim #95

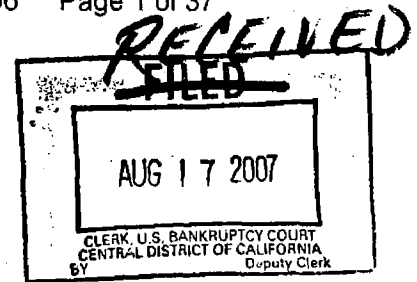
Case 8:07-bk-10767-RK Claim 95-1 Filed 08/17/07 Desc Main Document Page 1 United States Bankruptcy Court for the Central District of California		PROOF OF CLAIM This Space For Court Use Only <div style="border: 1px solid black; padding: 5px; text-align: center;"> FILED <i>AUG 17 2007</i> AUG 17 2007 <small>CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA</small> </div> This Space For Court Use Only
Name of Debtor People's Choice Funding, Inc.		Case Number 07-10767
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		
Name of Creditor (The person or other entity to whom the debtor owes money or property): JOHNNY AND MARY PRICE AND LATRENDAM CITIZEN		<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars.
Name and Address where notices should be sent: JOHNNY AND MARY PRICE AND LATRENDAM CITIZEN C/O CW WALKER III & FRANK S THACKSTON JR LAKE TINDALL LLP PO BOX 918 GREENVILLE MS 38702-0918		<input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.
Telephone Number:		This Space For Court Use Only
Last four digits of account or other number by which creditor identifies debtor:		Check here <input type="checkbox"/> replaces if this claim <input type="checkbox"/> amends a previously filed claim dated: _____
1. Basis for Claim <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other intentional tort, mail & wire fraud, RICO violations (date) _____ (date) _____ <input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Last four digits of your SS #: _____ Unpaid compensation for services performed from _____ to _____		
2. Date debt was incurred: <u>2/3/03 Price, 1/29/03 Citizen</u>		3. If court judgment, date obtained: <u>pending lawsuit</u>
4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations. Unsecured Nonpriority Claim \$ <u>unknown amount</u> <input checked="" type="checkbox"/> Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.		
Unsecured Priority Claim. <input type="checkbox"/> Check this box if you have an unsecured claim, all or part of which is entitled to priority Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,000),* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).		Secured Claim. <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____
5. Total Amount of Claim at Time Case Filed: \$ <u>unknown</u> (Unsecured) (Secured) (Priority) (Total) <input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. 7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. 8. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim		This Space For Court Use Only
Date: <u>8-14-07</u>	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): 	

Penalty for presenting fraudulent claim: Fine up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571



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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**



**JOHNNY and MARY PRICE, and
LATREND A M. CITIZEN**

PLAINTIFFS

VS.

CIVIL ACTION NO. 4:05cv170-D-A

**COLDWELL BANKER REAL
ESTATE CORPORATION, COLDWELL
BANKER FIRST GREENWOOD-LEFLORE
REALTY, INC., LEFLORE PROPERTIES, INC.,
JIM PRUETT, LINDA PRUETT,
BANK OF COMMERCE, STATE BANK &
TRUST COMPANY, PEOPLE'S CHOICE
FUNDING, INC., d/b/a PEOPLE'S CHOICE
HOME LOANS, INC. and TERRY GREEN**

DEFENDANTS

AMENDED COMPLAINT

The above named Plaintiffs assert the causes of action to be hereafter stated against each Defendant named above, and in support thereof would state as follows.

Jurisdictional and Venue Allegations

1. Each Defendant named above, as is set forth in the paragraphs that follow, has violated the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §1962, et seq. (RICO).

2. In particular, each Defendant named above has participated in a pattern of "racketeering activity" by each committing two or more violations of Federal criminal statutes, including statutes relating to mail fraud and wire fraud.

3. These Defendants each were members of a group of persons, who invested in and/or maintained an interest in, and/or participated in an "enterprise," which was engaged in and/or which affected interstate commerce.

4. Subject matter jurisdiction and venue exists in this case, in whole and/or in part, pursuant to the following federal statutes:

- a) Section 1964(a) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1964(a);
- b) Section 1964(c) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1964(c);
- c) Section 1965(a) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(a);
- d) Section 1965(b) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(b);
- e) Section 1965(d) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(d);
- f) Federal Question Jurisdiction, Title 28 United States Code § 1331;
- g) Sections 2201-2202 of the Federal Declaratory Judgment Act of 1946, title 28 United States Code §§2201-2202;
- h) Federal Regulation of Commerce Jurisdiction, Title 28 United States Code §1337;
- i) Federal Supplemental Jurisdiction, Title 28 United States Code §1367(b);

j) Federal General Venue, Title 28 United States Code §1391(b).

Parties

5. Plaintiffs are adult resident citizens of Leflore County, Mississippi.

6. Defendant, Coldwell Banker Real Estate Corporation (hereafter "Coldwell Banker") is a corporation, which does and has in the past done business in Leflore County, Mississippi. Coldwell Banker may be served through its registered agent, Corporation Service Company, 506 South President Street, Jackson, Mississippi.

7. Defendant, Coldwell Banker First Greenwood-Leflore Realty, Inc. (hereafter "First Greenwood") is a Mississippi corporation, which has done business in Leflore County, Mississippi since approximately December of 1989. First Greenwood may be served through its registered agent, Linda Pruett, 605 Dunklin Avenue, Greenwood, Mississippi.

8. Defendant, Leflore Properties, Inc., (hereafter "Leflore Properties") is a Mississippi corporation, which has done business in Leflore County, Mississippi since February of 1994 and has operated out to the same office as First Greenwood. Leflore Properties may be served through its registered agent, Jim Pruett, 605 Dunklin Avenue, Greenwood, Mississippi.

9. Defendant, Jim Pruett, is an adult resident citizen of Leflore County, Mississippi, who at all relevant times herein, acted as an agent for Coldwell Banker, was the treasurer, secretary, and a director of First Greenwood, and was

an officer and director of Leflore Properties. Jim Pruett may be served at 605 Dunklin Avenue, Greenwood, Mississippi.

10. Defendant, Linda Pruett, is an adult resident citizen of Leflore County, Mississippi, who at all relevant times herein, served as president and a director of First Greenwood, served as president and a director of Leflore Properties, Inc., and was designated as a "responsible agent and/or broker" in the written Franchise Agreement that existed between Coldwell banker and First Greenwood. Ms. Pruett may be served at 605 Dunklin Avenue, Greenwood, Mississippi.

11. Defendant, Bank of Commerce, is a Mississippi banking corporation whose principal place of business is at 310 Howard Street, Greenwood, Mississippi. Bank of Commerce may be served at 310 Howard Street, Greenwood, Mississippi.

12. Defendant, State Bank & Trust Company, is a Mississippi banking corporation whose principal place of business is at 500 West Park Avenue, Greenwood, Mississippi. State Bank & Trust can be served at 500 West Park Avenue, Greenwood, Mississippi.

13. Defendant, People's Choice Funding, Inc., d/b/a People's choice Home Loans, Inc., (hereafter "lender") is a residential mortgage lender who at all relevant times was doing business in Mississippi and may be served through its registered agent.

14. Defendant, Terry Green, is an adult resident citizen of Leflore County, Mississippi, who, at all times relevant herein, was an officer and employee of Bank of Commerce, serving as its vice president. Terry Green may be served at 1100 Jane Lane, Greenwood, Mississippi.

Persons Engaged in Enterprise Who Are Not Parties

15. Persons/entities who participated in a pattern of "racketeering activity" and who, along with Defendants named previously, participated in the "enterprise" at issue in this case include:

- a) Bobby F. Fisher, Jr., d/b/a Loan Closing Services Corporation (hereafter "Fisher"), an adult resident citizen of Leflore County, Mississippi, who was the incorporator of Leflore Properties, and who served as closing/settlement agent to close the Pilchers' loan. Fisher's address is 107 Grand Boulevard, Greenwood, Mississippi;
- b) Defendant, Terry Green, is an adult resident citizen of Leflore County, Mississippi, who, at all times relevant herein, was an officer and employee of Bank of Commerce, serving as its vice president.
- c) Defendant, Clark Patterson, is an adult resident citizen of Leflore County, Mississippi, who at all times relevant herein, was an officer and employee of State Bank & Trust Company.
- d) Daniel Floyd, 1413 North Park Avenue, Greenwood, Mississippi an employee of Bobby Fisher;

- e) Mississippi Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- f) Wholesale Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- g) Lincoln Mortgage Loans is a mortgage broker licensed by the State of Mississippi;
- h) Equiti Mortgage Corporation is a mortgage broker licensed by the State of Mississippi;
- i) Integrity Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- j) Statewide Mortgage Lending, Inc. is a mortgage broker licensed by the State of Mississippi;
- k) Prestige Title, Inc. is a closing settlement agent;
- l) Hope King is an employee of Prestige Title, Inc.
- m) Peggy Claiborne, address unknown, a mortgage broker licensed by the State of Mississippi;
- n) Wendy Hewlett, 117 County Road 317, Oxford, Mississippi, a mortgage broker licensed by the State of Mississippi;
- o) Family Mortgage, Inc., 2650 Levingston Road, Jackson, Mississippi, a mortgage broker, licensed by the State of Mississippi;
- p) Mid South Mortgage Corp., a mortgage broker, licensed by the State of Mississippi;

- q) Land Sure Title, LLC, 20 East Gate Drive, Suite C, Brandon, Mississippi, a closing settlement agent;
- r) Andrea Moore, address unknown, Jim Pruett's secretary;
- s) Loan Closing and Title Services, address unknown, a loan closing/settlement agent;
- t) Homeland Title & Abstract Company, Inc., 953 North Street, Jackson, Mississippi, a loan closing/settlement agency;
- u) James W. Abernathy, Jr., Pine Court, Starkville, Mississippi, is an attorney;
- v) Robert D. Harrison, 6700 Old Canton Road, Suite B, Ridgeland, Mississippi, is an attorney;
- w) Allison Miller, present address unknown, an employee of LandSure Title, LLC;
- x) William "Bill" Atkinson, present address unknown, an employee of LandSure Title, LLC;
- y) Stephen Colson, 2301 14th Street, Suite 580, Gulfport, Mississippi, an attorney/officer of Prestige Title, Inc.;
- z) Johnny Young, 617 Avenue G, Greenwood, Mississippi, a painter/carpenter who Jim Pruett and/or Leflore Properties, Inc. and/or Coldwell Banker First Greenwood Leflore Realty, Inc., used to act as a "straw man" in Pruett's real estate dealings;

- aa) Johnny Rosa, 958 AHN seven Pines Road, Greenwood, Mississippi, a carpenter who also served as a "straw man" for Jim Pruett and/or Leflore Properties, Inc. and/or Coldwell Banker First Greenwood Leflore Realty, Inc.;
- bb) Lee Pruett, 611 Puckett Street, Greenwood, Mississippi, a "straw man" appraiser and the son of Jim and Linda Pruett;
- cc) Gary C. Ledbetter (hereafter "Ledbetter") who at relevant times herein was an employee of the United States Department of Agriculture (USDA), who worked in USDA's Greenwood, Mississippi office as Community Development Manager and as a loan approval officer for the USDA. Ledbetter's address is USDA office, 188 Highway 15 South, Pontotoc, Mississippi;
- dd) Ken Ellis, address unknown, who was an employee of First Greenwood and an agent of Coldwell Banker;
- ee) Mel Harris, address unknown, who was an employee of First Greenwood and an agent of Coldwell Banker;
- ff) Jason O'Bryant is an appraiser licensed by the State of Mississippi;
- gg) Del Cox, address unknown, who is an appraiser, licensed by the State of Mississippi;
- hh) Larry Kennedy, address unknown, who is an appraiser, licensed by the State of Mississippi;

- ii) Kevin Steed, address unknown, who is an appraiser, licensed by the state of Mississippi;
- jj) Fransene Berry, Georgetown, Mississippi, who is an appraiser, licensed by the State of Mississippi;
- kk) Joni Goss, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- ll) Toby Goss, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- mm) John Emory, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- nn) Wayne White, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- oo) Rickey Walker, deceased, who was and employee of Bobby Fisher and later of Prestige Title;
- pp) Jason Ellis, 115 Dorchester Court, Brandon Mississippi, who is a mortgage broker, licensed by the State of Mississippi;
- qq) Lance Persac, 441 Northpark, Suite A, Ridgeland, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;
- rr) Brad Landry, address unknown, who is a mortgage broker, licensed by the State of Mississippi;

ss) Professional Mortgage Consultants Corporation, 115 Dorchester Court, Brandon, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

tt) Mortgage Stop, Inc., c/o Lance Persac, 441 Northpark, Suite A, Ridgeland, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

uu) Matt Howard, Pine Bluff Road, Greenwood, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

vv) John Doe is a real estate appraiser, whose name is presently unknown, who the USDA paid to appraise the property at 4307 County Road 160, Greenwood, Mississippi, prior to the purchase of such property by Plaintiff, the Pilchers.

