

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

IN RE NOVASTAR HOME MORTGAGE,)
INC. MORTGAGE LENDING)
PRACTICES LITIGATION)
_____)

CASE NO.: CV405-1677)
MDL Docket No.: 1677)

CLERK *M. Daniels*
SO. DIST. OF GA.

This Document Relates to: ALL ACTIONS)
_____)

CRTRM: The Hon. William T. Moore, Jr.

FINAL APPROVAL ORDER AND JUDGMENT

WHEREAS, the Parties and their attorneys have entered into a Settlement Agreement, Stipulation, and Release ("Agreement") dated June 22, 2007 (the definitions in the Agreement are used herein), in which the Parties have agreed upon a Settlement of this action and Related Litigation in Maryland and Illinois, subject to the approval and determination of this Court as to the fairness, reasonableness and adequacy of the Settlement which, if approved, will result in a dismissal of this action with prejudice;

WHEREAS, the Court on July 11, 2007 entered the Preliminary Approval Order;

WHEREAS, the Court, as part of its Preliminary Approval Order, directed that notice of the Settlement, as reflected in Exhibits DI, D2, and D3 to the Agreement, be distributed to potential members of the Class, and scheduled a hearing on September 14, 2007, to determine whether the proposed settlement should be approved as fair, reasonable and adequate;

WHEREAS, the Parties and the Settlement Administrator have satisfactorily shown that notice of the Settlement was distributed in accordance with the terms of the Preliminary Approval Order;

WHEREAS, a hearing was held, on September 14, 2007, at which all interested persons were given an opportunity to be heard; and

WHEREAS, the Court has reviewed the Motion for Final Approval (the "Motion"), the Agreement, including all Exhibits thereto, and has heard argument of counsel at a hearing on September 14, 2007 and fully considered the comprehensive terms of the Agreement, the statements of counsel, and all other matters of record brought before the Court;

NOW, THEREFORE, GOOD CAUSE APPEARING, IT IS ORDERED, ADJUDGED AND DECREED THAT:

1. The Court has jurisdiction over the subject matter of this Litigation and over all parties to this Litigation, including all Class Members, Class Counsel, and Defendants.
2. Given the record before the Court, and in light of the Settlement described in the Agreement, the Court finds that the requirements of Rule 23 of the Federal Rules of Civil Procedure are met for the Settlement of the Litigation on a class basis, and that for settlement purposes: (a) the Class is so numerous that joinder of all members is impracticable; (b) there are questions of law and fact common to the Class that predominate over any questions affecting only individual Class Members, and/or questions of law or fact that are not common have been resolved by the parties' Agreement; (c) the claims of the named Class Representatives are typical of the claims of the Class Members and/or such claims that are not typical have been resolved by the parties' Agreement; (d) the named Class Representatives have fairly and adequately protected the interests of the Class Members; (e) Class Counsel is experienced in handling class claims and claims involving similar lending issues; (f) neither the Class Representatives nor Class Counsel have any interests antagonistic to those of the Class; and (g) given the facts presented here and the agreements of the parties in the Agreement, a class action is superior for the fair and efficient adjudication of the claims brought by the Class Representatives and is manageable.
3. The Settlement Class, as preliminarily approved and defined, includes all persons

who obtained a mortgage loan from NovaStar Home Mortgage, Inc. ("NHMI") as the broker or lender, and: (1) the loan was subject to the Real Estate Settlement Practices Act ("RESPA"); (2) the NHMI branch assisting the Class Member on the loan was the beneficiary of a branch support and administration agreement with a NovaStar Limited Liability Company at the time the loan closed; and (3) the loan closed during the period June 1, 2000 through December 31, 2003. If a single lending transaction resulted in two or more separate loans and liens being created on the same secured property, the loans together constitute a single "Subject Loan" for the purpose of this Settlement. Excluded from the Class are: (1) Defendants and all directors, officers, agents, and employees of Defendants; (2) any person or entity who timely opted-out of this Settlement; and (3) any person who has previously released, generally, the Defendants. The opt-out list is attached hereto as Exhibit A.

4. The Court finds that the Direct Mail Notice and Published Notice, as evidenced by the affidavits filed with the Motion, satisfy the requirements of due process and Rule 23 of the Federal Rules of Civil Procedure by constituting the best notice practicable.

