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MAY 3 2007

JUDGE JOAN E DUBUQUE
DEPARTMENT 27

The Honorable Joan DuBuque

THE STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

FISCAL DYNAMICS, INC., DOVE REALTY, INC., NORTHWEST ASSETS, INC., Washington for -profit corporations; CUMULATIVE LLC, a Washington limited liability company; JOSEPH M. KAISER, as an officer of Fiscal Dynamics and Cumulative LLC and in his individual capacity; WALTER D. SCAMEHORN as an officer of Fiscal Dynamics, Cumulative LLC, and President of Dove Realty, Inc., and in his individual capacity; E. ARLISS MORGAN, as President of Northwest Assets, Inc., and in his individual capacity; TINA M. WORTHEY, in her individual capacity; and Heidi M. Kaiser, Sandra J. Scamehorn, and Jane Doe Morgan as members of a marital community with other named Defendants;

Defendants.

NO. 07-2-08789-3SEA

CONSENT DECREE

(CLERK'S ACTION REQUIRED)

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KING COUNTY
SUPERIOR COURT

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MAY 3 2007

JUDGE JOAN E. DUBUQUE
DEPARTMENT 27

I. JUDGMENT SUMMARY

1.1 Judgment Creditor: STATE OF WASHINGTON

1.2 Judgment Debtors: FISCAL DYNAMICS, INC., CUMULATIVE LLC,

WALTER D. SCAMEHORN, NORTHWEST ASSETS, INC., TINA M. WORTHEY, and

1 E. ARLISS MORGAN, and as a member of a marital community with other debtors: Sandra
2 J. Scamehorn.

3 **1.3 Principal Judgment Amount:** \$340,000.00 (\$50,000.00 suspended as
provided in paragraph 5.1).

4 a. **Restitution:** \$290,000.00 as provided in paragraphs 4.1-4.4.

5 b. **Civil Penalties:** \$50,000.00 (suspended contingent on compliance).

6 **1.4 Costs & Attorneys Fees:** \$30,000.00 and as provided in paragraphs 4.4
7 and 6.1

8 **1.5 Total Judgment:** \$370,000.00 (\$50,000.00 suspended as provided in
9 paragraph 5.1).

10 **1.6 Post-Judgment Interest Rate:** Twelve percent (12%) per annum.

11 **1.7 Attorneys for Judgment Creditor:** David W. Huey and Brady Johnson,
12 Assistant Attorneys General.

13 **1.8 Attorney for Judgment Debtors:** David Robbins for Fiscal Dynamics, Inc.,
14 Dove Realty, Inc., Cumulative LLC, and Walter and Sandra Scamehorn; Steven W. Davies
15 for Tina M. Worthey; and appearing *pro se*, E. Arliss Morgan.

16 Plaintiff, State of Washington, having commenced this action on December 16, 2006,
17 pursuant to the Unfair Business Practices--Consumer Protection Act ("Consumer Protection
18 Act"), Chapter 19.86 RCW; and

19 Plaintiff, appearing by and through its attorneys, Robert M. McKenna, Attorney General,
20 and David W. Huey and Brady Johnson, Assistant Attorneys General; and Defendants, appearing
21 by and through their attorneys, David Robbins and Steven W. Davies, and appearing *pro se*; and

22 Defendants, enter into this Consent Decree to avoid costly and protracted litigation, and
23 deny the allegations of the Complaint. Plaintiff and Defendants agree that this Consent Decree
24 does not constitute evidence or an admission regarding the existence or nonexistence of any issue,
25 fact, or violation of any law alleged by Plaintiff; and
26

1 Defendants recognize and state that this Consent Decree is entered into voluntarily and
2 that no promises or threats have been made by the Attorney General's Office or any member,
3 officer, agent, or representative thereof to induce them to enter into this Consent Decree, except as
4 provided herein; and

5 Defendants waive any right they may have to appeal from entry of this Consent Decree
6 and from any of its terms and conditions; and

7 Defendants further agree that they will not oppose the entry of this Consent Decree for any
8 reason, including on the grounds it fails to comply with Rule 65(d) of the Rules of Civil
9 Procedure; and

10 Defendants further agree that this Court shall retain jurisdiction of this action for the
11 purpose of implementing and enforcing the terms and conditions of the Consent Decree and for all
12 other purposes relating to this action; and

13 The Court finding no just reason for delay;

14 **NOW, THEREFORE,** it is hereby **ORDERED, ADJUDGED, AND DECREED** as
15 follows:

16 II. GENERAL

17 2.1 Jurisdiction. This Court has jurisdiction of the subject matter of this action and of
18 the parties. The Plaintiff's Complaint in this matter states claims upon which relief may be
19 granted under the provisions of the Consumer Protection Act, Chapter 19.86 RCW. This Consent
20 Decree is entered pursuant to RCW 19.86.020 and RCW 19.86.030.

21 2.2 Defendants. For purposes of this Consent Decree the term "Defendants," where
22 not otherwise specified, shall mean FISCAL DYNAMICS, INC., CUMULATIVE LLC,
23 WALTER D. SCAMEHORN, TINA M. WORTHEY, NORTHWEST ASSETS, INC. and E.
24 ARLISS MORGAN.

1 **III. INJUNCTIONS**

2 **3.1 Application of Injunctions.** The injunctive provisions of this Consent Decree shall
3 apply to the Defendants, and their successors, assigns, officers, agents, servants, employees,
4 representatives, and all other persons or entities in active concert or participation with the
5 Defendants.

6 **3.2 Notice.** Defendants shall immediately inform all successors, assigns, transferees,
7 officers, agents, servants, employees, representatives, and all other persons or entities in active
8 concert or participation with Defendants of the terms and conditions of this Consent Decree.

9 **3.3 Injunctions.** Defendants, their successors, assigns, transferees, officers, agents,
10 servants, employees, representatives, and all other persons or entities in active concert or
11 participation with them are permanently enjoined and restrained from directly or indirectly
12 engaging in the following acts or practices in the State of Washington:

13 **A.** Misrepresenting, directly or by implication, Defendants' purpose in
14 contacting owners of property subject to a pending tax foreclosure proceeding as benevolent,
15 disinterested or anything other than an attempt to earn a profit from an arms-length business
16 transaction with the property owner;

17 **B.** Representing to owners of property subject to a pending tax foreclosure
18 proceeding that Defendants can help the property owner avoid or ameliorate any of the
19 consequences of foreclosure; provided, however Defendants may advise the property owner of
20 the specific financial consideration offered by Defendants;

21 **C.** Obtaining from owners of property subject to a pending tax foreclosure
22 proceeding any assignment, power of attorney or other agreement that has or purports to have
23 the final effect of transferring to a third party all or any part of the excess foreclosure sale
24 proceeds that would otherwise be refunded to the record owner of the property, as that term is
25 defined by RCW 84.64.80, namely "the person who held title on the date of issuance of the
26 certificate of delinquency";

1 **D.** Failing to provide owners of property subject to a pending tax
2 foreclosure proceeding, no less than one (1) business day prior to execution by the property
3 owners of any real estate transaction documents, a written and oral notice in a form
4 substantially similar to that set out in the attached Exhibit A;

5 **E.** Taking any interest in real property subject to a pending tax foreclosure
6 proceeding where Defendants have reason to believe the property owner expects to reacquire
7 that interest from Defendants in the future, unless Defendants clearly and conspicuously and in
8 a true and non-deceptive manner disclose in a separate writing:

9 1) The amount the property owner must pay to reacquire that interest or the
10 procedure by which that amount is to be determined;

11 2) The terms of payment;

12 3) The last date by which payment must be made;

13 4) The consequences of non-payment by that date; and

14 5) The source of the funds to be used for payment;

15 **F.** Misrepresenting, directly or by implication, the material terms of any
16 proposed real estate transaction with respect to any real property subject to a pending tax
17 foreclosure proceeding;

18 **G.** Using the Public Records Act to obtain a list of people likely to enter tax
19 foreclosure proceedings or a list of people currently in tax foreclosure proceedings, in order to
20 solicit them for the commercial purpose of negotiating a transfer of real property;

21 **H.** Engaging in any activities to combine or conspire with any other person to
22 manipulate the sales price of property at any auction or other sale;

23 **I.** Entering into any contract, conveyance or other written agreement
24 pertaining to real estate with the owner of property subject to a pending tax foreclosure
25 proceeding without giving the property owner a written notice creating a binding right to
26 cancel the contract, conveyance or other written agreement pertaining to real estate no later

1 than midnight of the third business day following execution of the documents. Provided,
2 however, if the closing is conducted by an independent attorney or limited practice officer at
3 that person's usual place of business, no such notice shall be required;

4 J. Acting as a trustee or other fiduciary in connection with any real estate
5 transaction with an owner of property subject to a pending tax foreclosure proceeding when any
6 of the Defendants have a beneficial interest in the transaction or the property;

7 K. Offering courses that train others how to engage in any of the activities
8 enjoined by paragraphs A-J above; and

9 L. The provisions of paragraphs D and I above shall expire five (5) years after
10 the date of entry of this Consent Decree.

11 IV. RESTITUTION

12 4.1 Pursuant to RCW 19.86.080, Defendants hereby agree to pay consumer restitution
13 in the amount of Two Hundred Ninety Thousand Dollars (\$290,000.00), according to the
14 following schedule:

15 A. No later than thirty (30) days following entry of this Consent Decree
16 Defendant Walter D. Scamehorn shall pay to the Attorney General the sum of One Hundred Fifty
17 Thousand Dollars (\$150,000.00);

18 B. No later than one hundred fifty (150) days following entry of this Consent
19 Decree, Defendant Walter D. Scamehorn shall pay to the Attorney General the further sum of One
20 Hundred Forty Thousand Dollars (\$140,000.00).

21 4.2 Defendants also agree to remove themselves or their agents or assigns as trustees
22 of any trusts created in the course of their transactions with property owners. The replacement
23 trustee must be an independent bona fide third party trustee who does not have any prior
24 obligations to either party and who will have authority to distribute proceeds arising from any
25 trust in an equitable manner. Alternatively, the parties may agree in writing to alter the
26 arrangement so as to eliminate the need for a trust or trustee relative to the transactions. Any such

1 alternative arrangement shall be disclosed to the Attorney General and shall be subject to approval
2 by the Attorney General.

3 4.3 Within ninety (90) days of entry of this Consent Decree, Defendants shall review
4 their business records in good faith and provide the Attorney General with a list of all persons
5 (together with address and other contact information) who they propose as eligible to receive
6 restitution under this agreement and the amount of restitution to be paid each person. The
7 Attorney General may identify additional individuals to be added to the list. The Attorney
8 General shall review the list and attempt in good faith to reach agreement with Defendants
9 regarding both who should receive restitution and the amount each person is to receive. In the
10 event of a dispute regarding the persons entitled to receive restitution or the amount of
11 restitution to be paid to a person, the decision of the Attorney General shall be controlling.

12 4.4 Any consumer restitution funds remaining undistributed two hundred seventy
13 days (270) following entry of this Consent Decree shall be paid to the Attorney General to be
14 applied first to any unrecovered costs and reasonable attorneys fees, including the costs of
15 administering the restitution fund, with any remaining funds to be retained by the Attorney
16 General in the Cy Pres/Consumer Education Account to be used for consumer education and
17 public outreach.

18 V. CIVIL PENALTIES

19 5.1 Pursuant to RCW 19.86.140, Plaintiff shall have and recover and Defendants shall
20 be liable for civil penalties of Fifty Thousand Dollars (\$50,000.00); provided, however, that this
21 amount shall be suspended conditioned upon full compliance with the injunctive terms of this
22 agreement. In the event any Defendant violates any of the terms of this Consent Decree,
23 Defendants agree and understand that the State may move the Court for an order lifting the
24 suspension and directing the Defendants determined to be in violation of this Consent Decree to
25 pay all or part of the suspended civil penalty.

1 **VI. ATTORNEY'S FEES AND COSTS**

2 **6.1** Pursuant to RCW 19.86.080, Plaintiff shall recover and Defendants shall pay the
3 costs and reasonable attorney's fees incurred by the Plaintiff in pursuing this matter, as follows:

4 **A.** No later than thirty (30) days following entry of this Consent Decree,
5 Defendants FISCAL DYNAMICS, INC., CUMULATIVE LLC, and WALTER D.
6 SCAMEHORN shall pay to the Attorney General the sum of Ten Thousand Dollars
7 (\$10,000.00);

8 **B.** No later than thirty (30) days following entry of this Consent Decree,
9 Defendants E. ARLISS MORGAN and NORTHWEST ASSETS, INC. shall pay to the Attorney
10 General the sum of Ten Thousand Dollars (\$10,000.00).

11 **C.** No later than thirty (30) days following entry of this Consent Decree,
12 Defendant TINA M. WORTHEY shall pay to the Attorney General the sum of Ten Thousand
13 Dollars (\$10,000.00).

14 **6.2** Defendants shall bear Plaintiff's reasonable costs, including reasonable attorneys'
15 fees, in any successful action to enforce any of the provisions of this Consent Decree.

16 **VII. TERMS OF PAYMENT**

17 **7.1** All payments due under this agreement shall be made payable to the order of the
18 "Attorney General-State of Washington" and sent to the Office of the Attorney General,
19 Attention: Cynthia Lockridge, Administrative Office Manager, 800 Fifth Avenue, Suite 2000,
20 Seattle, Washington, 98104-3188.

21 **7.2** Interest on any unpaid balance shall accrue in the amount of twelve percent (12%)
22 per annum from and after the date upon which it becomes due.

23 **VIII. ENFORCEMENT**

24 **8.1** Violation of any of the terms of this Consent Decree shall constitute a violation of
25 an injunction for which civil penalties of up to \$25,000 per violation may be awarded by the Court
26 pursuant to RCW 19.86.140.

1 **8.2** The violation of any of the terms of this Consent Decree shall constitute a
2 violation of the Consumer Protection Act, RCW 19.86.020 and RCW 19.86.030. Nothing in this
3 Consent Decree may modify or abridge any law or regulation, and Defendants agree to comply
4 with all applicable laws and regulations, including any law or regulation more restrictive than any
5 term of this Consent Decree.

6 **8.3** Jurisdiction is retained for the purpose of enabling any party to this Consent
7 Decree with or without the prior consent of the other party to apply to the court at any time for
8 enforcement of compliance with this Consent Decree, to punish violations thereof, or to modify or
9 clarify this Consent Decree.

10 **8.4** Defendants, their successors, assigns, officers, agents, servants, employees and
11 representatives are affirmatively obligated to provide full and reasonable cooperation to the Office
12 of the Attorney General in its investigation into and any litigation related to the practices
13 described in the Complaint and in this Consent Decree.

14 **8.5** Representatives of the Office of the Attorney General shall be permitted, upon ten
15 (10) days notice to Defendants or their counsel, to access, inspect, and copy all business records or
16 documents under control of Defendants in order to monitor compliance with this Consent Decree,
17 provided that the inspection and copying shall be done in such a way as to avoid disruption of
18 Defendants' business activities.

19 **8.6** Representatives of the Office of the Attorney General shall be permitted to
20 question the Defendants or any officer, director, agent, or employee of any Defendant to this
21 Complaint by deposition, pursuant to the provisions of the Civil Rules, in order to monitor
22 compliance with this Consent Decree.

23 **8.7** Nothing in this Consent Decree shall be construed as to limit or bar any other
24 governmental entity or consumer from pursuing other available remedies against Defendants.
25
26

1 **8.8** Under no circumstances shall this Consent Decree or the name of the State of
2 Washington, the Office of the Attorney General, the Consumer Protection Division, the Antitrust
3 Division or any of their employees or representatives be used by any Defendant in connection
4 with any selling, advertising, or promotion of products or services, or as an endorsement or
5 approval of Defendants' acts, practices, or conduct of business.

6 **8.9** Except for the rights and obligations of the parties created by the terms of this
7 Consent Decree, this Consent Decree is a full and final settlement, resolution, and except as
8 provided herein, release, of all State claims against Defendants FISCAL DYNAMICS, INC.,
9 CUMULATIVE LLC, DOVE REALTY, INC., WALTER D. SCAMEHORN, NORTHWEST
10 ASSETS, INC., TINA M. WORTHEY, and E. ARLISS MORGAN, which claims are
11 identified in the Complaint and which arose on or before the date of entry of this consent

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1 decree. It does not operate to release any claims against any other Defendants named in this
2 action.

3 DONE IN OPEN COURT this 11 day of May, 2007.

6 **JUDGE/COURT COMMISSIONER**

7 Approved for entry and presented by:

Approved for Entry, Notice of Presentation
Waived:

8 ROBERT M. MCKENNA
9 Attorney General

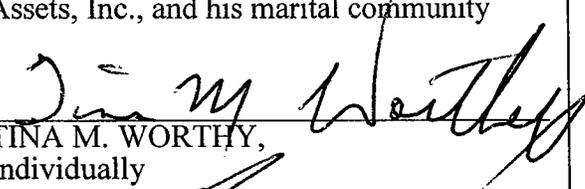
10
11 DAVID W. HUEY, WSBA #31380
12 Assistant Attorney General

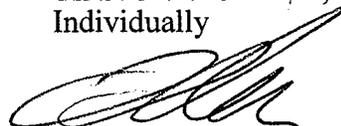
DAVID ROBBINS, WSBA #13628
Attorney for Defendants: Fiscal Dynamics,
Inc. Dove Realty, Inc., Cumulative LLC,
and Walter and Sandra Scamehorn;

13 BRADY JOHNSON, WSBA #21732
14 Assistant Attorney General
15 Attorneys for Plaintiff
16 State of Washington

17
18 WALTER D. SCAMEHORN,
19 Individually and on behalf of Fiscal
20 Dynamics, Inc., Dove Realty, Inc., and
21 Cumulative LLC, and his marital
22 community

23
24 E. ARLISS MORGAN,
25 Individually and on behalf of Northwest
26 Assets, Inc., and his marital community


TINA M. WORTHY,
Individually


STEVEN W. DAVIES, WSBA #11566
Attorney for Defendant: Tina M. Worthy

Approved for entry and presented by:

ROBERT M. MCKENNA
Attorney General

DAVID W. HUEY
WSBA #31380
Assistant Attorney General

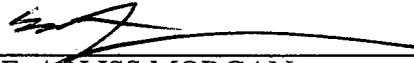
BRADY JOHNSON
WSBA #21732
Assistant Attorney General
Attorneys for Plaintiff
State of Washington

JUDGE/COURT COMMISSIONER

Approved for Entry, Notice of Presentation
Waived:

DAVID ROBBINS
WSBA #13628
Attorney for Defendants: Fiscal Dynamics,
Inc. Dove Realty, Inc., Cumulative LLC,
and Walter and Sandra Scamehorn;

WALTER D. SCAMEHORN,
Individually and on behalf of Fiscal
Dynamics, Inc., Dove Realty, Inc., and
Cumulative LLC, and his marital
community



E. ARLISS MORGAN,
Individually and on behalf of Northwest
Assets, Inc., and his marital community

TINA M. WORTHY,
Individually

[ATTORNEY NAME]
WSBA #
Attorney for Defendants: Northwest
Assets, Inc., E. Arliss Morgan, and Tina
M. Worthy

1 decree. It does not operate to release any claims against any other Defendants named in this
2 action.

3 DONE IN OPEN COURT this _____ day of _____, 2007.

6 **JUDGE/COURT COMMISSIONER**

7 Approved for entry and presented by:

Approved for Entry, Notice of Presentation
Waived:

8 ROBERT M. MCKENNA
9 Attorney General

10
11 DAVID W. HUEY, WSBA #31380
12 Assistant Attorney General

DAVID ROBBINS, WSBA #13628
Attorney for Defendants: Fiscal Dynamics,
Inc. Dove Realty, Inc., Cumulative LLC,
and Walter and Sandra Scamehorn;

13 BRADY JOHNSON, WSBA #21732
14 Assistant Attorney General
15 Attorneys for Plaintiff
16 State of Washington

Walter D. Scamehorn
WALTER D. SCAMEHORN,
Individually and on behalf of Fiscal
Dynamics, Inc., Dove Realty, Inc., and
Cumulative LLC, and his marital
community

17
18 E. ARLISS MORGAN,
19 Individually and on behalf of Northwest
20 Assets, Inc., and his marital community

21
22 TINA M. WORTHY,
Individually

23
24 STEVEN W. DAVIES, WSBA #11566
25 Attorney for Defendant: Tina M. Worthy.
26

1 decree. It does not operate to release any claims against any other Defendants named in this
2 action.

3 DONE IN OPEN COURT this 11th day of May, 2007.

4
5
6 
JUDGE/COURT COMMISSIONER

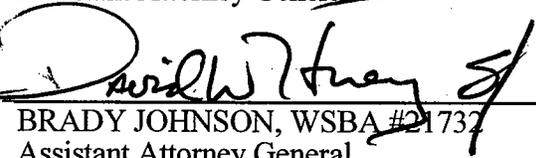
7 Approved for entry and presented by:

Approved for Entry, Notice of Presentation
Waived:

8 ROBERT M. MCKENNA
9 Attorney General

10 
11 DAVID W. HUEY, WSBA #31380
Assistant Attorney General

12 
13 DAVID ROBBINS, WSBA #13628
Attorney for Defendants: Fiscal Dynamics,
Inc. Dove Realty, Inc., Cumulative LLC,
and Walter and Sandra Scamehorn;

14 
BRADY JOHNSON, WSBA #21732
Assistant Attorney General
Attorneys for Plaintiff
State of Washington

15 WALTER D. SCAMEHORN,
16 Individually and on behalf of Fiscal
Dynamics, Inc., Dove Realty, Inc., and
Cumulative LLC, and his marital
community

17
18
19 E. ARLISS MORGAN,
Individually and on behalf of Northwest
Assets, Inc., and his marital community

20
21
22 TINA M. WORTHY,
Individually

23
24
25 STEVEN W. DAVIES, WSBA #11566
Attorney for Defendant: Tina M. Worthy