

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
FOR THE COUNTY OF KING

State of Washington Department of Financial
Institutions,
Plaintiff,
v.
Chesterfield Mortgage Investors, Inc., Charles M.
Chesterfield and Key Bank,
Defendant.

NO. 10-2-32403-8 SEA
NOTICE FOR HEARING
SEATTLE COURTHOUSE ONLY
(Clerk's Action Required) (NTHG)

TO: THE CLERK OF THE COURT and to all other parties listed on Page 2:
PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date below and the
Clerk is directed to note this issue on the calendar checked below.

Calendar Date: September 14, 2010 Day of Week: Tuesday

Nature of Motion: Motion to Vacate or Modify Order Granting Motions for Temporary Restraining Order
and Order to Show Cause

CASES ASSIGNED TO INDIVIDUAL JUDGES – Seattle

If oral argument on the motion is allowed (LCR 7(b)(2)), contact staff of assigned judge to schedule date and time
before filing this notice. Working Papers: The judge's name, date and time of hearing must be noted in the upper
right corner of the Judge's copy. Deliver Judge's copies to Judges' Mailroom at C203.

[X] Without oral argument (Mon - Fri) [] With oral argument Hearing
Date/Time: September 14, 2010
Judge's Name: Honorable Suzanne Barnett Trial Date: February 27, 2012

CHIEF CRIMINAL DEPARTMENT - Seattle in E1201

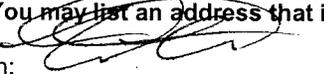
[] Bond Forfeiture 3:15 pm, 2nd Thur of each month
[] Certificates of Rehabilitation- Weapon Possession (Convictions from Limited Jurisdiction Courts)
3:30 First Tues of each month

CHIEF CIVIL DEPARTMENT – Seattle -- (Please report to W864 for assignment)

Deliver working copies to Judges' Mailroom, Room C203. In upper right corner of papers write "Chief Civil
Department" or judge's name and date of hearing

[] Extraordinary Writs (Show Cause Hearing) (LCR 98.40) 1:30 p.m. Tues/Wed -report to Room W864
[] Supplemental Proceedings (1:30 pm Tues/Wed)(LCR 69)
[] DOL Stays 1:30 pm Tues/Wed
[] Motions to Consolidate with multiple judges assigned (without oral argument) (LCR 40(b)(4))
Non-Assigned Cases:
[] Non-Dispositive Motions M-F (without oral argument).
[] Dispositive Motions and Revisions (1:30 pm Tues/Wed)
[] Certificates of Rehabilitation (Employment) 1:30 pm
Tues/Wed (LR 40(b)(2)(B))

You may list an address that is not your residential address where you agree to accept legal documents.

Sign:  Print/Type Name: Robert Amkraut
WSBA # 27412 (if attorney) Attorney for: Chesterfield Mortgage Investors, Inc.
Address: Riddell Williams P.S., 1001 – 4th Ave., #4500 City, State, Zip Seattle, WA 98154
Telephone: 206-624-3600 Date: September 14, 2010

DO NOT USE THIS FORM FOR FAMILY LAW OR EX PARTE MOTIONS.

LIST NAMES AND SERVICE ADDRESSES FOR ALL NECESSARY PARTIES REQUIRING NOTICE

Name Kate Raynolds
Charles Clark
Service Address 1125 Washington St. SE
City, State, Zip Olympia, WA 98504
WSBA# Atty For: Plaintiff
Telephone #: 306-664-9006

Name _____
Service Address: _____
City, State, Zip _____
WSBA# _____ Atty For: _____
Telephone #: _____

Name _____
Service Address: _____
City, State, Zip _____
WSBA# _____ Atty For: _____
Telephone #: _____

Name _____
Service Address: _____
City, State, Zip _____
WSBA# _____ Atty For: _____
Telephone #: _____

IMPORTANT NOTICE REGARDING CASES

Party requesting hearing must file motion & affidavits separately along with this notice. List the names, addresses and telephone numbers of all parties requiring notice (including GAL) on this page. Serve a copy of this notice, with motion documents, on all parties.

The original must be filed at the Clerk's Office not less than **six** court days prior to requested hearing date, except for Summary Judgment Motions (to be filed with Clerk 28 days in advance).

THIS IS ONLY A PARTIAL SUMMARY OF THE LOCAL RULES AND ALL PARTIES ARE ADVISED TO CONSULT WITH AN ATTORNEY.

The SEATTLE COURTHOUSE is in Seattle, Washington at 516 Third Avenue. The Clerk's Office is on the sixth floor, room E609. The Judges' Mailroom is Room C203.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS,

Plaintiff,

v.

CHESTERFIELD MORTGAGE
INVESTORS, INC., CHARLES M.
CHESTERFIELD AND KEY BANK,

Defendants.

NO. 10-2-32403-8 SEA

**MOTION TO VACATE OR MODIFY
ORDER GRANTING MOTIONS
FOR TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE**

I. INTRODUCTION AND RELIEF REQUESTED

This Motion was necessitated by the tactics employed by plaintiff Department of Financial Institutions ("DFI") in obtaining a temporary restraining order against defendant Chesterfield Mortgage Investors, Inc. ("CMI") on September 9, 2010.

Even though plaintiff had been in discussions with counsel for CMI regarding this dispute, and even though CMI had been cooperating with DFI in its

1 investigation of CMI, on September 9, 2010, plaintiff elected to seek a temporary
2 restraining order against CMI and the other defendants without providing any
3 notice to any defendant that DFI was seeking such a broad order.

4 In seeking that order without providing any notice to defendants, plaintiff
5 violated defendants' constitutional right to due process. Further, the order
6 obtained by plaintiff will effectively destroy CMI's business and may inflict massive
7 personal losses on defendant Charles Chesterfield. That order will result in
8 defendant Key Bank refusing to honor checks issued by CMI before it had any
9 notice of plaintiff's actions. By shutting down CMI's operations without providing
10 CMI any opportunity to respond, plaintiff has ensured that CMI's business will fail.
11 This will cause increased losses to CMI investors. For example, CMI needs to pay
12 utilities bills on property it foreclosed on for the benefit of investors and failure to
13 do so will cause damage to investors. And, by preventing CMI from making
14 payroll, plaintiff's conduct will inflict major harm on CMI employees.¹

15 CMI wants to have a fair opportunity to respond to plaintiff's allegations and
16 to demonstrate that it is and will remain a going concern. It therefore requests that
17 this Court vacate the temporary restraining order obtained by plaintiff. If the Court
18 concludes that plaintiff is entitled to some of the relief that it requested, then CMI
19 requests that the Court enter a modified order that will allow CMI to continue
20 routine operations and permit it to respond to the allegations asserted by plaintiff.
21 If a modified order is entered, CMI requests that the order remain in effect until
22 September 24, 2010 (the date set for a hearing on the DFI's request for a
23 preliminary injunction), or some other date agreed on by the parties. We have
24

25 ¹ At this time, Riddell Williams P.S. is appearing for defendant CMI solely for purpose of seeking
26 vacation or modification of the TRO entered on September 9, 2010.

1 attached two proposed order, one to vacate, and an alternative order to vacate
2 allowing CMI to continue normal operations while addressing the DFI's concerns.

3 **II. STATEMENT OF FACTS**

4 CMI has been in business since 1999. CMI is an asset-based lender.
5 Asset-based lenders such as CMI make loans secured by real property, with the
6 lenders composed of one or more sophisticated investors. As part of its normal
7 operations, plaintiff DFI examines CMI every year, including CMI books and
8 records. DFI had examined CMI every year since 1999 and, other than an issue
9 regarding late filed financial statements in 2007, had never take any significant
10 adversary steps regarding CMI.

11 In July 2010 or earlier, DFI began a review of CMI's operations. In early
12 August, 2010, the DFI met with CMI at CMI's offices. The DFI expressed
13 concerns about certain aspects of CMI's operations. In August 2010, the DFI
14 informed CMI that it would like to question defendant Charles Chesterfield (CMI's
15 president) and an additional CMI employee, Marty Hunter. CMI retained outside
16 counsel, Riddell Williams, to respond to this request.

17 Riddell Williams in turn attempted to contact Janet So, an attorney with
18 DFI. A brief phone conversation took place on August 30, 2010 between Ms. So.
19 and Frank Woodruff, an attorney at Riddell Williams. Mr. Woodruff asked for
20 more information from Ms. So. Ms. So declined to provide that information. (Mr.
21 Woodruff contacted Ms. So because CMI's regular attorney at Riddell Williams,
22 Robert Amkraut, was out of town for most of the week of August 30 due to a death
23 in his family.)

24 Upon his return, Mr. Amkraut attempted to reach Ms. So. Ms. So and Mr.
25 Amkraut exchanged voice-mails, but did not speak with each other until 3:45 p.m.
26

1 Monday, September 13, 2010. During the course of this conversation, Mr.
2 Amkraut learned for the first time that DFI had already obtained a temporary
3 restraining order against CMI.

4 DFI obtained that order on Thursday, September 9, 2010. It was filed with
5 the Court on Friday, September 10, 2010. At no time did DFI attempt to advise
6 Chesterfield, CMI, or CMI's counsel of its intention to seek the Order.

7 Because DFI conducts an annual investigation of CMI, and because of
8 DFI's more extended investigation of CMI conducted in July and August 2010, DFI
9 knew that an order freezing CMI's bank accounts would destroy the business.
10 Among other things, the temporary restraining order obtained by DFI prevents
11 CMI from paying its payroll or payroll taxes. Checks already written by CMI will
12 presumably be dishonored by defendant Key Bank. These include checks written
13 to CMI loan investors, who receive loan payments on the 10th of each month.

14 **III. STATEMENT OF ISSUES**

15 Under the due process rights provided by the U.S. Constitution and the
16 Washington Constitution, all persons, including corporate entities, are entitled to
17 notice and an opportunity to be heard before being deprived of any property right.
18 DFI obtained a temporary restraining order against CMI and Mr. Chesterfield that
19 deprives them of their property rights. DFI did not provide CMI or Mr. Chesterfield
20 any notice or an opportunity to be heard. Should the Court vacate or modify the
21 order, which was obtained without providing CMI or Mr. Chesterfield with any
22 notice or an opportunity to be heard?

1 **IV. EVIDENCE RELIED ON**

2 CMI relies on the Declarations of Charles M. Chesterfield, Robert N.
3 Amkraut, and Frank C. Woodruff, and on pleadings and documents on file in this
4 case.

5 **V. AUTHORITY AND ARGUMENT**

6 The Order should be vacated or modified because DFI deliberately made
7 no attempt to give notice of the hearing on the Order, even though DFI had been
8 negotiating with CMI's counsel regarding this very matter. The DFI has not shown
9 an imminent danger that would justify the TRO. The DFI has not explained why,
10 after months of investigation without any sudden improper acts by CMI, it became
11 necessary to terminate CMI's operations. DFI should not be allowed to destroy
12 CMI's business, hurt CMI investors, and terminate the livelihood of CMI
13 employees without giving CMI a chance to appear and defend itself.

14 **A. DFI's Conduct Violated CR 65(b) and RCW 21.20.390(2)**

15 DFI's actions failed to meet the standards of Civil Rule 65(b) and RCW
16 21.20.390(2). Civil Rule 65(b) states that a temporary restraining order may be
17 granted without notice if and only if the following conditions are met:

18 (1) it clearly appears from specific facts shown by
19 affidavit or by the verified complaint that immediate and
20 irreparable injury, loss, or damage will result to the
applicant before the adverse party or his attorney can
be heard in opposition, and

21 (2) the applicant's attorney certifies to the court in
22 writing the efforts, if any, which have been made to
give notice and the reasons supporting his claim that
notice should not be required.

23 RCW 21.20.390(2) allows the DFI to obtain a restraining order only on "a proper
24 showing" to enjoin improper "acts or practices and to enforce compliance with this
25 chapter or [related rules]."
26

1 CMI and Mr. Chesterfield should have been given the opportunity to
2 appear and defend themselves against the serious charges alleged by DFI. DFI's
3 alleged proof rests on conclusory allegations insufficient to justify the tactics that it
4 adopted in this matter. The DFI has not explained why, after investigating CMI
5 since at least July, and apparently having full information about CMI for at least
6 weeks, it became suddenly necessary to obtain a no notice TRO terminating
7 CMI's business. Had DFI provided CMI and Mr. Chesterfield with adequate
8 notice, they could have demonstrated that CMI is in fact a going concern, and CMI
9 could have explained to DFI how it intends to pay all obligations to Investors. The
10 order should be vacated. In the alternative, the Court should enter an order that
11 will allow CMI to continue its day-to-day operations (none of which would expose
12 investors to significant risks), but without engaging in any allegedly "improper
13 acts."

14 With such an order, CMI can continue its business operations and disprove
15 DFI's allegations. By contrast, the order obtained by DFI (without notice to CMI)
16 will shut down CMI's business. CMI will be unable to pay its employees, will be
17 unable to pay its tax obligations, and will be unable to pay investors. CMI will also
18 be unable to pay its counsel, thereby preventing it from obtaining representation in
19 defending against the DFI's allegations. Indeed, plaintiff's no notice TRO will
20 result in defendant Key Bank dishonoring checks that CMI could otherwise pay
21 from its account.

22 Thus, if DFI's TRO is allowed to stand, then DFI will have ensured the
23 prophecy that it made to the Court. After all, if CMI cannot write any checks, it
24 cannot continue as a going concern. DFI's hastily chosen course of conduct will
25 not protect CMI's investors but will instead harm them. DFI will destroy a going
26

1 concern. And CMI's substantial assets will be wasted by the significant expenses
2 that will be incurred in appointing a receiver.

3 Had DFI engaged in a substantive discussion with counsel for CMI, then
4 DFI would have learned that CMI believes that it can satisfy all of its obligations.
5 Indeed, Mr. Amkraut had attempted to contact the DFI in early September to
6 discuss exactly this issue. However, instead of discussing these issues with CMI,
7 DFI chose instead to adopt a course of action that not only violates defendants'
8 due process right but also virtually guarantees that CMI's investors will be injured.

9 Further DFI's actions will not only destroy CMI but could also destroy
10 Mr. Chesterfield, and possibly Mr. Hunter. In a discussion with counsel for CMI,
11 counsel for DFI, Janet So, stated that DFI may pursue Mr. Chesterfield and Mr.
12 Hunter personally. By destroying CMI on no notice and with no opportunity to
13 defend itself, and by inflicting large resulting losses, any shortfalls in payments to
14 CMI investors will be increased and presumably the amount the DFI might
15 ultimately seek from Mr. Chesterfield and Mr. Hunter will also be increased. The
16 Court should decline to impose such a draconian order.

17 **VI. CONCLUSION**

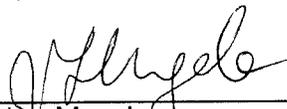
18 The U.S. Constitution mandates that a party be provided notice and an
19 opportunity to be heard before any adverse action can be taken against it. In
20 violation of that constitutional requirement, DFI sought and obtained an order that
21 will destroy CMI's business and prevent CMI from defending itself. That order will
22 ensure that CMI's investors will never receive the fair value of their investments in
23 CMI. And that order will prevent CMI employees from being paid, resulting in their
24 loss of employment and sudden inability to pay household expenses.

1 **CERTIFICATE OF SERVICE**

2 I, Veronica Magda, hereby certify that on the 14th day of September, 2010,
3 I served true copies of the foregoing documents via the below-listed method upon
4 counsel of record below:
5

6 Kate Reynolds Charles Clark Attorney General of Washington 1125 Washington Street SE PO Box 40100 Olympia, WA 98504	<input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> E-Mailed <input type="checkbox"/> Faxed <input checked="" type="checkbox"/> US Mail
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9 DATED this 14th day of September, 2010.

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Veronica Magda

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS,

Plaintiff,

v.

CHESTERFIELD MORTGAGE
INVESTORS, INC., CHARLES M.
CHESTERFIELD AND KEY BANK,

Defendants.

NO. 10-2-32403-8 SEA

**DECLARATION OF ROBERT N.
AMKRAUT IN SUPPORT OF
CHESTERFIELD MORTGAGE
INVESTORS, INC.'S MOTION TO
VACATE OR MODIFY ORDER
GRANTING MOTIONS FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE**

I, Robert N. Amkraut, declare as follows:

1. I make this declaration based on personal knowledge. I am
competent to testify about the following matters.

2. I am an attorney. I have represented Chesterfield Mortgage
Investors, Inc. ("CMI") in the period leading up to the September 14, 2010 hearing
on CMI's Motion to Vacate.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS,

Plaintiff,

v.

CHESTERFIELD MORTGAGE
INVESTORS, INC., CHARLES M.
CHESTERFIELD AND KEY BANK,

Defendants.

NO. 10-2-32403-8 SEA

**DECLARATION OF FRANK C.
WOODRUFF IN SUPPORT OF
CHESTERFIELD MORTGAGE
INVESTORS, INC.'S MOTION TO
VACATE OR MODIFY ORDER
GRANTING MOTIONS FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE**

I, Frank C. Woodruff, declare as follows:

1. I make this declaration based on personal knowledge. I am competent to testify about the following matters.
2. I am an attorney at Riddell Williams PS.
3. On August 30, 2010, I spoke by telephone with Janet So of the Washington State Department of Financial Institutions ("DFI") about Chesterfield Mortgage Investors ("CMI"). I requested information about the DFI's concerns

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over CMI. Ms. So declined to provide information. At no time did Ms. So state that the DFI intended to seek a restraining order against CMI.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 14th day of September, 2010.



Frank C. Woodruff

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS,

Plaintiff,

v.

CHESTERFIELD MORTGAGE
INVESTORS, INC., CHARLES M.
CHESTERFIELD AND KEY BANK,

Defendants.

NO. 10-2-32403-8 SEA

**DECLARATION OF CHARLES M.
CHESTERFIELD IN SUPPORT OF
CHESTERFIELD MORTGAGE
INVESTORS, INC.' S MOTION TO
VACATE OR MODIFY ORDER
GRANTING MOTIONS FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE**

I, Charles M. Chesterfield, declare as follows:

1. I make this declaration based on personal knowledge. I am competent to testify about the following matters.
2. I am the president of Chesterfield Mortgage Investors, Inc. ("CMI").
3. CMI has been in business since 1999.
4. CMI arranges loans secured by real property. Funding for the loans is provided by lenders who are required to have certain net worth or income and are generally considered sophisticated parties.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS,

Plaintiff,

v.

CHESTERFIELD MORTGAGE
INVESTORS, INC., CHARLES M.
CHESTERFIELD AND KEY BANK,

Defendants.

NO. 10-2-32403-8 SEA

**TEMPORARY RESTRAINING
ORDER AND ORDER TO SHOW
CAUSE**

[PROPOSED]

[CLERK'S ACTION REQUIRED]

This matter came before the Court on the Defendant's Motion to Vacate or Modify ("Motion") the Order Granting Motions for Temporary Restraining Order and Order to Show Cause ("Order") signed by Court Commissioner Velategui on September 9, 2010, and filed with this Court on September 10, 2010. The Court having considered the Motion and all materials and declarations filed in support thereof, Plaintiffs' opposition and supporting materials, if any, and based upon a review of all the files, records and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The Order is vacated.

1 2. Defendants Chesterfield Mortgage Investors, Inc. ("CMI") and
2 Charles Chesterfield may continue normal business operations but are prohibited
3 from withdrawing, transferring, assigning, selling, pledging, hypothecating,
4 changing, wasting, dissipating, converting, concealing, encumbering, or otherwise
5 disposing of assets held by CMI except as allowed by governing laws and
6 regulations. By way of clarification, CMI may:

7 a. Make standard payments necessary to continue ordinary
8 business operations, including without limitation, wages, payroll
9 taxes and other taxes, rent, purchases of office supplies, and other
10 ordinary expenses. CMI may make payments to its counsel,
11 including advance fee deposits up to \$50,000, to secure
12 representation. CMI may not make unusual or non-standard
13 payments without first advising the Washington Department of
14 Department of Financial Institutions ("DFI") and providing the DFI
15 with an opportunity to object.

16 b. Pay loan investors in the ordinary course of business and as
17 permitted by the Washington Administrative Code. This includes
18 paying investors from loan payments and other loan proceeds
19 received from borrowers. These other loan proceeds include,
20 without limitation, paying investors from the proceeds of sales of
21 "Real Estate Owned" property, property where real property securing
22 loans has been foreclosed and sold.

23 3. Defendants are prohibited from destroying or disposing of any CMI
24 records in their possession or control, including, without limitation, any book,
25 pamphlet, report, memorandum, note statement, minute, diary, transcript, working
26 paper, telegram, letter, paper, chart, drawing, graph, photograph, publication, tape

1 recording, videotaped or graphic matter, accounting material, records of purchase
2 or sale, contracts, agreements, invoices, and any other existing source of stored
3 information, whether written, printed, typed, recorded, stored in a computer, or
4 filmed;

5 4. Pursuant to RCW 4.92.080, no security bond shall be required of the
6 State of Washington in this matter;

7 5. This temporary restraining order shall go into effect on September
8 14, 2010, at _____ p.m. and shall remain in effect until September 24,
9 2010 at 2:30 p.m.;

10 6. All Defendants shall appear before the Honorable Judge Suzanne
11 Barnett in Dept. W-739, at the King County Courthouse, 516-3rd Avenue, Seattle,
12 Washington, on the 24th day of September, 2010 at 1:30 p.m. and then and there
13 show cause, if any they may have, why a preliminary injunction should not be
14 entered.

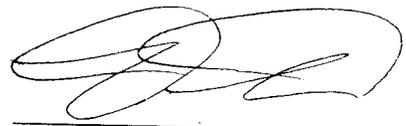
15 IT IS SO ORDERED

16 DATED this _____ day of _____, 2010.

17 _____
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19 The Honorable Suzanne Barnett

20 Presented by:

21 RIDDELL WILLIAMS P.S.

22
23 By 

24 Robert N. Amkraut, WSBA #27412
25 Attorneys for Defendants

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS,

Plaintiff,

v.

CHESTERFIELD MORTGAGE
INVESTORS, INC., CHARLES M.
CHESTERFIELD AND KEY BANK,

Defendants.

NO. 10-2-32403-8 SEA

**ORDER TO SHOW CAUSE AND
TO VACATE TEMPORARY
RESTRAINING ORDER**

[PROPOSED]

[CLERK'S ACTION REQUIRED]

This matter came before the Court on the Defendant's Motion to Vacate or Modify ("Motion") the Order Granting Motions for Temporary Restraining Order and Order to Show Cause ("Order") signed by Court Commissioner Velategui on September 9, 2010, and filed with this Court on September 10, 2010. The Court having considered the Motion and all materials and declarations filed in support thereof, Plaintiffs' opposition and supporting materials, if any, and based upon a review of all the files, records and proceedings herein,

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IT IS HEREBY ORDERED THAT:

1. The Order is vacated.
2. All Defendants shall appear before the Honorable Judge Suzanne Barnett in Dept. W-739, at the King County Courthouse, 516-3rd Avenue, Seattle, Washington, on the 24th day of September, 2010 at 1:30 p.m. and then and there show cause, if any they may have, why a preliminary injunction should not be entered.

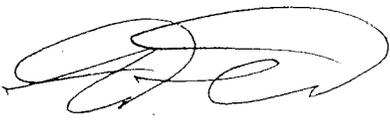
IT IS SO ORDERED

DATED this ____ day of September, 2010.

The Honorable Suzanne Barnett

Presented by:

RIDDELL WILLIAMS P.S.

By 

Robert N. Amkraut, WSBA #27412
Attorneys for Defendants

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS,

Plaintiff,

v.

CHESTERFIELD MORTGAGE
INVESTORS, INC., CHARLES M.
CHESTERFIELD AND KEY BANK,

Defendants.

NO. 10-2-32403-8SEA

MOTION TO SHORTEN TIME

I. MOTION & RELIEF REQUESTED

Chesterfield Mortgage Investors, Inc. moves for an order shortening time so that its Motion to Vacate or Modify Order Granting Motions for Temporary Restraining Order and Order to Show Cause can be considered at a 1 pm hearing on September 14, 2010.

II. FACTS

The Department of Financial Institutions ("DFI") obtained a temporary restraining order against Chesterfield Mortgage Investors, Inc. ("CMI") on September 9, 2010, without notice to CMI or other defendants. The TRO freezes

1 CMI's bank accounts and therefore, effectively terminates CMI's business
2 operations. CMI should have an opportunity to defend itself and respond to the
3 DFI's allegations. However, without a hearing on shortened time, CMI will be
4 without the ability to do so. As detailed in the Declaration of Robert N. Amkraut
5 supporting this Motion, CMI has provided reasonable notice of this hearing to
6 opposing counsel.

7 **III. STATEMENT OF ISSUE**

8 Should time be shortened to hear CMI's Motion to Vacate or Modify Order
9 Granting Motions for Temporary Restraining Order and order to Show Cause
10 obtained by plaintiff with no notice to CMI or other defendants.

11 **IV. EVIDENCE RELIED UPON**

12 CMI relies on the Declaration of Robert N. Amkraut in support of this
13 Motion, and on the pleadings and documents on file in this case.

14 **V. ARGUMENT & AUTHORITY**

15 Without a hearing on shortened time, CMI's business operations will be
16 effectively terminated. The DFI should not be allowed to essentially force the
17 closure of CMI and likely cause harm to CMI investors, and CMI employees
18 without a hearing to vacate or modify the no notice TRO entered against CMI and
19 other defendants.

20 DATED this 14th day of September, 2010.

21 RIDDELL WILLIAMS P.S.

22
23 By 

24 Robert N. Amkraut, WSBA #27412
25 Attorneys for Defendants
26

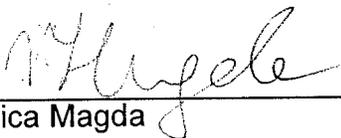
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CERTIFICATE OF SERVICE

I, Veronica Magda, hereby certify that on the 14th day of September, 2010,
I served true copies of the foregoing documents via the below-listed method upon
counsel of record below:

Kate Reynolds Charles Clark Attorney General of Washington 1125 Washington Street SE PO Box 40100 Olympia, WA 98504	<input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> E-Mailed <input type="checkbox"/> Faxed <input checked="" type="checkbox"/> US Mail
--	--

DATED this 14th day of September, 2010.



Veronica Magda

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS,

Plaintiff,

v.

CHESTERFIELD MORTGAGE
INVESTORS, INC., CHARLES M.
CHESTERFIELD AND KEY BANK,

Defendants.

NO. 10-2-32403-8 SEA

**DECLARATION OF ROBERT N.
AMKRAUT IN SUPPORT OF
MOTION TO SHORTEN TIME**

I, Robert N. Amkraut, declare as follows:

1. I make this declaration based on personal knowledge. I am competent to testify about the following matters.

2. I am an attorney. I have represented Chesterfield Mortgage Investors, Inc. ("CMI") in the period leading up to the September 13, 2010 hearing on CMI's Motion to Vacate.

1 3. As detailed in other pleadings filed concurrent with this Declaration,
2 the Plaintiff ("DFI") failed to provide notice or attempt to provide notice to me
3 before obtaining a Temporary Restraining Order ("Order") on September 9, 2010.

4 4. I learned of the Order for the first time in a phone conversation with
5 Janet So of the DFI after 3:45 p.m. on Monday, September 13, 2010.

6 5. Upon learning of the Order, I immediately set out to get a copy of it
7 as Ms. So apparently was not able to provide one. Therefore, I contacted one of
8 the attorneys representing the DFI, Charles Clark, and left a voice mail for him.

9 6. I obtained a copy of the Order after 4:15 pm through one of my
10 assistants.

11 7. After reviewing the Order and relevant rules regarding the DFI's
12 failure to provide notice, I contacted the Court and, shortly before 5 pm, obtained
13 a tentative hearing time of 1 pm, September 14, 2010, for a Motion to Vacate or
14 Modify.

15 8. Between 5 pm and 6:40 pm on September 13, I left voice mail for
16 Ms. So and Mr. Clark advising them of the September 14 hearing. I attempted to
17 leave a voice mail for the other attorney representing the DFI, Kate Reynolds, but
18 did not have her phone number.

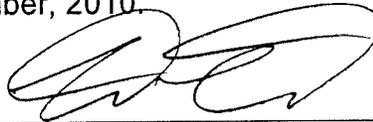
19 9. Between 5 pm and 6:40 pm on September 13, I also sent email to
20 Ms. So and Ms. Reynolds advising them of the September 14 hearing. When I
21 received a bounce back email saying that Ms. Reynolds was out of the office, I
22 also sent an email to Jeanette Baluyut, who apparently works with Ms. Reynolds. I
23 also sent an email to my best guess of Mr. Clark's email address advising him of
24 the September 14 hearing. (The email was addressed to Mr. Clark based on the
25 form of Ms. So and Ms. Reynold's email address.)
26

1 10. I spoke with Mr. Clark at 8:35 am on September 14, 2010 and
2 confirmed the hearing with him.

3 11. I provided copies of underlying pleadings to Mr. Clark by email at
4 about 9 am on September 14, 2010, shortly after the pleadings were complete.

5 I declare under penalty of perjury under the laws of the State of
6 Washington that the foregoing is true and correct.

7 11:15
8 DATED this 14th day of September, 2010.



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10 Robert N. Amkraut

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS,

Plaintiff,

v.

CHESTERFIELD MORTGAGE
INVESTORS, INC., CHARLES M.
CHESTERFIELD AND KEY BANK,

Defendants.

NO. 10-2-32403-8 SEA

**ORDER GRANTING MOTION TO
SHORTEN TIME**

[PROPOSED]

This matter came before the Court on the Defendant's Motion to Shorten Time ("Motion"). The Court having considered the Motion and all materials and declarations filed in support thereof, Plaintiffs' opposition and supporting materials, if any, and based upon a review of all the files, records and proceedings herein,

IT IS HEREBY ORDERED THAT:

1. The Order is granted.

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

STATE OF WASHINGTON,
DEPARTMENT OF FINANCIAL
INSTITUTIONS,

Plaintiff,

v.

CHESTERFIELD MORTGAGE
INVESTORS, INC., CHARLES M.
CHESTERFIELD AND KEY BANK,

Defendants.

NO. 10-2-32403-8 SEA

**LIMITED NOTICE OF
APPEARANCE**

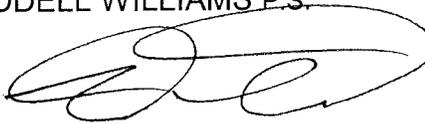
TO: CLERK OF THE COURT
AND TO: ATTORNEY GENERAL OF WASHINGTON – Attorneys for Plaintiff
YOU WILL PLEASE TAKE NOTICE that Defendant CHESTERFIELD
MORTGAGE INVESTORS, INC., without waiving any defense, including but not
limited to any jurisdictional defenses such as subject matter jurisdiction, improper
forum, lack of jurisdiction over defendant, lack of service of process, lack of
venue, or failure of the Complaint to state a claim upon which relief may be
granted, and specifically and expressly reserving its right to remove this matter

1 and to raise any defenses by motion or answer, hereby appears in the above-
2 entitled action through the undersigned attorney of record. Pursuant to RPC 1.2,
3 this appearance is limited to appearing at a September 14, 2010 hearing on
4 Chesterfield Mortgage Investors' Motion to Vacate or Modify. You are hereby
5 directed to serve all pleadings or papers, except process, upon said attorneys at
6 the address below stated.

7 DATED this 14th day of September, 2010.

8 Respectfully Submitted

9 RIDDELL WILLIAMS P.S.

10 

11 By

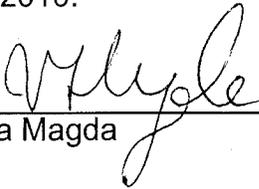
12 Robert N. Amkraut, WSBA #27412
13 Attorneys for Chesterfield Mortgage
14 Investors, Inc., a Defendant

1 **CERTIFICATE OF SERVICE**

2 I, Veronica Magda, hereby certify that on the 14th day of September, 2010,
3 I served true copies of the foregoing documents via the below-listed method upon
4 counsel of record below:
5

6 Kate Reynolds 7 Charles Clark 8 Attorney General of Washington 9 1125 Washington Street SE 10 PO Box 40100 11 Olympia, WA 98504	<input type="checkbox"/> Hand Delivered <input checked="" type="checkbox"/> E-Mailed <input type="checkbox"/> Faxed <input checked="" type="checkbox"/> US Mail
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12 DATED this 14th day of September, 2010.

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Veronica Magda