16. As stated previously, at all relevant times herein, Coldwell Banker, First Greenwood, Leflore Properties, Jim Pruett, Linda Pruett, Bank of Commerce, State Bank & Trust, People's Choice Funding, Inc. d/b/a People's Choice Home Loans, Inc., and others engaged in racketeering activities, committed two or more violations of Federal Criminal Statutes, and were participants in and were parties to an "enterprise" as defined by 18 U.S.C. 1961(4).

17. All Defendants and entities named above knew or should have known that interstate wire and mail instrumentalities were used or likely would be used in furtherance of aspects of the scheme(s) to be hereafter discussed.

18. Specifically, the United States Mail and the interstate wire service were used to transmit fraudulent loan documents, on multiple occasions. These transmissions occurred during a time period beginning with the application date of each respective loan, and continued from time to time thereafter up to and until the final transmission of the executed loan documents by the closing agent after the loan had been closed.

**First Greenwood, Jim Pruett, and Others Acted as Agents for
Coldwell Banker with Apparent Authority**

19. Coldwell Banker and First Greenwood occupied a franchisor/franchisee relationship, which began in 1990.

20. Coldwell Banker authorized First Greenwood, employees of First Greenwood, and Jim Pruett, to use Coldwell Banker's trademark, its name, its colors, its logo, its insignia, its design, etc., in buying, selling and listing for sale residential real estate, in dealing with third parties, (including Plaintiffs) in the purchase/sale of such real estate, and in so doing, allowed First Greenwood to possess apparent authority to act as its agent.

21. Coldwell Banker advertised locally and nationally for the purpose of leading third parties, dealing with its franchisees (like First Greenwood) to believe in, and rely upon, the integrity of its franchisees.

22. Coldwell Banker, through its advertising programs, through its public support of its franchisees/agents, led third parties, dealings with its franchisees/agents, to reasonably believe that its franchisees/agents were trustworthy/honest, etc.

23. Thus, Coldwell Banker lent an "air of legitimacy" to the racketeering activities to be hereafter described. Coldwell Banker also agreed to, and participated in these activities.

Racketeering Activities – Jim Pruett's Involvement

24. Jim Pruett operated out of First Greenwood's office, which prominently displayed Coldwell Banker's colors, logo, insignia and name, with Coldwell Banker's full knowledge and consent. Third parties dealing with Jim Pruett could not reasonably distinguish business activities conducted by Jim Pruett individually from the business interests/activities of Coldwell Banker. Acting as agent for Coldwell Banker, with actual or apparent authority from Coldwell Banker, Jim Pruett routinely engaged in the following conduct:

- a) Mr. Pruett routinely purchased properties from third parties who desired to sell properties;
- b) Mr. Pruett routinely obtained market value appraisals on properties that were offered to him for purchase which he utilized to establish prices he paid on properties he purchased from third parties;
- c) Mr. Pruett conspired with appraisers to provide appraisals which expressed market values, at below market value rates, on properties which Mr. Pruett purchased from third parties;
- d) Mr. Pruett routinely misrepresented the value of properties he purchased from third parties, and he used such appraisals to support such

misrepresentations, thereby assisting him in misleading sellers of these properties as to the true values of properties purchased;

e) Mr. Pruett also frequently bid to purchase properties that had been financed through the United States Department of Agriculture, which were the subject of foreclosure proceedings;

f) In exchange for "kickbacks", which Mr. Pruett provided to Gary Ledbetter, the individual employed by the USDA to handle USDA foreclosures, Mr. Pruett was designated by Mr. Ledbetter as the "high bidder" on foreclosed properties offered by the USDA for sale, which enabled Mr. Pruett to purchase USDA foreclosed properties at below market rates on multiple occasions;

g) Mr. Pruett routinely took title to properties he acquired from third parties and via foreclosure, in the names of various "straw buyers," namely Johnny Young, Johnny Rosa, and on occasion his own son, Lee Pruett for the purpose of concealing Mr. Pruett's personal involvement in this enterprise;

h) Pruett obtained funds to purchase properties (via USDA foreclosure and from third parties) from loans made by Bank of Commerce as well as another co-conspirator, State Bank & Trust Company;

i) Mr. Pruett also paid a bank employee(s) kickbacks for agreeing to finance his property purchases through "straw men" owners;

j) After Jim Pruett acquired properties – whether from third parties or by foreclosure from the USDA – Jim Pruett would advertise the property he acquired as being for sale by or through First Greenwood and/or by or through Coldwell Banker, leading prospective buyers of these properties to believe that they were owned by First Greenwood and/or Coldwell Banker;

k) Mr. Pruett routinely misrepresented the value and condition of the properties that he advertised for sale to prospective purchasers, misrepresented the repairs he intended to make on these properties and thereby induced purchasers of such properties to agree to pay inflated values on properties Pruett owned, and to borrow monies in excess of the property's market in amounts which borrowers could not afford to repay;

l) Mr. Pruett routinely prepared sales contracts, which he would have purchasers sign, that contained a selling price. He would then modify the selling price at which the purchaser could purchase the property to reflect a higher selling price to justify selling the property at a higher price and to satisfy lending requirements imposed by involved mortgage lenders;

m) Mr. Pruett obtained inflated appraisals of the properties he held for resale for the purpose of persuading unsuspecting buyers to agree to pay values that exceeded the properties market values to satisfy lending requirements imposed by mortgage lenders, and to induce innocent borrowers to agree to borrow sums that exceeded the property's value;

n) Mr. Pruett conspired with selected mortgage brokers who, with full knowledge of Mr. Pruett's fraudulent conduct, proceeded to secure loans from mortgage lenders to enable purchasers to purchase said properties, paying excessive prices and borrowing amounts that exceed the property's values;

o) Mr. Pruett and mortgage brokers working in concert with Mr. Pruett prepared/falsified documents to distort borrowers' capacity to repay loans for the purpose of satisfying "paper" requirements imposed by mortgage lenders, who agreed to loan monies to purchasers, who did not qualify for loans in amounts applied for, under unfavorable loan terms, in amounts which borrowers could not afford to repay, secured by properties whose values were misrepresented;

p) Mr. Pruett and Coldwell Banker agents and mortgage brokers working in concert with Mr. Pruett would routinely advise borrowers that if they paid their house payments for a period of one to two years, the lender would refinance the property, thus lowering the borrower's monthly payment.

The Entire Coldwell Banker Office Participated in the Scheme

25. Defendant Linda Pruett was the President and a director of Coldwell Banker First Greenwood and Leflore Properties. Ms. Pruett worked in the Coldwell Banker office with Jim Pruett and was aware of all aspects of the

scheme being perpetrated by her husband, Jim Pruett, and actively participated in it.

26. Andrea Moore was Jim Pruett's secretary. As such, she had actual knowledge of acts of fraud being perpetrated by Jim Pruett and participated in the preparation of fraudulent documents utilized to qualify unqualified buyers for loans. These false/fraudulent loan documents were routinely sent by mail or wire to mortgage lenders who loaned monies to purchasers of Pruett owned properties and/or properties sold by/through Coldwell Banker. Additionally, Andrea Moore notarized numerous documents, which were forgeries.

27. Ken Ellis, like Jim Pruett, worked as an employee in the Coldwell Banker First Greenwood office. Ellis was aware of the scheme(s) being perpetrated by Jim Pruett and actively participated in it. Mr. Ellis, as an employee of Coldwell Banker First Greenwood, was paid commissions and "under the table" kickbacks for each home which Jim Pruett owned, as to which he found a buyer.

28. Mel Harris, like Jim Pruett, likewise worked as an employee in Coldwell Banker First Greenwood's office. Ms. Harris was aware of the scheme(s) being perpetrated by Jim Pruett and Coldwell Banker and actively participated in it. Ms. Harris, as an employee of Coldwell Banker First Greenwood, was paid commissions and kickbacks for each home which Jim Pruett owned, as to which she found a buyer.

**Involvement/Participation of Real Estate Appraisers in
Scheme/Enterprise**

29. Del Cox is a real estate appraiser, licensed by the State of Mississippi, who provided appraisals of properties purchased by Jim Pruett, (in whatever name selected by Jim Pruett (Leflore Properties, Johnny Young, Johnny Rosa, lee Pruett)) at whatever value Jim Pruett selected.

30. Mr. Cox's appraisals were used by Mr. Pruett to persuade property owners to whom Mr. Pruett sold properties to agree to purchase such properties for prices that exceeded the market value of the properties.

31. Larry Kennedy is a real estate appraiser, licensed by the State of Mississippi, likewise furnished appraisals to Jim Pruett at whatever values Pruett selected.

32. Mr. Kennedy's inflated appraisals were utilized by Mr. Pruett to persuade purchasers to pay amounts for properties owned by Pruett that exceeded the true values of the property.

33. Fransene Berry is an appraiser of residential real estate licensed by the State of Mississippi. Ms. Berry's role in the enterprise at issue in this case was to furnish appraisals of properties, acquired by Jim Pruett, which contained market value estimates determined by Pruett, knowing that these appraisals would be used by Pruett to justify both bank loans from third party lenders by/on behalf of buyers/purchasers of the property.

34. Jason O'Bryant is also an appraiser of residential real estate licensed by the State of Mississippi. Mr. O'Bryant's role in the enterprise at issue in this case was similar to that employed by Berry and previously described.

35. Kevin Steed is also an appraiser of residential real estate licensed in the State of Mississippi. Mr. Steed's role in the enterprise at issue in this case was similar to that employed by Berry and previously described.

**Interim Lenders, Two Banks, Participated In Enterprise
And "Bankrolled" the Scheme**

36. Defendant, Bank of Commerce, through its vice president Terry Green, and defendant State Bank & Trust, through its loan officer Clark Patterson, actively participated in the enterprise described previously in the following respects:

- a) Bank of Commerce and State Bank in effect "bankrolled" the enterprise by loaning monies to Jim Pruett to enable him to acquire properties at below market prices;
- b) Bank of Commerce and State Bank knew that Jim Pruett was taking title to properties he acquired in "straw purchasers" names and permitted Jim Pruett to secure loans on properties that Pruett did not own;
- c) Terry Green and Clark Patterson routinely employed Bobby Fisher and other attorneys to provide title opinions to Bank of Commerce and State Bank & Trust that Green, Patterson, and Pruett knew were false;

d) Green and Patterson, and perhaps others in the bank, knew that Pruett obtained appraisals of properties in amounts that exceeded market values of properties appraised;

e) Bank of Commerce and State Bank & Trust knew that properties that served as collateral for Bank of Commerce loans were being routinely "flipped";

f) Bank of Commerce and State Bank & Trust knew that properties that served as collateral for Bank of Commerce loans were being routinely sold to third parties, who had been induced to borrow monies in amounts that exceeded the market values of properties that such third parties were purchasing;

g) Bank of Commerce and State Bank & Trust knew that the proceeds such of loans made to such third parties, were utilized by Jim Pruett to repay Pruett's loans to Bank of Commerce and State Bank & Trust.

37. State Bank & Trust, through its loan officer Clark Patterson also knew about and participated in the foregoing enterprise. Mr. Patterson and State Bank & Trust, like Bank of Commerce, effectively "bankrolled" the "straw men" utilized by Jim Pruett to obtain properties, and then resell these properties to unsuspecting buyers at amounts that exceeded market value. Clark Patterson received kickbacks from Jim Pruett for approving loans to Jim Pruett's "straw men" and Mr. Patterson was fully aware of the fact that appraisals utilized to

support Jim Pruett's resale of these properties did not accurately reflect market values.

Participation of Mortgage Brokers in Enterprise/Scheme

38. Joni Goss is a mortgage broker licensed by the State of Mississippi who operated in the name of several corporate entities, including Mississippi Mortgage, Inc., Statewide Lending, Lincoln Mortgage Loans, Eqiti Mortgage, and others. Ms. Goss was one of the mortgage brokers who Jim Pruett employed/contacted for the purpose of arranging mortgage financing on sales of properties which Pruett owned or which were offered for sale by/through Coldwell Banker, to third parties to whom Pruett intended to sell such properties. Ms. Goss had knowledge of and actually participated in the scheme which Jim Pruett employed to defraud buyers of property which Jim Pruett acquired and/or offered for sale by/through Coldwell Banker in the following respects:

- a) Ms. Goss knew that the potential buyers of such properties could not qualify for loans in the amounts that were needed to enable purchasers to acquire such properties and pay the inflated prices Pruett sought;
- b) Ms. Goss also knew that the economic status of such borrowers was such that even if they were able to obtain such loans, they would not be able to make payments to satisfy the loans, which were being arranged for them.

c) Ms. Goss participated in the preparation of false documents, which were routinely sent to mortgage lenders by mail/fax, which distorted prospective buyer's ability to repay loans.

d) Ms. Goss knew that other parties/participants in this scheme were likewise preparing false loan documents, applicable to potential buyers of properties, which also were being mailed to lenders.

e) Ms. Goss knew of and participated in a kickback scheme in which loan proceeds were diverted to mortgage brokers, including herself, as well as to closing attorneys, and appraisers.

39. Toby Goss is a mortgage broker licensed by the State of Mississippi who has operated through several corporate entities, including Mississippi Mortgage, Inc. Mr. Goss engaged in fraudulent conduct similar to the conduct in which Joni Goss engaged, as described in the preceding paragraph.

40. John Emory is a mortgage broker licensed by the State of Mississippi. He has operated through several corporate entities, including Wholesale Mortgage, Inc., and others. Mr. Emory engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss, and as is outlined above.

41. Wayne White is a mortgage broker licensed by the State of Mississippi who has operated as a mortgage broker through several corporate entities, including Wholesale Mortgage, Inc. Mr. White engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss, and as is outlined above.

42. Jason Ellis, Brad Landry and Matt Howard are mortgage brokers, licensed by the State of Mississippi, who operated through several corporate entities, including Professional Mortgage Consultants, Inc. Mr. Ellis, Mr. Landry and Mr. Howard engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

43. Lance Persac is a mortgage broker, licensed by the State of Mississippi, who has operated through several corporate entities, including Mortgage Stop, Inc. Mr. Persac engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

44. Professional Mortgage Consultants Corp. is a mortgage broker licensed in the State of Mississippi, which engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

Participation Of Attorneys Hired To Prepare Loan Documents/Close Loans

45. Bobby Fisher is a Greenwood lawyer whose practice was at all relevant times herein, primarily limited to handling real estate transactions. Mr. Fisher's role/involvement in this scheme/enterprise included:

- a) Mr. Fisher attended the closings of sales of property owned by Jim Pruett, Pruett's employees, and properties owned by third party sellers which were sold by/through Coldwell Banker;
- b) Unsuspecting purchasers of such properties were led to believe, by Mr. Pruett and his employees, that Fisher was present at the closing to represent/protect their interests;

- c) Fisher had full knowledge of all aspects of the scheme that was being perpetrated by Jim Pruett;
- d) Fisher knew that appraisals utilized by Pruett were in amounts that exceeded market values;
- e) Fisher knew that Pruett was engaged in paying kickbacks;
- f) Fisher was aware that Pruett paid kickbacks to the representative with whom he was dealing with the USDA, and that kickbacks were also being paid to mortgage brokers from loan proceeds;
- g) Mr. Fisher maintained a bank account, which he utilized to divert monies from closings to third parties, which concealed the fraud that was being perpetrated on unsuspecting borrowers;
- h) Mr. Fisher, while purporting to act as attorney for purchaser/borrowers, in fact acted contrary to the interests of his so-called clients and deliberately refrained from disclosing to borrowers/purchasers the fact that they were being defrauded;
- i) Mr. Fisher knew that sales contracts in which Pruett was a party were altered by Pruett;
- j) Mr. Fisher knew about and participated in the preparation of false loan documents, which distorted/inflated borrower/purchasers' financial capacity to repay the loans which Fisher closed, which were routinely mailed to mortgage lenders;
- k) Fisher knew of Plaintiffs' inability to repay the loans that he closed;

l) Mr. Fisher conspired with the other members of the enterprise, namely Mr. Pruett, Mr. Green, and Mr. Patterson, to provide incorrect title opinions to the Bank of Commerce and to State Bank & Trust which inaccurately reflected that there had been no transfers of the properties within one year for the purpose of covering the exposure of these bankers to claims of "flipping".

46. Loan Closing Services Corporation was a corporate entity created by Bobby Fisher, which employed Bobby Fisher, Daniel Floyd, Christy Smith, Kristen Taylor, Diane Kelly, John Burton, Matt Howard, Randy Glover, Paul Blakely, Rickey Walker, Jason O'Bryant, and others. All persons affiliated with this entity knew about and participated in the enterprise and were paid kickbacks, by Fisher, following closing of these loans.

47. Prestige Title is a title insurance company, which was created by Steve Colson, an attorney with Maggio & Colson, LLC of Gulfport, Mississippi. Prestige Title was aware of the acts of fraud, as previously described, and attended loan closings, purporting to act as attorneys for borrowers/purchasers after Mr. Fisher was no longer able to do so due to the fact that he had lost his ability to write title insurance. Prestige Title/Steve Colson's knowledge of wrongdoing/fraud perpetrated by Pruett, mortgage brokers, etc., was identical to Fisher's knowledge/involvement previously described.

48. Landsure Title, Homeland Title, Loan Closing and Title Services, and Robert Harrison acted as closing agents for the involved lenders and were aware of the fraud and criminal activity and participated in it.

49. Rickey Walker, now deceased, was an employee of Bobby Fisher and later at Prestige Title, Inc. who engaged in the same type of fraudulent conduct as was perpetrated by Bobby Fisher and as is outlined previously.

Participation Of Mortgage Lenders In Enterprise

50. Before the dates of the transactions at issue in this lawsuit People's Choice Funding, Inc., d/b/a People's Choice Home Loans, Inc. (hereafter "lender") decided, as a corporate strategy, to engage in sub-prime lending, i.e., that it would be profitable to make high interest rate residential real estate loans to a particular, targeted, group of Mississippians, who hereafter referred to as "Targeted Borrowers."

51. The Mississippians from whom lender decided to solicit this business had limited education, had little expertise/sophistication in real estate transactions, had impaired credit, generally were first time homeowners, and often were members of a minority racial group.

52. This group of Mississippians was targeted by lender for this business because lender felt that this group of Borrowers could be easily misled and could easily be overreached.

53. Lender actively encouraged mortgage brokers (Mississippi Mortgage, Wholesale Mortgage, Mortgage Stop, etc.) to solicit applications for

sub-prime loans, to be secured by residential real estate, from Targeted Borrowers.

54. These mortgage brokers:

- a) Solicited loan applications from Borrowers which were sent, by mail, to mortgage lenders for review for accuracy/authenticity, etc. by employees of mortgage lenders;
- b) Gathered financial information from said Borrowers, which purportedly set forth the ability of these Borrowers to repay these loans;
- c) Assisted lender in procuring additional information needed by lender to facilitate its underwriting and closing of these loans;
- d) Selected Appraisers (or approved Appraisers selected by others, such as Jim Pruett/Coldwell Banker) to appraise properties utilized to secure these loans;
- e) Selected lawyers (or approved lawyers selected by others, such as Jim Pruett's/Coldwell Banker) to close the loans on terms/conditions prescribed by lender using loan-closing documents mandated by lender.

55. Jim Pruett also acted as agent for lender through various forms of advertisements (in the name of Coldwell Banker) located and identified "target borrowers" for lender who were interested in purchasing properties owned by Pruett.

56. Mortgage Brokers (or persons like Jim Pruett, acting in concert with these mortgage brokers), acting at the behest of and as agents for lender,

routinely contacted targeted borrowers desiring to purchase residential real estate for the purpose of securing loan applications from such prospective Borrowers.

57. Jim Pruett routinely assured such prospective borrowers that he had the capacity to "get them a loan".

58. Jim Pruett put persons who desired to purchase residential real estate that he owned as well as persons who desired to purchase real estate owned by third parties, which was listed for sale by/through Coldwell Banker in contact with these mortgage brokers.

59. These mortgage brokers promised prospective purchasers that they could "arrange" loans for these purchasers, usually with purchasers being relieved of any obligation to make any down payments on such loans.

60. These assurances led potential borrowers to believe that Jim Pruett and these Mortgage Brokers had ongoing business relationships with persons/entities who made real estate loans, (a belief which was both reasonable and true) or that Pruett/Coldwell Banker itself would loan monies to make these purchases.

61. These prospective Borrowers were led to believe that Jim Pruett and these mortgage brokers possessed information about the real estate loan procuring/closing process that was greater than/superior to that possessed by the prospective borrowers themselves. As a result, the prospective borrowers

reasonably believed the assurances and representations made by Jim Pruett/Coldwell Banker and the mortgage brokers.

62. Lender deliberately put these mortgage brokers in the position to foster that belief on the part of these borrowers by allowing these brokers to arrange mortgage loans on its behalf, by advising these brokers of its loan programs, by encouraging these brokers to solicit loan applications, etc.

63. Thus, these borrowers, in reliance upon the belief that Jim Pruett and these mortgage brokers possessed expertise in procuring and arranging loans of this type and that Mr. Pruett and these brokers would utilize that expertise in "getting them loans," provided basic financial data to Pruett, employees of Pruett, and these mortgage brokers, that was truthful and accurate.

64. The borrowers reasonably believed that the truthful and accurate financial data that they provided to Pruett, employees of Pruett, and these mortgage brokers would be submitted, without alteration, to the mortgage lenders with whom these parties had a business relationship.

65. However, Pruett, employees of Pruett, and the mortgage brokers themselves, deliberately modified data provided to them by borrowers and, in addition, prepared/falsified data and such fraudulent data was routinely mailed, as a part of this scheme/enterprise to mortgage lenders.

66. The mortgage lenders had, in place, guidelines/criteria which were designed to determine the accuracy of financial data submitted to them.

67. Upon receipt of borrower applications and supporting borrower financial data procured from Pruett or a mortgage broker, pursuant to underwriters employed by lenders were directed to review borrower applications/loan documents submitted by mortgage brokers.

68. But lender's underwriters routinely "overlooked"/failed to discover the existence of fraudulent documents in the data sent to them.

69. One of the job functions that lender's underwriters are supposed to perform was to look for forgeries. Lender's underwriters ignored the fraud and failed to discover forgeries in documents submitted to them for their review.

70. Such false loan documentation, in loan after loan, systematically distorted the financial ability of Borrower to repay these loans. Each and every false loan documentation was systematically "overlooked" by every lender representative whose job was to discover the presence of fraudulent documents.

71. Lender was perfectly content to make loans to borrowers who did not meet its credit criteria, who likely could not repay its loans, or who would experience extraordinary financial difficulty in repaying these loans.

72. Lender's failure to discover reoccurring, obvious fraudulent behavior by Pruett, by Pruett's employees and by the mortgage brokers with whom it dealt, by the closing attorneys selected by lender to close its loans, supports a finding that lender knew of such behavior and ratified it.

73. Put another way: if lender truly was interested in making sure that it made loans to persons who met its credit criteria, it would have certainly "discovered" this pattern of reoccurring/obvious fraud.

74. The fact that lender did not "discover" this fraud (by ignoring its own guidelines) supports a finding that it knew that Pruett, these brokers, Fisher, etc., were committing fraud in connection with its loans and nonetheless proceeded to make these loans anyway.

75. Alternatively, lender's failure to discover this fraud is the product of its "willful blindness" or deliberate ignorance.

76. After being promised by Pruett, or employees of Pruett, or these mortgage brokers that they could and would "get them a loan," borrowers simply waited to see whether this promise would be fulfilled.

77. Then, usually, with no advance notice – "out of the blue"— these borrowers would get a call from someone working in First Greenwood/Coldwell Banker's office or from the mortgage brokers, to advise that their loans had been "approved" and that the closing of their loan was scheduled, usually rather immediately.

78. Telling these borrowers that their loan applications had been approved led these borrowers to reasonably believe that the mortgage lender who had agreed to make these loans had reviewed the financial documents that they had earlier provided and, based upon that review, had determined that they

possessed sufficient assets/wealth/credit to borrow the monies they sought to borrow/repay the loans that were being made to them.

79. These borrowers proceeded to go forward with the closing of these loans in reliance upon the mistaken belief that their assets/liabilities/income were sufficient, as far as lender was concerned, to enable them to repay these loans.

80. This reliance, made in good faith and reasonable, was misplaced. Borrower assets/liabilities/income/capacity to borrow these monies had been deliberately distorted/inflated by the fraudulent loan documents which were routinely mailed to these lenders by Pruett/employees of Pruett/mortgage brokers/ and Fisher.

81. After assuring Borrowers that they had been approved for a loan, the borrowers were "summonsed" to loan closings, which occurred at dates, places, and times, determined by Pruett, by someone in Pruett's office, or the mortgage brokers.

82. Many of these borrowers had never before owned a house or attended a closing of a real estate loan.

83. Borrowers appeared at loan closings with no advance idea about the amount of money they would be borrowing, the interest rates they would be charged, the identity of the lender, who had agreed to loan them monies, or any other term under which they would be loaned money.

84. Lender sent loan closing documents and instructions, as well as funds to be utilized to close these loans, by mail, fax and/or e-mail, to closing attorneys, before these loans were closed.

85. At these loan closings, Plaintiffs were routinely presented a stack of legally complex loan closing documents, and it was made clear to these Plaintiffs that they must sign the documents presented to them as a condition to securing these loans.

86. These Plaintiffs, as a condition to securing these loans, were directed to sign documents, prepared by lender, which lender knew to be fraudulent, and which these Plaintiffs did not know were fraudulent.

87. The attorneys who closed these loans provided no explanation to Plaintiffs as to the legal significance of any of the documents these Plaintiffs were told to sign. At best, documents were identified by the nature of the documents themselves. For example, Plaintiffs were told no more than: this is a deed; this is a deed of trust, etc.

88. Plaintiffs usually were afforded no opportunity to read any documents that they signed. Few Plaintiffs would have understood the documents had they read them, due to their complexity/legalese. Closings usually took 15 (fifteen) minutes or so, sometimes longer, but not much longer. Many Plaintiffs felt rushed to sign documents.

89. At no time before any of these loans were closed did Pruett, any employee of Pruett or any mortgage broker or any closing attorney ever tell any

Plaintiff that any false/fraudulent loan documents had been prepared in connection with their loans, and mailed to any involved lender.

90. The failure of Pruett, employees of Pruett, or these Mortgage Brokers to apprise these Plaintiffs of the fact that false loan documents had been prepared in connection with their loans, that documents which inflated/distorted their ability to repay these loans had been mailed to these lenders, that these lenders had prepared false loan documents for these Plaintiffs' signatures constitutes, as a matter of law, acts of fraud on the part of these parties.

91. These Plaintiffs were also not told that these lenders had made a determination that some groups of borrowers, with specified levels of wealth, could likely repay its loans while other groups of borrowers, who did not possess pre-described levels of wealth, likely could not repay its loans. In proceeding to close these loans to these Plaintiffs, by implication, these Plaintiffs were led to believe and reasonably relied upon the belief that these lenders had made a determination that they had the financial capacity to be able to repay these loans.

Defendants' Particular Dealings with Plaintiffs

92. Defendants conspired with each other to sell residential real estate that Jim Pruett acquired (in the name of Leflore Properties) to the Plaintiffs.

93. Jim Pruett, acting in the name of Leflore Properties or in the name of some other "straw man" purchaser, purchased USDA-owned property and previously foreclosed or third party owned property, at foreclosure sales, at a

fraction of the property's fair market value, and then through the process as previously described resold the properties at substantial profit to the Plaintiffs at a price that far exceeded the market value of the properties.

94. In other instances the same conduct accompanied the sale of third party-owned property listed for sale with Coldwell Banker with the same damages resulting to the Plaintiffs.

95. The Plaintiffs relied upon the misrepresentations of the defendants. The Plaintiffs were the victims of the fraudulent scheme or enterprise perpetrated by the defendants.

96. Funds utilized to close this transaction were sent to the closing agent by wire or by mail.

97. Each of the defendants was aware of, approved, was a willing participant in, and profited from all conduct set forth in the preceding paragraphs. In the alternative, the defendants were guilty of "willful blindness" with respect to such conduct.

98. Defendants' conduct constituted a violation of 18 U.S.C. §1962(a), (b), (c), and (d).

99. Plaintiffs suffered actual damages, including damages for emotional distress, humiliation, and economic damages, including the difference in the value of the house they purchased from Pruett/Leflore Properties as represented versus the true market value of such house in the amount of, at a minimum, \$100,000.00 each.

100. As a result of the foregoing wrongful acts and omissions, the Defendants are liable to Plaintiffs for all damages allowed pursuant to 18 U.S.C. §1964(c) and 15 U.S.C. §1639(h).

101. As a result of the foregoing wrongful acts and omissions, the Defendants are liable to Plaintiffs for damages sustained by Plaintiffs based upon, the following pendant state claims state:

- a) Breach of fiduciary duty;
- b) Misrepresentation;
- c) Deceptive sales practices;
- d) Fraudulent concealment;
- e) Intentional infliction of emotional distress.

102. Each of the above named persons/entities conspired to perform two or more predicate acts, which included numerous instances of wire fraud in violation of 18 U.S.C. §1343, numerous instances of mail fraud in violation of 18 U.S.C. §1341, and numerous instances of money laundering in violation of 18 U.S.C. §1956 and 18 U.S.C. §1957.

103. Defendants and entities named above violated 18 U.S.C. §1341 and 18 U.S.C. §1343 in devising, on multiple occasions, a scheme(s) or artifice(s) to obtain money or property by false and/or fraudulent pretenses, representations, and promises as contained in the various loan documents including, without limitation, sales contracts, loan applications, verification documents, and HUD-1 Settlement Statements.

104. All or some of the Defendants and entities named above used the U.S. mail and/or private or commercial interstate carriers in the furtherance of such scheme(s).

WHEREFORE, PLAINTIFFS DEMAND:

A. Actual damages, including the difference between the value of the house as represented, versus the true value of such house, damages for emotional distress, humiliation, and economic damages in the amount of \$100,000.00 against each defendant, jointly and separately.

B. Punitive damages against each defendant, individually and jointly, in an amount sufficient to deter such defendants from hereafter, engaging in such wrongful conduct in the future.

C. Attorneys fees and expenses and treble damages pursuant to 18 §U.S.C. 1964(c).

RESPECTFULLY SUBMITTED, this the 31st day of May, 2006.

Of Counsel:

Lake Tindall, LLP
P.O. Box 918
127 South Poplar Street
Greenville, MS 38702-0918
Telephone: 662-378-2121
Facsimile: 662-332-5325

s/C. W. Walker III
C.W. Walker III
MS Bar No. 6870

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of May, 2006, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Christopher A. Shapley, Esquire	cshapley@brunini.com
Joseph Anthony Sclafani, Esquire	jsclafani@brunini.com
H. Hunter Twiford III, Esquire	htwiford@mcglinchey.com
April D. Reeves, Esquire	areeves@watkinsludlam.com

and I further certify that I have mailed by United States Postal Service the document to the following non-ECF participants: None.

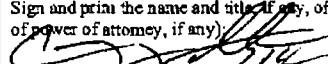
/s/ C.W. Walker III

W:\26000_Dir\26021\Pleadings-Federal Court\Amended Complaint.doc

People's Choice Financial Corporation

Proof of Claim #103

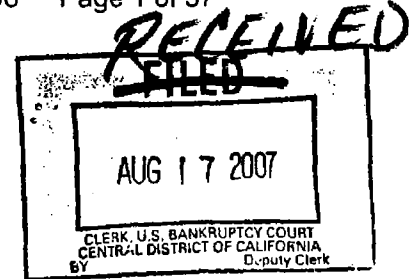
Case 8:07-bk-10772-RK Claim 103-1 Filed 08/17/07 Desc Main Document Page 1 of 38

United States Bankruptcy Court for the Central District of California		PROOF OF CLAIM
Name of Debtor People's Choice Financial Corporation		Case Number 07-10772
NOTE: This form should not be used to make a claim for an administrative expense arising after the commencement of the case. A "request" for payment of an administrative expense may be filed pursuant to 11 U.S.C. § 503.		This Space For Court Use Only
Name of Creditor (The person or other entity to whom the debtor owes money or property): JOHNNY AND MARY PRICE AND LATRENDA M CITIZEN	<input type="checkbox"/> Check box if you are aware that anyone else has filed a proof of claim relating to your claim. Attach copy of statement giving particulars. <input type="checkbox"/> Check box if you have never received any notices from the bankruptcy court in this case. <input type="checkbox"/> Check box if the address differs from the address on the envelope sent to you by the court.	<div style="border: 2px solid black; padding: 10px; width: fit-content; margin: auto;"> <p style="text-align: center; font-weight: bold; font-size: 1.2em;">FILED</p> <p style="text-align: center; font-weight: bold; font-size: 1.5em;">AUG 17 2007</p> <p style="text-align: center; font-size: 0.8em;">CLERK U.S. BANKRUPTCY COURT CENTRAL DISTRICT OF CALIFORNIA Deputy Clerk</p> </div>
Name and Address where notices should be sent: JOHNNY AND MARY PRICE AND LATRENDA M CITIZEN C/O CW WALKER III & FRANK S THACKSTON JR LAKE TINDALL LLP PO BOX 918 GREENVILLE MS 38702-0918		
Telephone Number:	Last four digits of account or other number by which creditor identifies debtor:	
1. Basis for Claim <input type="checkbox"/> Goods sold <input type="checkbox"/> Services performed <input type="checkbox"/> Money loaned <input type="checkbox"/> Personal injury/wrongful death <input type="checkbox"/> Taxes <input checked="" type="checkbox"/> Other intentional tort, mail & wire fraud, RICO violations (date) _____ (date) _____		<input type="checkbox"/> Retiree benefits as defined in 11 U.S.C. § 1114(a) <input type="checkbox"/> Wages, salaries, and compensation (fill out below) Last four digits of your SS #: _____ Unpaid compensation for services performed from _____ to _____
2. Date debt was incurred: 2/3/03 Price, 1/29/03 Citizen		3. If court judgment, date obtained: pending lawsuit
4. Classification of Claim. Check the appropriate box or boxes that best describe your claim and state the amount of the claim at the time case filed. See reverse side for important explanations. Unsecured Nonpriority Claim \$ unknown amount <input checked="" type="checkbox"/> Check this box if: a) there is no collateral or lien securing your claim, or b) your claim exceeds the value of the property securing it, or if c) none or only part of your claim is entitled to priority.		
Unsecured Priority Claim. <input type="checkbox"/> Check this box if you have an unsecured claim, all or part of which is entitled to priority Amount entitled to priority \$ _____ Specify the priority of the claim: <input type="checkbox"/> Domestic support obligations under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B). <input type="checkbox"/> Wages, salaries, or commissions (up to \$10,000),* earned within 180 days before filing of the bankruptcy petition or cessation of the debtor's business, whichever is earlier - 11 U.S.C. § 507(a)(4). <input type="checkbox"/> Contributions to an employee benefit plan - 11 U.S.C. § 507(a)(5).		Secured Claim. <input type="checkbox"/> Check this box if your claim is secured by collateral (including a right of setoff). Brief Description of Collateral: <input type="checkbox"/> Real Estate <input type="checkbox"/> Motor Vehicle <input type="checkbox"/> Other _____ Value of Collateral \$ _____ Amount of arrearage and other charges at time case filed included in secured claim, if any: \$ _____
5. Total Amount of Claim at Time Case Filed: \$ <u>unknown</u> (Unsecured) (Secured) (Priority) (Total)		<input type="checkbox"/> Up to \$2,225* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use - 11 U.S.C. § 507(a)(7). <input type="checkbox"/> Taxes or penalties owed to governmental units - 11 U.S.C. § 507(a)(8). <input type="checkbox"/> Other - Specify applicable paragraph of 11 U.S.C. § 507(a)(____). * Amounts are subject to adjustment on 4/1/07 and every 3 years thereafter with respect to cases commenced on or after the date of adjustment.
<input type="checkbox"/> Check this box if claim includes interest or other charges in addition to the principal amount of the claim. Attach itemized statement of all interest or additional charges.		
6. Credits: The amount of all payments on this claim has been credited and deducted for the purpose of making this proof of claim. 7. Supporting Documents: Attach copies of supporting documents, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, court judgments, mortgages, security agreements, and evidence of perfection of lien. DO NOT SEND ORIGINAL DOCUMENTS. If the documents are not available, explain. If the documents are voluminous, attach a summary. 8. Date-Stamped Copy: To receive an acknowledgment of the filing of your claim, enclose a stamped, self-addressed envelope and copy of this proof of claim		This Space For Court Use Only
Date: 8-14-07	Sign and print the name and title, if any, of the creditor or other person authorized to file this claim (attach copy of power of attorney, if any): 	

Penalty for presenting fraudulent claim: Fine up to \$500,000 or imprisonment for up to 5 years, or both. 18 U.S.C. §§ 152 and 3571



**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**



**JOHNNY and MARY PRICE, and
LATREDA M. CITIZEN**

PLAINTIFFS

VS.

CIVIL ACTION NO. 4:05cv170-D-A

**COLDWELL BANKER REAL
ESTATE CORPORATION, COLDWELL
BANKER FIRST GREENWOOD-LEFLORE
REALTY, INC., LEFLORE PROPERTIES, INC.,
JIM PRUETT, LINDA PRUETT,
BANK OF COMMERCE, STATE BANK &
TRUST COMPANY, PEOPLE'S CHOICE
FUNDING, INC., d/b/a PEOPLE'S CHOICE
HOME LOANS, INC. and TERRY GREEN**

DEFENDANTS

AMENDED COMPLAINT

The above named Plaintiffs assert the causes of action to be hereafter stated against each Defendant named above, and in support thereof would state as follows.

Jurisdictional and Venue Allegations

1. Each Defendant named above, as is set forth in the paragraphs that follow, has violated the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §1962, et seq. (RICO).

2. In particular, each Defendant named above has participated in a pattern of "racketeering activity" by each committing two or more violations of Federal criminal statutes, including statutes relating to mail fraud and wire fraud.

3. These Defendants each were members of a group of persons, who invested in and/or maintained an interest in, and/or participated in an "enterprise," which was engaged in and/or which affected interstate commerce.

4. Subject matter jurisdiction and venue exists in this case, in whole and/or in part, pursuant to the following federal statutes:

- a) Section 1964(a) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1964(a);
- b) Section 1964(c) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1964(c);
- c) Section 1965(a) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(a);
- d) Section 1965(b) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(b);
- e) Section 1965(d) of the Racketeer Influenced and Corrupt Organizations Act of 1970 ("RICO") Title 18 United State Code § 1965(d);
- f) Federal Question Jurisdiction, Title 28 United States Code § 1331;
- g) Sections 2201-2202 of the Federal Declaratory Judgment Act of 1946, title 28 United States Code §§2201-2202;
- h) Federal Regulation of Commerce Jurisdiction, Title 28 United States Code §1337;
- i) Federal Supplemental Jurisdiction, Title 28 United States Code §1367(b);

j) Federal General Venue, Title 28 United States Code §1391(b).

Parties

5. Plaintiffs are adult resident citizens of Leflore County, Mississippi.

6. Defendant, Coldwell Banker Real Estate Corporation (hereafter "Coldwell Banker") is a corporation, which does and has in the past done business in Leflore County, Mississippi. Coldwell Banker may be served through its registered agent, Corporation Service Company, 506 South President Street, Jackson, Mississippi.

7. Defendant, Coldwell Banker First Greenwood-Leflore Realty, Inc. (hereafter "First Greenwood") is a Mississippi corporation, which has done business in Leflore County, Mississippi since approximately December of 1989. First Greenwood may be served through its registered agent, Linda Pruett, 605 Dunklin Avenue, Greenwood, Mississippi.

8. Defendant, Leflore Properties, Inc., (hereafter "Leflore Properties") is a Mississippi corporation, which has done business in Leflore County, Mississippi since February of 1994 and has operated out to the same office as First Greenwood. Leflore Properties may be served through its registered agent, Jim Pruett, 605 Dunklin Avenue, Greenwood, Mississippi.

9. Defendant, Jim Pruett, is an adult resident citizen of Leflore County, Mississippi, who at all relevant times herein, acted as an agent for Coldwell Banker, was the treasurer, secretary, and a director of First Greenwood, and was

an officer and director of Leflore Properties. Jim Pruett may be served at 605 Dunklin Avenue, Greenwood, Mississippi.

10. Defendant, Linda Pruett, is an adult resident citizen of Leflore County, Mississippi, who at all relevant times herein, served as president and a director of First Greenwood, served as president and a director of Leflore Properties, Inc., and was designated as a "responsible agent and/or broker" in the written Franchise Agreement that existed between Coldwell banker and First Greenwood. Ms. Pruett may be served at 605 Dunklin Avenue, Greenwood, Mississippi.

11. Defendant, Bank of Commerce, is a Mississippi banking corporation whose principal place of business is at 310 Howard Street, Greenwood, Mississippi. Bank of Commerce may be served at 310 Howard Street, Greenwood, Mississippi.

12. Defendant, State Bank & Trust Company, is a Mississippi banking corporation whose principal place of business is at 500 West Park Avenue, Greenwood, Mississippi. State Bank & Trust can be served at 500 West Park Avenue, Greenwood, Mississippi.

13. Defendant, People's Choice Funding, Inc., d/b/a People's choice Home Loans, Inc., (hereafter "lender") is a residential mortgage lender who at all relevant times was doing business in Mississippi and may be served through its registered agent.

14. Defendant, Terry Green, is an adult resident citizen of Leflore County, Mississippi, who, at all times relevant herein, was an officer and employee of Bank of Commerce, serving as its vice president. Terry Green may be served at 1100 Jane Lane, Greenwood, Mississippi.

Persons Engaged in Enterprise Who Are Not Parties

15. Persons/entities who participated in a pattern of "racketeering activity" and who, along with Defendants named previously, participated in the "enterprise" at issue in this case include:

- a) Bobby F. Fisher, Jr., d/b/a Loan Closing Services Corporation (hereafter "Fisher"), an adult resident citizen of Leflore County, Mississippi, who was the incorporator of Leflore Properties, and who served as closing/settlement agent to close the Pilchers' loan. Fisher's address is 107 Grand Boulevard, Greenwood, Mississippi;
- b) Defendant, Terry Green, is an adult resident citizen of Leflore County, Mississippi, who, at all times relevant herein, was an officer and employee of Bank of Commerce, serving as its vice president.
- c) Defendant, Clark Patterson, is an adult resident citizen of Leflore County, Mississippi, who at all times relevant herein, was an officer and employee of State Bank & Trust Company.
- d) Daniel Floyd, 1413 North Park Avenue, Greenwood, Mississippi an employee of Bobby Fisher;

- e) Mississippi Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- f) Wholesale Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- g) Lincoln Mortgage Loans is a mortgage broker licensed by the State of Mississippi;
- h) Equiti Mortgage Corporation is a mortgage broker licensed by the State of Mississippi;
- i) Integrity Mortgage, Inc. is a mortgage broker licensed by the State of Mississippi;
- j) Statewide Mortgage Lending, Inc. is a mortgage broker licensed by the State of Mississippi;
- k) Prestige Title, Inc. is a closing settlement agent;
- l) Hope King is an employee of Prestige Title, Inc.
- m) Peggy Claibome, address unknown, a mortgage broker licensed by the State of Mississippi;
- n) Wendy Hewlett, 117 County Road 317, Oxford, Mississippi, a mortgage broker licensed by the State of Mississippi;
- o) Family Mortgage, Inc., 2650 Levingston Road, Jackson, Mississippi, a mortgage broker, licensed by the State of Mississippi;
- p) Mid South Mortgage Corp., a mortgage broker, licensed by the State of Mississippi;

- q) Land Sure Title, LLC, 20 East Gate Drive, Suite C, Brandon, Mississippi, a closing settlement agent;
- r) Andrea Moore, address unknown, Jim Pruett's secretary;
- s) Loan Closing and Title Services, address unknown, a loan closing/settlement agent;
- t) Homeland Title & Abstract Company, Inc., 953 North Street, Jackson, Mississippi, a loan closing/settlement agency;
- u) James W. Abernathy, Jr., Pine Court, Starkville, Mississippi, is an attorney;
- v) Robert D. Harrison, 6700 Old Canton Road, Suite B, Ridgeland, Mississippi, is an attorney;
- w) Allison Miller, present address unknown, an employee of LandSure Title, LLC;
- x) William "Bill" Atkinson, present address unknown, an employee of LandSure Title, LLC;
- y) Stephen Colson, 2301 14th Street, Suite 580, Gulfport, Mississippi, an attorney/officer of Prestige Title, Inc.;
- z) Johnny Young, 617 Avenue G, Greenwood, Mississippi, a painter/carpenter who Jim Pruett and/or Leflore Properties, Inc. and/or Coldwell Banker First Greenwood Leflore Realty, Inc., used to act as a "straw man" in Pruett's real estate dealings;

aa) Johnny Rosa, 958 AHN seven Pines Road, Greenwood, Mississippi, a carpenter who also served as a "straw man" for Jim Pruett and/or Leflore Properties, Inc. and/or Coldwell Banker First Greenwood Leflore Realty, Inc.;

bb) Lee Pruett, 611 Puckett Street, Greenwood, Mississippi, a "straw man" appraiser and the son of Jim and Linda Pruett;

cc) Gary C. Ledbetter (hereafter "Ledbetter") who at relevant times herein was an employee of the United States Department of Agriculture (USDA), who worked in USDA's Greenwood, Mississippi office as Community Development Manager and as a loan approval officer for the USDA. Ledbetter's address is USDA office, 188 Highway 15 South, Pontotoc, Mississippi;

dd) Ken Ellis, address unknown, who was an employee of First Greenwood and an agent of Coldwell Banker;

ee) Mel Harris, address unknown, who was an employee of First Greenwood and an agent of Coldwell Banker;

ff) Jason O'Bryant is an appraiser licensed by the State of Mississippi;

gg) Del Cox, address unknown, who is an appraiser, licensed by the State of Mississippi;

hh) Larry Kennedy, address unknown, who is an appraiser, licensed by the State of Mississippi;

- ii) Kevin Steed, address unknown, who is an appraiser, licensed by the state of Mississippi;
- jj) Fransene Berry, Georgetown, Mississippi, who is an appraiser, licensed by the State of Mississippi;
- kk) Joni Goss, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- ll) Toby Goss, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- mm) John Emory, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- nn) Wayne White, address unknown, who is a mortgage broker, licensed by the State of Mississippi;
- oo) Rickey Walker, deceased, who was and employee of Bobby Fisher and later of Prestige Title;
- pp) Jason Ellis, 115 Dorchester Court, Brandon Mississippi, who is a mortgage broker, licensed by the State of Mississippi;
- qq) Lance Persac, 441 Northpark, Suite A, Ridgeland, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;
- rr) Brad Landry, address unknown, who is a mortgage broker, licensed by the State of Mississippi;

ss) Professional Mortgage Consultants Corporation, 115 Dorchester Court, Brandon, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

tt) Mortgage Stop, Inc., c/o Lance Persac, 441 Northpark, Suite A, Ridgeland, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

uu) Matt Howard, Pine Bluff Road, Greenwood, Mississippi, who is a mortgage broker, licensed by the State of Mississippi;

vv) John Doe is a real estate appraiser, whose name is presently unknown, who the USDA paid to appraise the property at 4307 County Road 160, Greenwood, Mississippi, prior to the purchase of such property by Plaintiff, the Pilchers.

16. As stated previously, at all relevant times herein, Coldwell Banker, First Greenwood, Leflore Properties, Jim Pruett, Linda Pruett, Bank of Commerce, State Bank & Trust, People's Choice Funding, Inc. d/b/a People's Choice Home Loans, Inc., and others engaged in racketeering activities, committed two or more violations of Federal Criminal Statutes, and were participants in and were parties to an "enterprise" as defined by 18 U.S.C. 1961(4).

17. All Defendants and entities named above knew or should have known that interstate wire and mail instrumentalities were used or likely would be used in furtherance of aspects of the scheme(s) to be hereafter discussed.

18. Specifically, the United States Mail and the interstate wire service were used to transmit fraudulent loan documents, on multiple occasions. These transmissions occurred during a time period beginning with the application date of each respective loan, and continued from time to time thereafter up to and until the final transmission of the executed loan documents by the closing agent after the loan had been closed.

**First Greenwood, Jim Pruett, and Others Acted as Agents for
Coldwell Banker with Apparent Authority**

19. Coldwell Banker and First Greenwood occupied a franchisor/franchisee relationship, which began in 1990.

20. Coldwell Banker authorized First Greenwood, employees of First Greenwood, and Jim Pruett, to use Coldwell Banker's trademark, its name, its colors, its logo, its insignia, its design, etc., in buying, selling and listing for sale residential real estate, in dealing with third parties, (including Plaintiffs) in the purchase/sale of such real estate, and in so doing, allowed First Greenwood to possess apparent authority to act as its agent.

21. Coldwell Banker advertised locally and nationally for the purpose of leading third parties, dealing with its franchisees (like First Greenwood) to believe in, and rely upon, the integrity of its franchisees.

22. Coldwell Banker, through its advertising programs, through its public support of its franchisees/agents, led third parties, dealings with its franchisees/agents, to reasonably believe that its franchisees/agents were trustworthy/honest, etc.

23. Thus, Coldwell Banker lent an "air of legitimacy" to the racketeering activities to be hereafter described. Coldwell Banker also agreed to, and participated in these activities.

Racketeering Activities – Jim Pruett's Involvement

24. Jim Pruett operated out of First Greenwood's office, which prominently displayed Coldwell Banker's colors, logo, insignia and name, with Coldwell Banker's full knowledge and consent. Third parties dealing with Jim Pruett could not reasonably distinguish business activities conducted by Jim Pruett individually from the business interests/activities of Coldwell Banker. Acting as agent for Coldwell Banker, with actual or apparent authority from Coldwell Banker, Jim Pruett routinely engaged in the following conduct:

- a) Mr. Pruett routinely purchased properties from third parties who desired to sell properties;
- b) Mr. Pruett routinely obtained market value appraisals on properties that were offered to him for purchase which he utilized to establish prices he paid on properties he purchased from third parties;
- c) Mr. Pruett conspired with appraisers to provide appraisals which expressed market values, at below market value rates, on properties which Mr. Pruett purchased from third parties;
- d) Mr. Pruett routinely misrepresented the value of properties he purchased from third parties, and he used such appraisals to support such

misrepresentations, thereby assisting him in misleading sellers of these properties as to the true values of properties purchased;

e) Mr. Pruett also frequently bid to purchase properties that had been financed through the United States Department of Agriculture, which were the subject of foreclosure proceedings;

f) In exchange for "kickbacks", which Mr. Pruett provided to Gary Ledbetter, the individual employed by the USDA to handle USDA foreclosures, Mr. Pruett was designated by Mr. Ledbetter as the "high bidder" on foreclosed properties offered by the USDA for sale, which enabled Mr. Pruett to purchase USDA foreclosed properties at below market rates on multiple occasions;

g) Mr. Pruett routinely took title to properties he acquired from third parties and via foreclosure, in the names of various "straw buyers," namely Johnny Young, Johnny Rosa, and on occasion his own son, Lee Pruett for the purpose of concealing Mr. Pruett's personal involvement in this enterprise;

h) Pruett obtained funds to purchase properties (via USDA foreclosure and from third parties) from loans made by Bank of Commerce as well as another co-conspirator, State Bank & Trust Company;

i) Mr. Pruett also paid a bank employee(s) kickbacks for agreeing to finance his property purchases through "straw men" owners;

j) After Jim Pruett acquired properties – whether from third parties or by foreclosure from the USDA – Jim Pruett would advertise the property he acquired as being for sale by or through First Greenwood and/or by or through Coldwell Banker, leading prospective buyers of these properties to believe that they were owned by First Greenwood and/or Coldwell Banker;

k) Mr. Pruett routinely misrepresented the value and condition of the properties that he advertised for sale to prospective purchasers, misrepresented the repairs he intended to make on these properties and thereby induced purchasers of such properties to agree to pay inflated values on properties Pruett owned, and to borrow monies in excess of the property's market in amounts which borrowers could not afford to repay;

l) Mr. Pruett routinely prepared sales contracts, which he would have purchasers sign, that contained a selling price. He would then modify the selling price at which the purchaser could purchase the property to reflect a higher selling price to justify selling the property at a higher price and to satisfy lending requirements imposed by involved mortgage lenders;

m) Mr. Pruett obtained inflated appraisals of the properties he held for resale for the purpose of persuading unsuspecting buyers to agree to pay values that exceeded the properties market values to satisfy lending requirements imposed by mortgage lenders, and to induce innocent borrowers to agree to borrow sums that exceeded the property's value;

n) Mr. Pruett conspired with selected mortgage brokers who, with full knowledge of Mr. Pruett's fraudulent conduct, proceeded to secure loans from mortgage lenders to enable purchasers to purchase said properties, paying excessive prices and borrowing amounts that exceed the property's values;

o) Mr. Pruett and mortgage brokers working in concert with Mr. Pruett prepared/falsified documents to distort borrowers' capacity to repay loans for the purpose of satisfying "paper" requirements imposed by mortgage lenders, who agreed to loan monies to purchasers, who did not qualify for loans in amounts applied for, under unfavorable loan terms, in amounts which borrowers could not afford to repay, secured by properties whose values were misrepresented;

p) Mr. Pruett and Coldwell Banker agents and mortgage brokers working in concert with Mr. Pruett would routinely advise borrowers that if they paid their house payments for a period of one to two years, the lender would refinance the property, thus lowering the borrower's monthly payment.

The Entire Coldwell Banker Office Participated in the Scheme

25. Defendant Linda Pruett was the President and a director of Coldwell Banker First Greenwood and Leflore Properties. Ms. Pruett worked in the Coldwell Banker office with Jim Pruett and was aware of all aspects of the

scheme being perpetrated by her husband, Jim Pruett, and actively participated in it.

26. Andrea Moore was Jim Pruett's secretary. As such, she had actual knowledge of acts of fraud being perpetrated by Jim Pruett and participated in the preparation of fraudulent documents utilized to qualify unqualified buyers for loans. These false/fraudulent loan documents were routinely sent by mail or wire to mortgage lenders who loaned monies to purchasers of Pruett owned properties and/or properties sold by/through Coldwell Banker. Additionally, Andrea Moore notarized numerous documents, which were forgeries.

27. Ken Ellis, like Jim Pruett, worked as an employee in the Coldwell Banker First Greenwood office. Ellis was aware of the scheme(s) being perpetrated by Jim Pruett and actively participated in it. Mr. Ellis, as an employee of Coldwell Banker First Greenwood, was paid commissions and "under the table" kickbacks for each home which Jim Pruett owned, as to which he found a buyer.

28. Mel Harris, like Jim Pruett, likewise worked as an employee in Coldwell Banker First Greenwood's office. Ms. Harris was aware of the scheme(s) being perpetrated by Jim Pruett and Coldwell Banker and actively participated in it. Ms. Harris, as an employee of Coldwell Banker First Greenwood, was paid commissions and kickbacks for each home which Jim Pruett owned, as to which she found a buyer.

**Involvement/Participation of Real Estate Appraisers in
Scheme/Enterprise**

29. Del Cox is a real estate appraiser, licensed by the State of Mississippi, who provided appraisals of properties purchased by Jim Pruett, (in whatever name selected by Jim Pruett (Leflore Properties, Johnny Young, Johnny Rosa, lee Pruett)) at whatever value Jim Pruett selected.

30. Mr. Cox's appraisals were used by Mr. Pruett to persuade property owners to whom Mr. Pruett sold properties to agree to purchase such properties for prices that exceeded the market value of the properties.

31. Larry Kennedy is a real estate appraiser, licensed by the State of Mississippi, likewise furnished appraisals to Jim Pruett at whatever values Pruett selected.

32. Mr. Kennedy's inflated appraisals were utilized by Mr. Pruett to persuade purchasers to pay amounts for properties owned by Pruett that exceeded the true values of the property.

33. Fransene Berry is an appraiser of residential real estate licensed by the State of Mississippi. Ms. Berry's role in the enterprise at issue in this case was to furnish appraisals of properties, acquired by Jim Pruett, which contained market value estimates determined by Pruett, knowing that these appraisals would be used by Pruett to justify both bank loans from third party lenders by/on behalf of buyers/purchasers of the property.

34. Jason O'Bryant is also an appraiser of residential real estate licensed by the State of Mississippi. Mr. O'Bryant's role in the enterprise at issue in this case was similar to that employed by Berry and previously described.

35. Kevin Steed is also an appraiser of residential real estate licensed in the State of Mississippi. Mr. Steed's role in the enterprise at issue in this case was similar to that employed by Berry and previously described.

**Interim Lenders, Two Banks, Participated In Enterprise
And "Bankrolled" the Scheme**

36. Defendant, Bank of Commerce, through its vice president Terry Green, and defendant State Bank & Trust, through its loan officer Clark Patterson, actively participated in the enterprise described previously in the following respects:

- a) Bank of Commerce and State Bank in effect "bankrolled" the enterprise by loaning monies to Jim Pruett to enable him to acquire properties at below market prices;
- b) Bank of Commerce and State Bank knew that Jim Pruett was taking title to properties he acquired in "straw purchasers" names and permitted Jim Pruett to secure loans on properties that Pruett did not own;
- c) Terry Green and Clark Patterson routinely employed Bobby Fisher and other attorneys to provide title opinions to Bank of Commerce and State Bank & Trust that Green, Patterson, and Pruett knew were false;

d) Green and Patterson, and perhaps others in the bank, knew that Pruett obtained appraisals of properties in amounts that exceeded market values of properties appraised;

e) Bank of Commerce and State Bank & Trust knew that properties that served as collateral for Bank of Commerce loans were being routinely "flipped";

f) Bank of Commerce and State Bank & Trust knew that properties that served as collateral for Bank of Commerce loans were being routinely sold to third parties, who had been induced to borrow monies in amounts that exceeded the market values of properties that such third parties were purchasing;

g) Bank of Commerce and State Bank & Trust knew that the proceeds such of loans made to such third parties, were utilized by Jim Pruett to repay Pruett's loans to Bank of Commerce and State Bank & Trust.

37. State Bank & Trust, through its loan officer Clark Patterson also knew about and participated in the foregoing enterprise. Mr. Patterson and State Bank & Trust, like Bank of Commerce, effectively "bankrolled" the "straw men" utilized by Jim Pruett to obtain properties, and then resell these properties to unsuspecting buyers at amounts that exceeded market value. Clark Patterson received kickbacks from Jim Pruett for approving loans to Jim Pruett's "straw men" and Mr. Patterson was fully aware of the fact that appraisals utilized to

support Jim Pruett's resale of these properties did not accurately reflect market values.

Participation of Mortgage Brokers in Enterprise/Scheme

38. Joni Goss is a mortgage broker licensed by the State of Mississippi who operated in the name of several corporate entities, including Mississippi Mortgage, Inc., Statewide Lending, Lincoln Mortgage Loans, Eqiti Mortgage, and others. Ms. Goss was one of the mortgage brokers who Jim Pruett employed/contacted for the purpose of arranging mortgage financing on sales of properties which Pruett owned or which were offered for sale by/through Coldwell Banker, to third parties to whom Pruett intended to sell such properties. Ms. Goss had knowledge of and actually participated in the scheme which Jim Pruett employed to defraud buyers of property which Jim Pruett acquired and/or offered for sale by/through Coldwell Banker in the following respects:

- a) Ms. Goss knew that the potential buyers of such properties could not qualify for loans in the amounts that were needed to enable purchasers to acquire such properties and pay the inflated prices Pruett sought;
- b) Ms. Goss also knew that the economic status of such borrowers was such that even if they were able to obtain such loans, they would not be able to make payments to satisfy the loans, which were being arranged for them.

- c) Ms. Goss participated in the preparation of false documents, which were routinely sent to mortgage lenders by mail/fax, which distorted prospective buyer's ability to repay loans.
- d) Ms. Goss knew that other parties/participants in this scheme were likewise preparing false loan documents, applicable to potential buyers of properties, which also were being mailed to lenders.
- e) Ms. Goss knew of and participated in a kickback scheme in which loan proceeds were diverted to mortgage brokers, including herself, as well as to closing attorneys, and appraisers.

39. Toby Goss is a mortgage broker licensed by the State of Mississippi who has operated through several corporate entities, including Mississippi Mortgage, Inc. Mr. Goss engaged in fraudulent conduct similar to the conduct in which Joni Goss engaged, as described in the preceding paragraph.

40. John Emory is a mortgage broker licensed by the State of Mississippi. He has operated through several corporate entities, including Wholesale Mortgage, Inc., and others. Mr. Emory engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss, and as is outlined above.

41. Wayne White is a mortgage broker licensed by the State of Mississippi who has operated as a mortgage broker through several corporate entities, including Wholesale Mortgage, Inc. Mr. White engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss, and as is outlined above.

42. Jason Ellis, Brad Landry and Matt Howard are mortgage brokers, licensed by the State of Mississippi, who operated through several corporate entities, including Professional Mortgage Consultants, Inc. Mr. Ellis, Mr. Landry and Mr. Howard engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

43. Lance Persac is a mortgage broker, licensed by the State of Mississippi, who has operated through several corporate entities, including Mortgage Stop, Inc. Mr. Persac engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

44. Professional Mortgage Consultants Corp. is a mortgage broker licensed in the State of Mississippi, which engaged in the same type of fraudulent conduct as was perpetrated by Joni Goss and as is outlined above.

Participation Of Attorneys Hired To Prepare Loan Documents/Close Loans

45. Bobby Fisher is a Greenwood lawyer whose practice was at all relevant times herein, primarily limited to handling real estate transactions. Mr. Fisher's role/involvement in this scheme/enterprise included:

- a) Mr. Fisher attended the closings of sales of property owned by Jim Pruett, Pruett's employees, and properties owned by third party sellers which were sold by/through Coldwell Banker;
- b) Unsuspecting purchasers of such properties were led to believe, by Mr. Pruett and his employees, that Fisher was present at the closing to represent/protect their interests;

- c) Fisher had full knowledge of all aspects of the scheme that was being perpetrated by Jim Pruett;
- d) Fisher knew that appraisals utilized by Pruett were in amounts that exceeded market values;
- e) Fisher knew that Pruett was engaged in paying kickbacks;
- f) Fisher was aware that Pruett paid kickbacks to the representative with whom he was dealing with the USDA, and that kickbacks were also being paid to mortgage brokers from loan proceeds;
- g) Mr. Fisher maintained a bank account, which he utilized to divert monies from closings to third parties, which concealed the fraud that was being perpetrated on unsuspecting borrowers;
- h) Mr. Fisher, while purporting to act as attorney for purchaser/borrowers, in fact acted contrary to the interests of his so-called clients and deliberately refrained from disclosing to borrowers/purchasers the fact that they were being defrauded;
- i) Mr. Fisher knew that sales contracts in which Pruett was a party were altered by Pruett;
- j) Mr. Fisher knew about and participated in the preparation of false loan documents, which distorted/inflated borrower/purchasers' financial capacity to repay the loans which Fisher closed, which were routinely mailed to mortgage lenders;
- k) Fisher knew of Plaintiffs' inability to repay the loans that he closed;

l) Mr. Fisher conspired with the other members of the enterprise, namely Mr. Pruett, Mr. Green, and Mr. Patterson, to provide incorrect title opinions to the Bank of Commerce and to State Bank & Trust which inaccurately reflected that there had been no transfers of the properties within one year for the purpose of covering the exposure of these bankers to claims of "flipping".

46. Loan Closing Services Corporation was a corporate entity created by Bobby Fisher, which employed Bobby Fisher, Daniel Floyd, Christy Smith, Kristen Taylor, Diane Kelly, John Burton, Matt Howard, Randy Glover, Paul Blakely, Rickey Walker, Jason O'Bryant, and others. All persons affiliated with this entity knew about and participated in the enterprise and were paid kickbacks, by Fisher, following closing of these loans.

47. Prestige Title is a title insurance company, which was created by Steve Colson, an attorney with Maggio & Colson, LLC of Gulfport, Mississippi. Prestige Title was aware of the acts of fraud, as previously described, and attended loan closings, purporting to act as attorneys for borrowers/purchasers after Mr. Fisher was no longer able to do so due to the fact that he had lost his ability to write title insurance. Prestige Title/Steve Colson's knowledge of wrongdoing/fraud perpetrated by Pruett, mortgage brokers, etc., was identical to Fisher's knowledge/involvement previously described.

48. Landsure Title, Homeland Title, Loan Closing and Title Services, and Robert Harrison acted as closing agents for the involved lenders and were aware of the fraud and criminal activity and participated in it.

49. Rickey Walker, now deceased, was an employee of Bobby Fisher and later at Prestige Title, Inc. who engaged in the same type of fraudulent conduct as was perpetrated by Bobby Fisher and as is outlined previously.

Participation Of Mortgage Lenders In Enterprise

50. Before the dates of the transactions at issue in this lawsuit People's Choice Funding, Inc., d/b/a People's Choice Home Loans, Inc. (hereafter "lender") decided, as a corporate strategy, to engage in sub-prime lending, i.e., that it would be profitable to make high interest rate residential real estate loans to a particular, targeted, group of Mississippians, who hereafter referred to as "Targeted Borrowers."

51. The Mississippians from whom lender decided to solicit this business had limited education, had little expertise/sophistication in real estate transactions, had impaired credit, generally were first time homeowners, and often were members of a minority racial group.

52. This group of Mississippians was targeted by lender for this business because lender felt that this group of Borrowers could be easily misled and could easily be overreached.

53. Lender actively encouraged mortgage brokers (Mississippi Mortgage, Wholesale Mortgage, Mortgage Stop, etc.) to solicit applications for

sub-prime loans, to be secured by residential real estate, from Targeted Borrowers.

54. These mortgage brokers:

- a) Solicited loan applications from Borrowers which were sent, by mail, to mortgage lenders for review for accuracy/authenticity, etc. by employees of mortgage lenders;
- b) Gathered financial information from said Borrowers, which purportedly set forth the ability of these Borrowers to repay these loans;
- c) Assisted lender in procuring additional information needed by lender to facilitate its underwriting and closing of these loans;
- d) Selected Appraisers (or approved Appraisers selected by others, such as Jim Pruett/Coldwell Banker) to appraise properties utilized to secure these loans;
- e) Selected lawyers (or approved lawyers selected by others, such as Jim Pruett's/Coldwell Banker) to close the loans on terms/conditions prescribed by lender using loan-closing documents mandated by lender.

55. Jim Pruett also acted as agent for lender through various forms of advertisements (in the name of Coldwell Banker) located and identified "target borrowers" for lender who were interested in purchasing properties owned by Pruett.

56. Mortgage Brokers (or persons like Jim Pruett, acting in concert with these mortgage brokers), acting at the behest of and as agents for lender,

routinely contacted targeted borrowers desiring to purchase residential real estate for the purpose of securing loan applications from such prospective Borrowers.

57. Jim Pruett routinely assured such prospective borrowers that he had the capacity to "get them a loan".

58. Jim Pruett put persons who desired to purchase residential real estate that he owned as well as persons who desired to purchase real estate owned by third parties, which was listed for sale by/through Coldwell Banker in contact with these mortgage brokers.

59. These mortgage brokers promised prospective purchasers that they could "arrange" loans for these purchasers, usually with purchasers being relieved of any obligation to make any down payments on such loans.

60. These assurances led potential borrowers to believe that Jim Pruett and these Mortgage Brokers had ongoing business relationships with persons/entities who made real estate loans, (a belief which was both reasonable and true) or that Pruett/Coldwell Banker itself would loan monies to make these purchases.

61. These prospective Borrowers were led to believe that Jim Pruett and these mortgage brokers possessed information about the real estate loan procuring/closing process that was greater than/superior to that possessed by the prospective borrowers themselves. As a result, the prospective borrowers

reasonably believed the assurances and representations made by Jim Pruett/Coldwell Banker and the mortgage brokers.

62. Lender deliberately put these mortgage brokers in the position to foster that belief on the part of these borrowers by allowing these brokers to arrange mortgage loans on its behalf, by advising these brokers of its loan programs, by encouraging these brokers to solicit loan applications, etc.

63. Thus, these borrowers, in reliance upon the belief that Jim Pruett and these mortgage brokers possessed expertise in procuring and arranging loans of this type and that Mr. Pruett and these brokers would utilize that expertise in "getting them loans," provided basic financial data to Pruett, employees of Pruett, and these mortgage brokers, that was truthful and accurate.

64. The borrowers reasonably believed that the truthful and accurate financial data that they provided to Pruett, employees of Pruett, and these mortgage brokers would be submitted, without alteration, to the mortgage lenders with whom these parties had a business relationship.

65. However, Pruett, employees of Pruett, and the mortgage brokers themselves, deliberately modified data provided to them by borrowers and, in addition, prepared/falsified data and such fraudulent data was routinely mailed, as a part of this scheme/enterprise to mortgage lenders.

66. The mortgage lenders had, in place, guidelines/criteria which were designed to determine the accuracy of financial data submitted to them.

67. Upon receipt of borrower applications and supporting borrower financial data procured from Pruett or a mortgage broker, pursuant to underwriters employed by lenders were directed to review borrower applications/loan documents submitted by mortgage brokers.

68. But lender's underwriters routinely "overlooked"/failed to discover the existence of fraudulent documents in the data sent to them.

69. One of the job functions that lender's underwriters are supposed to perform was to look for forgeries. Lender's underwriters ignored the fraud and failed to discover forgeries in documents submitted to them for their review.

70. Such false loan documentation, in loan after loan, systematically distorted the financial ability of Borrower to repay these loans. Each and every false loan documentation was systematically "overlooked" by every lender representative whose job was to discover the presence of fraudulent documents.

71. Lender was perfectly content to make loans to borrowers who did not meet its credit criteria, who likely could not repay its loans, or who would experience extraordinary financial difficulty in repaying these loans.

72. Lender's failure to discover reoccurring, obvious fraudulent behavior by Pruett, by Pruett's employees and by the mortgage brokers with whom it dealt, by the closing attorneys selected by lender to close its loans, supports a finding that lender knew of such behavior and ratified it.

73. Put another way: if lender truly was interested in making sure that it made loans to persons who met its credit criteria, it would have certainly "discovered" this pattern of reoccurring/obvious fraud.

74. The fact that lender did not "discover" this fraud (by ignoring its own guidelines) supports a finding that it knew that Pruett, these brokers, Fisher, etc., were committing fraud in connection with its loans and nonetheless preceded to make these loans anyway.

75. Alternatively, lender's failure to discover this fraud is the product of its "willful blindness" or deliberate ignorance.

76. After being promised by Pruett, or employees of Pruett, or these mortgage brokers that they could and would "get them a loan," borrowers simply waited to see whether this promise would be fulfilled.

77. Then, usually, with no advance notice – "out of the blue"— these borrowers would get a call from someone working in First Greenwood/Coldwell Banker's office or from the mortgage brokers, to advise that their loans had been "approved" and that the closing of their loan was scheduled, usually rather immediately.

78. Telling these borrowers that their loan applications had been approved led these borrowers to reasonably believe that the mortgage lender who had agreed to make these loans had reviewed the financial documents that they had earlier provided and, based upon that review, had determined that they

possessed sufficient assets/wealth/credit to borrow the monies they sought to borrow/repay the loans that were being made to them.

79. These borrowers proceeded to go forward with the closing of these loans in reliance upon the mistaken belief that their assets/liabilities/income were sufficient, as far as lender was concerned, to enable them to repay these loans.

80. This reliance, made in good faith and reasonable, was misplaced. Borrower assets/liabilities/income/capacity to borrow these monies had been deliberately distorted/inflated by the fraudulent loan documents which were routinely mailed to these lenders by Pruett/employees of Pruett/mortgage brokers/ and Fisher.

81. After assuring Borrowers that they had been approved for a loan, the borrowers were "summonsed" to loan closings, which occurred at dates, places, and times, determined by Pruett, by someone in Pruett's office, or the mortgage brokers.

82. Many of these borrowers had never before owned a house or attended a closing of a real estate loan.

83. Borrowers appeared at loan closings with no advance idea about the amount of money they would be borrowing, the interest rates they would be charged, the identity of the lender, who had agreed to loan them monies, or any other term under which they would be loaned money.

84. Lender sent loan closing documents and instructions, as well as funds to be utilized to close these loans, by mail, fax and/or e-mail, to closing attorneys, before these loans were closed.

85. At these loan closings, Plaintiffs were routinely presented a stack of legally complex loan closing documents, and it was made clear to these Plaintiffs that they must sign the documents presented to them as a condition to securing these loans.

86. These Plaintiffs, as a condition to securing these loans, were directed to sign documents, prepared by lender, which lender knew to be fraudulent, and which these Plaintiffs did not know were fraudulent.

87. The attorneys who closed these loans provided no explanation to Plaintiffs as to the legal significance of any of the documents these Plaintiffs were told to sign. At best, documents were identified by the nature of the documents themselves. For example, Plaintiffs were told no more than: this is a deed; this is a deed of trust, etc.

88. Plaintiffs usually were afforded no opportunity to read any documents that they signed. Few Plaintiffs would have understood the documents had they read them, due to their complexity/legalese. Closings usually took 15 (fifteen) minutes or so, sometimes longer, but not much longer. Many Plaintiffs felt rushed to sign documents.

89. At no time before any of these loans were closed did Pruett, any employee of Pruett or any mortgage broker or any closing attorney ever tell any

Plaintiff that any false/fraudulent loan documents had been prepared in connection with their loans, and mailed to any involved lender.

90. The failure of Pruett, employees of Pruett, or these Mortgage Brokers to apprise these Plaintiffs of the fact that false loan documents had been prepared in connection with their loans, that documents which inflated/distorted their ability to repay these loans had been mailed to these lenders, that these lenders had prepared false loan documents for these Plaintiffs' signatures constitutes, as a matter of law, acts of fraud on the part of these parties.

91. These Plaintiffs were also not told that these lenders had made a determination that some groups of borrowers, with specified levels of wealth, could likely repay its loans while other groups of borrowers, who did not possess pre-described levels of wealth, likely could not repay its loans. In proceeding to close these loans to these Plaintiffs, by implication, these Plaintiffs were led to believe and reasonably relied upon the belief that these lenders had made a determination that they had the financial capacity to be able to repay these loans.

Defendants' Particular Dealings with Plaintiffs

92. Defendants conspired with each other to sell residential real estate that Jim Pruett acquired (In the name of Leflore Properties) to the Plaintiffs.

93. Jim Pruett, acting in the name of Leflore Properties or in the name of some other "straw man" purchaser, purchased USDA-owned property and previously foreclosed or third party owned property, at foreclosure sales, at a

fraction of the property's fair market value, and then through the process as previously described resold the properties at substantial profit to the Plaintiffs at a price that far exceeded the market value of the properties.

94. In other instances the same conduct accompanied the sale of third party-owned property listed for sale with Coldwell Banker with the same damages resulting to the Plaintiffs.

95. The Plaintiffs relied upon the misrepresentations of the defendants. The Plaintiffs were the victims of the fraudulent scheme or enterprise perpetrated by the defendants.

96. Funds utilized to close this transaction were sent to the closing agent by wire or by mail.

97. Each of the defendants was aware of, approved, was a willing participant in, and profited from all conduct set forth in the preceding paragraphs. In the alternative, the defendants were guilty of "willful blindness" with respect to such conduct.

98. Defendants' conduct constituted a violation of 18 U.S.C. §1962(a), (b), (c), and (d).

99. Plaintiffs suffered actual damages, including damages for emotional distress, humiliation, and economic damages, including the difference in the value of the house they purchased from Pruett/Leflore Properties as represented versus the true market value of such house in the amount of, at a minimum, \$100,000.00 each.

100. As a result of the foregoing wrongful acts and omissions, the Defendants are liable to Plaintiffs for all damages allowed pursuant to 18 U.S.C. §1964(c) and 15 U.S.C. §1639(h).

101. As a result of the foregoing wrongful acts and omissions, the Defendants are liable to Plaintiffs for damages sustained by Plaintiffs based upon, the following pendant state claims state:

- a) Breach of fiduciary duty;
- b) Misrepresentation;
- c) Deceptive sales practices;
- d) Fraudulent concealment;
- e) Intentional infliction of emotional distress.

102. Each of the above named persons/entities conspired to perform two or more predicate acts, which included numerous instances of wire fraud in violation of 18 U.S.C. §1343, numerous instances of mail fraud in violation of 18 U.S.C. §1341, and numerous instances of money laundering in violation of 18 U.S.C. §1956 and 18 U.S.C. §1957.

103. Defendants and entities named above violated 18 U.S.C. §1341 and 18 U.S.C. §1343 in devising, on multiple occasions, a scheme(s) or artifice(s) to obtain money or property by false and/or fraudulent pretenses, representations, and promises as contained in the various loan documents including, without limitation, sales contracts, loan applications, verification documents, and HUD-1 Settlement Statements.

104. All or some of the Defendants and entities named above used the U.S. mail and/or private or commercial interstate carriers in the furtherance of such scheme(s).

WHEREFORE, PLAINTIFFS DEMAND:

A. Actual damages, including the difference between the value of the house as represented, versus the true value of such house, damages for emotional distress, humiliation, and economic damages in the amount of \$100,000.00 against each defendant, jointly and separately.

B. Punitive damages against each defendant, individually and jointly, in an amount sufficient to deter such defendants from hereafter, engaging in such wrongful conduct in the future.

C. Attorneys fees and expenses and treble damages pursuant to 18 §U.S.C. 1964(c).

RESPECTFULLY SUBMITTED, this the 31st day of May, 2006.

Of Counsel:

Lake Tindall, LLP
P.O. Box 918
127 South Poplar Street
Greenville, MS 38702-0918
Telephone: 662-378-2121
Facsimile: 662-332-5325

s/C. W. Walker III

C.W. Walker III
MS Bar No. 6870

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of May, 2006, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

Christopher A. Shapley, Esquire	cshapley@brunini.com
Joseph Anthony Sclafani, Esquire	jsclafani@brunini.com
H. Hunter Twiford III, Esquire	htwiford@mcglinchey.com
April D. Reeves, Esquire	areeves@watkinsludlam.com

and I further certify that I have mailed by United States Postal Service the document to the following non-ECF participants: None.

/s/ C.W. Walker III

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EXHIBIT B

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July 12, 2012

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VIA EMAIL AND U.S. MAIL

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Frank S. Thackston Jr., Esq.
Lake Tindall LLP
127 South Poplar
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Greenville, MS 38702-0918

Re: *People's Choice Home Loan, Inc., et al.*
Case No. 2:12-bk-15811-RK (Bankr. C.D. Cal.)
[Transferred from 8:07-bk-10765-RK] -
Price/Citizen Proof of Claim

Dear Messrs. Walker and Thackston:

After leaving telephone messages with your firm on March 9 and again on April 27, 2012 that were not returned, I am writing you on behalf of the Liquidating Trustee (the "Trustee") for the Liquidating Trusts of People's Choice Home Loan, Inc., People's Choice Financial Corp., and People's Choice Funding Inc. (the "Debtors").

On or about August 17, 2007, you filed substantially identical proofs of claim (collectively the "Claim") against each of the Debtors on behalf of Johnny and Mary Price and Latrenda M. Citizen ("Claimants"). The Claim relates to an amended complaint filed in the United States District Court for the Northern District of Mississippi on May 31, 2006. The complaint alleges a number of causes of action, including intentional tort, mail and wire fraud, and RICO violations. The Claim does not list a dollar amount allegedly owed by the Debtors.

The Trustee has reviewed the Claim and has determined that on the information provided, the Debtors have no liability to Claimants on the Claim. First, lenders do not owe their borrowers fiduciary duties. A lender need not protect prospective borrowers from themselves when extending a loan requested by a prospective borrower. Second, to the extent that Claimants may have been defrauded, there has been no showing that the Debtors participated in perpetrating that fraud. The Debtors neither knew of nor should have known that Claimants'

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WINSTON & STRAWN^{LLP}

July 12, 2012
Page 2

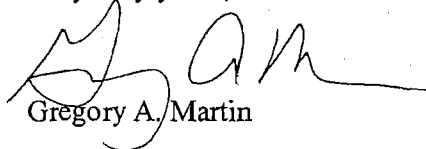
brokers were allegedly forging documents to improve the likelihood that Claimants would be approved for a loan. Approval of a known fraudulently documented loan application would have violated the Debtors' corporate policy and would have been contrary to the Debtors' financial interest—under the loan purchase agreements that were used by the Debtors to package and sell their loans, the Debtors were required to repurchase any fraudulently originated loan (regardless of whether the Debtors knew about the underlying fraud) from a financial institution that purchased the loan. It is therefore implausible that the Debtors would knowingly have encouraged or participated in any fraud with respect to your clients' loans.

The Liquidating Trustee requests that you either provide evidence supporting the Claim with respect to the Debtors' asserted liability to Claimants, including the amount sought by Claimants, or withdraw the Claim. Kindly contact me at your earliest convenience – my contact information is shown above.

Please note that if we do not receive a response to this letter by August 2, 2012, the Liquidating Trustee plans to file an objection to the Claim based on Claimants' failure to provide evidence supporting their Claim.

Thank you for your cooperation in resolving this matter.

Very truly yours,



Gregory A. Martin

cc: Ron Greenspan, Trustee
Tamara McGrath
Rolf Woolner, Esq.

LA:317356.3

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
Winston & Strawn, LLP, 333 S. Grand Avenue, 38th Floor, Los Angeles, CA 90071

A true and correct copy of the foregoing document entitled (*specify*): **MOTION FOR ORDER DISALLOWING PROOFS OF CLAIM OF JOHNNY & MARY PRICE & LATREDA M. CITIZEN [PCHLI CLAIMS DOCKET NOS. 337, 338; PCFI CLAIMS DOCKET NO. 95; PCFC CLAIMS DOCKET NO. 103]; DECLARATIONS OF TAMARA D. MCGRATH AND GREGORY A. MARTIN IN SUPPORT THEREOF** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **April 8, 2013**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On **April 8, 2013**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **April 8, 2013**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

PRESIDING JUDGE'S COPY - Service by Overnight Mail


Hon. Robert Kwan
United States Bankruptcy Court
255 E. Temple Street, Suite 1682
Los Angeles, CA 90012
Via overnight mail with Fedex
Tracking Number: 799468557266

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

April 8, 2013
Date

Linda daSilva
Printed Name


Signature

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Los Angeles, CA 90017

PCHLI Claims Docket No. 337, 338

PCFI Claims Docket No. 95

PCFC Claims Docket No. 103

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