5. The Court finds that the consideration to Participating Class Members, who submit timely and properly completed Claim Forms, is fair, reasonable, adequate, made in good faith, and confers a substantial benefit on the Class Members. The Court also finds that there was no fraud or collusion in arriving at the settlement. In making these determinations, the Court has considered (1) the likelihood of success at trial; (2) the range of possible recovery; (3) the point on or below the range of possible recovery at which a settlement is fair, adequate, and reasonable; (4) the complexity, expense, and duration of litigation; (5) the substance and amount of opposition to the settlement; and (6) the stage of proceedings at which the settlement was achieved. Accordingly, the Motion for Final Approval of the Settlement Agreement is **GRANTED**.

6. The Court finds that Class Counsels' petition for fees and costs is fair and reasonable. Counsels' application for fees and costs to compensate them for their work and expenses in this case in the amount of \$3,000,000 is hereby awarded to Class Counsel and shall be paid by Defendants in accordance with the Agreement. Richardson, Patrick, Westbrook & Brickman, LLC and Wolf Haldenstein Adler Freeman & Herz LLP, shall allocate such award among Class Counsel in the manner in which they believe, in good faith, reflects the contributions of such counsel to the prosecution and settlement of the litigation, Defendants have no responsibility for and shall be indemnified by Class Counsel in respect to such allocation.

7. The Court finds that the named Class Representatives in the Litigation and Related Litigation are entitled to receive and are hereby awarded an incentive payment, to be paid by the Defendants, as follows: (a) Harry Pitts and Mary Pitts - \$5,000; (b) James Ronald McIver - \$5,000; (c) Lizzie Sadler - \$5,000; (d) Kevin Kravets - \$5,000; (e) Harry Lee Jones - \$5,000; (f) Charles E. Mull, Sr. and Phyllis Mull - \$5,000; (g) Karen Miller \$1,000.

8. Neither this Final Approval Order and Judgment, nor the Agreement, constitute a finding by this Court, or an admission or concession by the Defendants, of any actual or potential fault, liability, or wrongdoing.

9. This Final Approval Order and Judgment applies to all claims settled under the terms of the Agreement and binds all Class Members who did not properly opt-out of the Settlement.

10. The Class Representatives and all Participating Class Members are hereby deemed to have released the Released Parties to the full extent provided in the Agreement, and the Class Representatives, Participating Class Members and any persons acting in concert with them are hereby prohibited and barred from making, initiating or asserting any suits, litigation, claims, defenses or the like in respect to any of the Released Claims. Notwithstanding the provisions of this

Final Order and Judgment, the obligations of each Class Representative and each Participating Class Member with respect to a Subject Loan that is not yet fully paid or discharged in bankruptcy, are not relieved, impaired or affected in any way due to the Settlement or this Final Order and Judgment.

11. The Effective Date of this Settlement is the date upon which this Final Order and Judgment are no longer subject to appeal or certiorari proceedings.

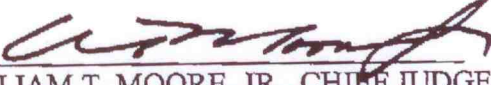
12. Upon the Effective Date, the Litigation is dismissed in its entirety, on the merits, with prejudice and without leave to amend, and all Class Members who did not opt-out of the Settlement shall be forever barred and permanently enjoined from starting, continuing, participating in, litigating, or receiving any benefits or other relief from any other lawsuit, arbitration, administrative or regulatory proceeding or order based on or relating to the claims, facts or circumstances in this Litigation, Related Litigation, or any Released Claims.

13. **THE PARTIES ARE DIRECTED AND ORDERED** to implement and consummate the Agreement according to its terms, and to abide this Court's Protective Order dated July 11, 2007. Class Counsel will also file motions to dismiss the Related Litigation with prejudice no later than the Effective Date, and will take such actions as are necessary to ensure that the Related Litigation is dismissed with prejudice as soon as reasonably possible after the Effective Date.

14. The Court will retain continuing jurisdiction over this action in respect to the implementation of the Settlement and the Court's orders.

15. The Clerk of Court is **DIRECTED** to enter final judgment.

SO ORDERED, this 18th day of September, 2007.


WILLIAM T. MOORE, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA