IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
and	)	
STATE OF ILLINOIS, ex rel. Attorney General JAMES E. RYAN,	)	
Plaintiffs,	)	
v.	)	
MERCANTILE MORTGAGE COMPANY, INC., an Illinois corporation,	)	Civil Action No.
BRAN SILVEOUS, and RONALD NOBLE, individually and as officers of the corporation,	)	
Defendants.	)	

STIPULATED FINAL JUDGMENT AND ORDER

Plaintiffs, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("FTC" or "Commission") and the Secretary of the Department of Housing and Urban Development ("HUD"), and the State of Illinois, have filed a complaint for a permanent injunction and other equitable relief pursuant to Sections 5(a), 13(b), and 19(a)(1) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b), and 57b(a)(1); Sections 108(c) and 130(e) of the Truth in Lending Act ("TILA"), 15 U.S.C. §§ 1607(c) and 1640(e); Section 8(d)(4) of the Real Estate Settlement Procedures Act of 1974 ("RESPA"), 12 U.S.C. § 2607(d)(4); and Section 7 of the Illinois Consumer Fraud and Deceptive Practices Act

("ICFA"), 815 ILCS 505/7.

The Complaint alleges that Defendants Mercantile Mortgage Company, Inc. ("Mercantile"), Bran Silveous, and Ronald Noble (collectively, "Defendants") have violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), as amended, and Section 505/2 of the ICFA, 815 ILCS 505/2, and that Defendant Mercantile has also violated the TILA, 15 U.S.C. §§ 1601-1666j, as amended, the Home Ownership and Equity Protection Act of 1994 ("HOEPA"), 15 U.S.C. § 1639, the TILA's implementing Regulation Z ("Regulation Z"), 12 C.F.R. § 226, as amended, the Commission's Trade Regulation Rule Concerning Credit Practices ("Credit Practices Rule" or "CPR"), 16 C.F.R. § 444, Section 8(a) of the RESPA, 12 U.S.C. § 2607(a), and the RESPA's implementing Regulation X ("Regulation X"), 24 C.F.R. § 3500.14.

The Plaintiffs and Defendants, by and through their respective counsel, have agreed to entry of this Stipulated Final Judgment and Order ("Order") by this Court, without trial or adjudication of any issue of fact or law. The Defendants have not admitted any violation of law, and entry of this Order is not an admission of any law violation. The said parties having requested the Court to enter this Order, it is therefore ORDERED, ADJUDGED, AND DECREED as follows:

FINDINGS

1. This Court has jurisdiction over Defendants and the subject matter of this action. Venue in the Northern District of Illinois is proper.

2. The Complaint states a claim upon which relief may be granted against Defendants under Sections 5(a), 13(b), and 19(a)(1) of the FTC Act, 15 U.S.C. §§ 45(a), 53(b), and 57b(a)(1), as amended, and under Section 2 of the ICFA, 815 ILCS 505/2. The Complaint states a claim upon

which relief may be granted against Defendant Mercantile under the TILA, 15 U.S.C. §§ 1601-1666j, as amended, under Regulation Z, 12 C.F.R. § 226, under the Credit Practices Rule, 16 C.F.R. § 444, under Section 8(a) of the RESPA, 12 U.S.C. § 2607(a), and under Regulation X, 24 C.F.R. § 3500.14.

3. Plaintiff United States of America has the authority under Sections 5(a), 13(b), and 19(a)(1) of the FTC Act, 15 U.S.C. §§ 45(a), 53(b), and 57b(a)(1); Section 108(c) of the TILA, 15 U.S.C. § 1607(c); and Section 8(d)(4) of the RESPA, 12 U.S.C. § 2607(d)(4), to seek the relief it has requested. Plaintiff State of Illinois has the authority under Sections 7 and 10 of the ICFA, 815 ILCS 505/7 and 10, and Section 130(e) of the TILA, 15 U.S.C. § 1640(e), to seek the relief it has requested.

4. The activities of Defendants are in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44, and as defined in Section 1 of the ICFA, 815 ILCS 505/1.

5. Plaintiffs and Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order, and Defendants waive any right that may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412.

6. Entry of this Order is in the public interest.

ORDER

DEFINITIONS

7. For purposes of this Order, the following definitions shall apply:

   a. "annual percentage rate," "credit," "creditor," and "finance charge" are defined as provided in Sections 103 and 128 of the TILA, 15 U.S.C. §§ 1602 and

1638, and Sections 226.2, 226.4, and 226.18 of Regulation Z, 12 C.F.R. §§ 226.2, 226.4, and 226.18;

b. "balloon loan" shall mean a loan that involves a payment schedule with regular monthly payments of principal and/or interest that are approximately equal in value and a final payment that is substantially larger than the other payments;

c. "balloon payment" shall mean the final payment on a balloon loan;

d. "Bran Silveous" shall mean Bran Silveous, individually and as an employee of Mercantile, and any entity through which he does business;

e. "broker(s)" shall mean any person(s) engaged in the solicitation, origination, negotiation, or referral of a loan for consumers for a fee, commission, or other valuable consideration, not employed by Defendants;

f. "the Credit Practices Rule" or "CPR" shall mean the Commission's Trade Regulation Rule Concerning Credit Practices, 16 C.F.R. § 444;

g. "Defendants" shall mean, collectively, Mercantile, Bran Silveous, and Ronald Noble (unless otherwise specified);

h. "document" is defined as provided in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term;

i. "household goods" and "obligation" are defined as provided in the Credit Practices Rule, 16 C.F.R. § 444.1;

j. "The Federal Trade Commission Act" or "FTC Act" shall mean 15 U.S.C. §§ 41-58, as amended;

k. "federally related mortgage loan," "thing of value," and "settlement services" are defined as provided in Section 2 of the RESPA, 12 U.S.C. § 2602, and Section 3500.2 of Regulation X, 24 C.F.R. § 3500.2;

l. "first trust mortgage loan" shall mean the primary lien against a property;

m. "The Home Ownership and Equity Protection Act of 1994" or "HOEPA" shall mean Section 129 of the TILA, 15 U.S.C. § 1639, and is implemented by, *inter alia*, Sections 226.31 and 226.32 of Regulation Z, 12 C.F.R. §§ 226.31 and 226.32;

n. "loan consummation" shall mean the time the borrower becomes contractually obligated on the loan transaction (i.e, the time of closing and not the date the rescission period expires);

o. "loan officer(s)" shall mean any Mercantile employee engaged in the solicitation, origination, negotiation, or referral of a loan for consumers for a fee, commission, or other valuable consideration;

p. "Mercantile" or "Defendant Mercantile" shall mean Mercantile Mortgage Company, Inc., an Illinois corporation, and its successors and assigns, by whatever names they might be known;

q. "mortgage loan" shall mean any type of credit secured or to be secured by real property;

r. "person" shall mean any individual, group, unincorporated association, limited or general partnership, corporation, trust, or other business entity;

s. "The Real Estate Settlement Procedures Act" or "RESPA" shall mean 12 U.S.C. § 2607-2617;

t. "Regulation X" shall mean RESPA's implementing Regulation X, 12 C.F.R. § 3500, as amended;

u. "Regulation Z" shall mean the TILA's implementing Regulation Z, 12 C.F.R. § 226, as amended;

v. "Ronald Noble" shall mean Ronald Noble, individually and as an employee of Mercantile, and any entity through which he does business;

w. "second trust mortgage loan" shall mean a lien that is subordinate to the first trust mortgage loan;

x. "third-party closing costs" shall mean all expenses incurred in refinancing that are paid to any entity other than Mercantile, other than any amounts for prepaid interest, state or local real estate taxes, or hazard insurance; and

y. "The Truth in Lending Act" or "TILA" shall mean 15 U.S.C. §§ 1601-1666j, as amended.

SCOPE OF DECREE

8. This Order resolves only those claims alleged in the Complaint against the named Defendants and does not preclude the United States, the Commission, HUD, or the State of Illinois from initiating further action or seeking any remedy against any other persons, including without

E. The amount of cash to be disbursed to the borrower out of the loan proceeds, or to be disbursed on behalf of the borrower to any third party, including any creditors or any home improvement companies; and

F. That the monthly payment amount includes the payment into an escrow account for property taxes and insurance.

II.

IT IS FURTHER ORDERED that, in every credit transaction in which a Defendant offers the consumer a balloon loan, the Defendant shall furnish two copies of the Affirmative Disclosure Statement set forth in **Appendix A** ("Disclosure Statement") at least three (3) business days before loan consummation. The Disclosure Statement shall be set forth in a clear and conspicuous manner, in 100% black ink against a white background, on a single page. The second, third, fourth, and fifth sentences of the Disclosure Statement shall be printed in 30-point type or larger. The final sentence of the Disclosure Statement shall be printed in 14-point type or larger. Defendants shall request that each consumer read, date, and sign both copies of the Disclosure Statement. Defendants shall not consummate a loan for any consumer who does not sign and date both copies of the Disclosure Statement. Defendants shall provide one signed copy of the Disclosure Statement to the borrower before loan consummation and retain a second copy for their records. Defendants shall retain a signed copy of each Disclosure Statement for five (5) years from its date of execution by a consumer.

III.

IT IS FURTHER ORDERED that Defendant Mercantile is hereby enjoined from violating the TILA, 15 U.S.C. §§ 1601-1666j, as amended, including HOEPA, 15 U.S.C. § 1639, and Regulation

Z, 12 C.F.R. § 226, as amended, by:

A. Failing to disclose the existence of any balloon payment, as required by Section 129(a)(2)(A) of the TILA, 15 U.S.C. § 1639(a)(2)(A), and Section 226.32(c)(3) of Regulation Z, 12 C.F.R. § 226.32(c)(3);

B. Failing to provide the disclosures required by Section 129(a) of the TILA, 15 U.S.C. § 1639(a), and Section 226.32(c) of Regulation Z, 12 C.F.R. § 226.32(c), or failing to provide such disclosures not less than three (3) business days before consummation of the transaction, as required by Section 129(b) of the TILA, 15 U.S.C. § 1639(b), and Section 226.31(c)(1) of Regulation Z, 12 C.F.R. § 226.31(c)(1);

C. Failing to provide the disclosures required by Section 128(a) of the TILA, 15 U.S.C. § 1638(a), and Section 226.18 of Regulation Z, 12 C.F.R. § 226.18, or failing to provide such disclosures in a form the consumer can keep, as required by Sections 128(a) and (b) of the TILA, 15 U.S.C. §§ 1638(a) and (b), and Section 226.17(a)(1) of Regulation Z, 12 C.F.R. § 226.17(a)(1);

D. Failing to disclose that the lender has taken a security interest in certain personal property, as required by Section 128(a)(9) of the TILA, 15 U.S.C. § 1638(a)(9), and Section 226.18(m) of Regulation Z, 12 C.F.R. § 226.18;

E. Failing to retain records or to otherwise comply with the record retention requirements of Regulation Z, as required by Section 226.25 of Regulation Z, 12 C.F.R. §226.25; and

F. Failing to comply with any other provision of the HOEPA, TILA, or Regulation Z.

IV.

IT IS FURTHER ORDERED that Defendant Mercantile is hereby enjoined from, directly or through any corporation, subsidiary, division, or other device, failing to comply with the Credit Practices Rule, including, without limitation: taking or receiving from a consumer an obligation that constitutes or contains a non-possessory security interest in household goods (other than a purchase money security interest) in violation of § 444.2(a)(4) of the CPR.

V.

IT IS FURTHER ORDERED that Defendant Mercantile is hereby enjoined from, directly or through any corporation, subsidiary, division, or other device, failing to comply with the RESPA, 12 U.S.C. §§ 2601-2617, as amended, or its implementing Regulation X, 24 C.F.R. § 3500, as amended.

MONETARY RELIEF

VI.

IT IS FURTHER ORDERED that Defendants shall pay the amount of $250,000 (U.S. Dollars) to settle the claims alleged by the FTC, HUD, and the State of Illinois. Defendants shall wire transfer the sum of $250,000 into an escrow account designated by the Commission, on or before five (5) business days after the date of entry of this Order. Defendants shall wire transfer the sum of $250,000 into an escrow account designated by the Commission. All funds paid pursuant to this Part shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress fund ("Redress Program"). The Commission shall have sole discretion in choosing an

independent administrator to administer the Redress Program. The FTC, in consultation with HUD and the State of Illinois, shall determine which consumers are eligible for redress as well as the amounts to be paid. Defendants shall have no right to challenge any aspect of Plaintiffs' distribution of consumer

redress. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the Defendants' practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited into the United States Treasury. Defendants shall have no right to challenge the Commission's choice of remedies under this Part.

VII.

Notwithstanding any other provision of this Order, Defendants agree that if they fail to meet the payment obligations set forth in this Order, Defendants shall pay the costs and attorneys' fees incurred by the Commission and its agents in any attempts to collect amounts due pursuant to this Order. Defendants further agree that the facts as alleged in the Complaint filed in this action shall be taken as true in any subsequent litigation filed by the Commission to enforce its rights pursuant to this Order, including but not limited to, a nondischargeability complaint in any subsequent bankruptcy proceeding.

REFINANCING PROGRAM

calendar days from the date that the questionnaire was mailed to the borrower, or is

in **Appendix B**. The cost of mailing the notices shall be paid out of the funds submitted by Mercantile pursuant to Part VI, above.

X.

IT IS FURTHER ORDERED that Mercantile shall offer each Specified Borrower who applies for the Refinancing Program with a first trust mortgage loan the right to refinance his or her existing mortgage loan by replacing it with a new first trust mortgage loan originated by Mercantile, on the same residential property, which new mortgage loan shall (A) be in an amount equal to the full principal balance of the existing loan at the time of the closing of the new loan (plus any prepaid interest, taxes, or insurance; accrued interest; and/or closing costs, if the borrower chooses to finance these expenses by adding them to the loan amount); (B) be a fully amortizing loan for a period of thirty (30) years with no balloon payment; (C) have a fixed interest rate; and (D) have no prepayment penalty.

XI.

IT IS FURTHER ORDERED that Mercantile shall offer each Specified Borrower who applies for the Refinancing Program with a second trust mortgage loan the right to refinance his or her existing mortgage loan by replacing it with a new second trust mortgage loan originated by Mercantile, on the same residential property, which new mortgage loan shall (A) be in an amount equal to the full principal balance of the existing loan at the time of the closing of the new loan (plus any prepaid interest, taxes, or insurance; accrued interest; and/or closing costs, if the borrower chooses to finance these expenses by adding them to the loan amount); (B) be a fully amortizing loan for a period of fifteen (15) years with no balloon payment; (C) have a fixed interest rate; and (D) have no prepayment penalty.

XII.

If Defendants subsequently materially modify their loan application or the list of documentation required to apply for the loan, Defendants shall provide any such modified document to the Commission or its designated agent within fourteen (14) days after introducing the new document.

XVII.

IT IS FURTHER ORDERED that, on or before thirty (30) calendar days after entry of this Order, the Defendants shall obtain and deliver to the FTC an irrevocable letter of credit in the amount of $200,000 (U.S. Dollars) issued by a financial institution payable to the FTC that will remain in effect for one year. Prior to the expiration of the aforementioned letter of credit, the Defendants shall obtain and deliver to the FTC a second irrevocable letter of credit in the amount of $100,000 (U.S. Dollars) issued by a financial institution payable to the FTC that will remain in effect for one year. Prior to the expiration of the second letter of credit, the Defendants shall obtain and deliver to the FTC a third irrevocable letter of credit in the amount of $50,000 (U.S. Dollars) issued by a financial institution payable to the FTC that will remain in effect until June 30, 2005. For each letter of credit, both the financial institution that issues the letter of credit and the form of the letter of credit must be acceptable to the FTC, which acceptance will not be unreasonably withheld. The letter of credit shall be drawn upon only in the event that Mercantile fails to meet its obligations to offer refinance loans or cash payments under the Refinancing Program, and shall be used to provide redress up to three percent (3%) of the existing note to any Specified Borrower who had not already refinanced his/her loan through the Refinancing Program (or who had not previously received the three percent (3%) cash payment referenced in Part XII(D), above). Should the value of the letter of credit then outstanding exceed the total payments made to borrowers under this Part, then the remaining balance minus any

administrative expenses incurred by the FTC or its designated agent in connection with the distribution of the cash payments shall be paid to Mercantile. So long as the Defendants have complied with the provisions of this Part, Defendants Silveous and Noble are not personally liable for any obligation under the Refinancing Program.

MONITORING REQUIREMENT

XVIII.

IT IS FURTHER ORDERED that Defendants are enjoined from, directly or through any corporation, subsidiary, division, or other device:

A. Failing to take reasonable steps sufficient to monitor and ensure that all Defendants' officers, employees, and agents comply with Parts I-V of this Order. Reasonable steps shall include, but are not limited to, the following: (1) establishing a program to undertake routine monitoring of oral and written presentations and communications made by loan officers and agents to prospective borrowers; (2) establishing a procedure for receiving and responding to consumer complaints, including complaints relating to Mercantile employees and brokers; and (3) analyzing the number and nature of consumer complaints received by Mercantile regarding transactions in which each loan officer, agent, or broker is involved; *provided* that this Part does not authorize or require any Defendant to take any steps that violate any federal, state, or local laws;

B. Failing to investigate promptly and fully any consumer complaint received by any business to which this Part applies, and to notify the consumer of the resolution of the complaint and the reason therefor; and

C. Failing to take appropriate corrective action with respect to any employee or broker

transactions, whether received directly or indirectly or through any third party:

(1) the consumer's name, address, telephone number, and account number;

(2) the written complaint, if any, and the date of the complaint;

(3) the basis of the complaint, including the name of any employee complained of,

ACKNOWLEDGMENT OF RECEIPT

XX.

IT IS FURTHER ORDERED that, within five (5) business days after receipt by each Defendant of this Order as entered by the Court, each Defendant shall submit to the Commission a truthful sworn statement, in the form shown on **Appendix C**, that shall acknowledge receipt of this Order.

DISTRIBUTION OF ORDER

XXI.

IT IS FURTHER ORDERED that Mercantile shall, within thirty (30) days of the date of entry of this Order, provide a copy of this Order to each of its officers and senior employees, as listed in **Appendix D**, secure from each such person a signed statement acknowledging receipt of a copy of this Order, and, within ten (10) days of complying with this Part, file an affidavit with this Court setting forth the fact and manner of its compliance, including the name and title of each person to whom a copy of the Order and other materials has been provided, and serve such affidavit on the Commission.

XXII.

IT IS FURTHER ORDERED that Mercantile shall, within thirty (30) days of the date of the entry of this Order, provide a copy, by first-class mail, of the synopsis of this Order, in the form shown in **Appendix E**, to each of its employees (other than the employees listed in Appendix D).

XXIII.

IT IS FURTHER ORDERED that, for a period of five (5) years following the date of entry of this Order, each Defendant shall:

A. Provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each new officer and senior management employee, within thirty (30) days after the person assumes such position or responsibilities, for any business where (1) any Defendant is the majority owner of the business or directly or indirectly manages or controls the business, and (2) the business is engaged in consumer lending;

B. Provide a copy of the synopsis, in the form shown in **Appendix E**, to each new employee (other than senior management employees), within thirty (30) days after the person assumes such position or responsibilities, for any business where (1) any Defendant is the majority owner of the business or directly or indirectly manages or controls the business, and (2) the business is engaged in consumer lending; and

C. Maintain for a period of three (3) years after execution, and upon reasonable notice, make available to representatives of the Commission, the original signed and dated acknowledgments of the receipt of copies of this Order, as required in Subsection A of this Part.

COMPLIANCE REPORTING BY DEFENDANTS

XXIV.

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, Defendant Mercantile shall provide an annual report to the Commission, HUD, and the State of Illinois, starting with a report ninety (90) days after the date of entry of this Order, documenting its compliance with the terms and provisions of this Order.

XXV.

IT IS FURTHER ORDERED that Defendant Mercantile shall, throughout the duration of the Refinancing Program, provide a monthly report to the Commission, postmarked on or before the fifth (5^{th}) business day of each month, documenting, for the prior month:

A. Names of the borrowers that applied for the Refinancing Program;

B. Names of the borrowers that were offered loans as part of the Refinancing Program, and the loan terms offered to these borrowers (including interest rate, confirmation that no fees were charged by Mercantile, third-party closing costs paid by Mercantile, third-party closing costs paid and/or financed by the borrower, confirmation that the loan did not have a prepayment penalty, state the loan term, and amortization schedule);

C. Names of borrowers who refinanced, and the loan terms under which the borrowers refinanced (including interest rate, confirmation that no fees were charged by Mercantile, third-party closing costs paid by Mercantile, third-party closing costs paid and/or financed by the borrower, confirmation that the loan did not have a prepayment penalty, state the loan term, and amortization schedule); and

D. Names of any borrowers that received a lump sum payment pursuant to Part XII(D) above, and the amount of the lump sum payment.

XXVI.

IT IS FURTHER ORDERED that, to assist in monitoring compliance with this Order, Defendant Mercantile shall notify the Commission, HUD, and the State of Illinois at least thirty (30) days before:

A. Any change in its business address(es), principal place of business, or telephone

numbers; and

B. Any change in its business that may affect its obligations under this Order, including, but not limited to, merger, incorporation, dissolution, assignment, or sale that results in the emergence of a successor corporation, or the creation or dissolution of a subsidiary or parent; *provided*, however, that with respect to any proposed change in the business about which any Defendant learns less than thirty (30) days prior to the date such action is to take place, such Defendant shall notify the Commission as soon as is practicable after learning of such proposed change.

XXVII.

IT IS FURTHER ORDERED that, to assist in monitoring compliance with this Order, Defendants Bran Silveous and Ronald Noble shall, for a period of six (6) years after the date of entry of this Order, notify the Commission, HUD, and the State of Illinois of the following:

A. Any changes in such Defendant's residence, mailing address, or telephone numbers, within ten (10) days of the date of such change;

B. Any changes in such Defendant's employment status (including self-employment) within ten (10) days of the date of such change. Such notice shall include the name and address of each business engaged in consumer lending that Defendant is affiliated with or employed by, a statement of the nature of the business, and a statement of his duties and responsibilities in connection with the business or employment; and

C. Any proposed change in the structure of any business entity engaged in consumer lending owned or controlled by Defendant, such as creation, incorporation, dissolution,

assignment, sale, merger, creation or dissolution of subsidiaries, proposed filing of a bankruptcy petition, or change in the corporate name or address, or any other change that could affect compliance obligations arising out of this Order, thirty (30) days prior to the effective date of any proposed change; *provided*, however, that with respect to any proposed change in the business about which the Defendant learns less than thirty (30) days prior to the date such action is to take place, such Defendant shall notify the Commission as soon as is practicable after learning of such proposed change.

XXVIII.

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HUD to: Director of Office of Consumer and Regulatory Affairs, Department of Housing and Urban Development, 451 Seventh Street, S.W., Room 9146, Washington, DC 20410.

XXXI.

IT IS FURTHER ORDERED that, for the purposes of this Order, Defendants shall, unless otherwise directed by the State of Illinois's authorized representatives, mail all written reports and notifications to the State of Illinois to: Chief, Consumer Fraud Bureau, Office of the Attorney General, 100 W. Randolph Street, Chicago, IL 60601.

COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE

XXXII.

IT IS FURTHER ORDERED that the Commission is authorized to monitor Defendants' compliance with this Order by all lawful means, including but not limited to the following:

A. The Commission is authorized, without further leave of Court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26-37, including the use of compulsory process pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and investigating Defendants' compliance with any provision of this Order;

B. The Commission is authorized to use representatives posing as customers, brokers, and investors, to any Defendant, any Defendant's employees, or any other entity managed or controlled in whole or in part by any Defendant, without the necessity of identification or prior notice; and

C. Nothing in this Order shall limit the Commission's lawful use of compulsory process,

pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49 and 57b-1, to investigate whether Defendants have violated any provision of this Order or Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

ACCESS TO BUSINESS PREMISES

XXXIII.

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designated as employees, consultants, independent contractors, or otherwise, of any business to which Subsection A of this Part applies, concerning matters relating to compliance with the terms of this Order. The persons interviewed may have counsel present.

CONTINUING JURISDICTION OF COURT

XXXIV.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for the purposes of enabling any of the parties to this Order to apply to the Court at any time for such further orders or directives as may be necessary or appropriate for the interpretation or modification of this Order, the enforcement of compliance therewith, the punishment of violations thereof, or as justice may require.

JUDGMENT IS THEREFORE ENTERED under the terms and conditions recited above, each party to bear its own costs and attorney fees incurred in connection with this action.

DATED: _____.

_____
UNITED STATES DISTRICT JUDGE

The parties hereby stipulate and agree to the terms and conditions set forth above and consent to entry of this Stipulated Final Judgment and Order.

FOR THE UNITED STATES OF AMERICA:

PATRICK J. FITZGERALD
United States Attorney
Northern District of Illinois

_____
Assistant United States Attorney
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FEDERAL TRADE COMMISSION

WILLIAM E. KOVACIC
General Counsel

_____
John A. Krebs, Attorney
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Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
(202) 326-3224 (phone)
(202) 326-2558 (facsimile)

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

RICHARD A. HAUSER
General Counsel

_____

John P. Kennedy, Associate General Counsel
Peter S. Race, Assistant General Counsel
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Office of Program Compliance
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, DC 20410
(202) 708-4184 (phone)
(202) 401-8949 (facsimile)

FOR THE STATE OF ILLINOIS:

JAMES E. RYAN
Attorney General of Illinois

_____

Charles G. Fergus, Chief, Consumer Fraud Bureau
Stanley Wojciechowski, Assistant Attorney General
Office of the Attorney General
100 W. Randolph Street
Chicago, IL 60601
(312) 814-8435 (phone)
(312) 814-2593 (facsimile)

FOR THE DEFENDANTS:

_____ DATED:_____
MERCANTILE MORTGAGE COMPANY, INC.
By Bran Silveous, President

_____ DATED: _____
BRAN SILVEOUS
Individually

_____ DATED:_____
RONALD NOBLE
Individually

Approved as to Form:

_____ DATED:_____
Mark L. Rosenberg
Attorney for Defendants
Mercantile Mortgage Company, Inc.
Bran Silveous
Ronald Noble
Offices of Mark L. Rosenberg
6917 Arlington Road, Suite 301
Bethesda, MD 20841
(301) 913-0077 (phone)
(301) 652-0223 (facsimile)

APPENDIX A

IMPORTANT NOTICE

The mortgage loan that [Lender] is offering to you is a BALLOON LOAN.

You will owe a lump sum payment of _____ at the end of the loan term, in _____ years. When the balloon payment is due, you must make the payment. If you can't, you may need another loan, which means new closing costs, points and fees.

I understand that [Lender] is offering me a balloon loan. I also understand that I do not have to complete this loan transaction if I choose not to do so.

_____ _____
Primary Borrower Date

_____ _____
Co-Borrower Date

APPENDIX B
IMPORTANT NOTICE

Dear [Indiana/Ohio Consumer],

Our records show that you took out a home mortgage loan from Mercantile Mortgage Company between 1998 and 2001. You may be eligible to refinance your loan now at no- or low-cost. This benefit is being offered under a settlement between the Federal Trade Commission (FTC) and Mercantile concerning the company's lending practices.

The name Mercantile may not mean anything to you. This is because Mercantile sold your loan to another company – the company you now make payments to. Regardless of who now owns your loan, you may still be able to participate in the refinancing program.

According to our records, you obtained a 15-year balloon loan. **A balloon loan means that you will owe a large payment at the end of the loan term.** If you can't make the payment at that time, you might need another loan, which could mean new closing costs, points and fees. As part of its settlement, Mercantile has agreed to offer certain borrowers with balloon loans the opportunity to refinance into new 30-year loans with no balloon payment, at the lowest available interest rate for which you qualify, and with little or no closing costs. If you believed or were told you did not have a balloon loan, the FTC strongly recommends that you return the attached Eligibility Form to learn more about the program.

To participate in the refinancing program, you must complete the attached form and return it to [the Settlement Administrator]. The form will be used to determine your eligibility for the refinancing program. Returning the form does **not** obligate you to refinance your loan. We will contact you in the next several weeks to let you know if you are eligible for the program and to provide further information on your refinancing options.

We have enclosed a prepaid, addressed envelope. **Your eligibility form must be postmarked by _____, 2002.** We suggest you keep a copy of the completed form for your records.

Please call us toll-free at [phone number] if you have any questions.

Sincerely,

[Redress Administrator]

Enclosure

Dear [Illinois Consumer],

Our records show that you took out a home mortgage loan from Mercantile Mortgage Company between 1998 and 2001. You may be eligible to refinance your loan now at no- or low-cost. This benefit is being offered under a settlement between the Federal Trade Commission (FTC), the State of Illinois, the U.S. Department of Housing and Urban Development, and Mercantile concerning the company's lending practices.

The name Mercantile may not mean anything to you. This is because Mercantile sold your loan to another company – the company you now make payments to. Regardless of who now owns your loan, you may still be able to participate in the refinancing program.

According to our records, you obtained a 15-year balloon loan. **A balloon loan means that you will owe a large payment at the end of the loan term.** If you can't make the payment at that time, you might need another loan, which could mean new closing costs, points and fees. As part of its settlement, Mercantile has agreed to offer certain borrowers with balloon loans the opportunity to refinance into new 30-year loans with no balloon payment, at the lowest available interest rate for which you qualify, and with little or no closing costs. If you believed or were told you did not have a balloon loan, the government agencies strongly recommend that you return the attached Eligibility Form to learn more about the program.

To participate in the refinancing program, you must complete the attached form and return it to [the Settlement Administrator]. The form will be used to determine your eligibility for the refinancing program. Returning the form does **not** obligate you to refinance your loan. We will contact you in the next several weeks to let you know if you are eligible for the program and to provide further information on your refinancing options.

We have enclosed a prepaid, addressed envelope. **Your eligibility form must be postmarked by _____, 2002.** We suggest you keep a copy of the completed form for your records.

Please call us toll-free at [phone number] if you have any questions.

Sincerely,

[Redress Administrator]

Enclosure

ELIGIBILITY FORM

Your Name: _____

Your Address: _____

_____

Your Phone Numbers: (daytime) _____
(evening) _____

If the following statement is true, you may be entitled to participate in a special refinancing program with Mercantile. If you are eligible for the program, you will be given the opportunity to replace your current balloon loan with a 30-year fixed rate loan at no- or low-cost to you.

Please check the box on the left if this statement applies to you.

❑ At the time I got my loan, I **believed** or **was told** my loan did not have a balloon payment.

I declare under penalty of perjury that my response to this question is true and correct.

Date: _____

_____ _____
(Signed) (Signed)
Borrower Co-Borrower (if applicable)

We would also like to know whether you already have refinanced the loan you got from Mercantile. You should return this form even if you have refinanced because you may be eligible for other benefits under this settlement.

Have you refinanced the loan you got from Mercantile? Yes ____ No ____

If you've had more than one loan with Mercantile, have you refinanced the newest loan? Yes ____ No ____

REMINDER: You must return this form by _____, 2002. You must send the form to [Redress Administrator, Address].

APPENDIX C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
and	)	
STATE OF ILLINOIS, ex rel. Attorney General JAMES E. RYAN,	)	
Plaintiffs,	)	
v.	)	
MERCANTILE MORTGAGE COMPANY, INC., an Illinois corporation,	)	Civil Action No.
BRAN SILVEOUS, and RONALD NOBLE, individually and as officers of the corporation,	)	
Defendants.	)	

[Name of Defendant], being duly sworn, hereby states and affirms as follows:

4. My name is _____. My current residence address is _____. I am a citizen of the United States and am over the age of eighteen. I have personal knowledge of the facts set forth in this Affidavit.

5. I am a Defendant in *United States of America v. Mercantile Mortgage Company, Inc., et al.*, (United States District Court for the Northern District of Illinois).

6. On _____

foregoing is true and correct. Executed on [date], at [city and state].

_____
[Full name of Defendant]

State of Illinois
County of _____

Subscribed and sworn to before me
this __ day of _____, 2002.

_____
Notary Public
My Commission Expires:

_____

APPENDIX D

TO BE PROVIDED BY MERCANTILE

APPENDIX E

SUMMARY OF THE MERCANTILE-FTC CONSENT ORDER

Mercantile Mortgage Company ("Mercantile") has entered into a settlement agreement ("Consent Order") with the Federal Trade Commission ("FTC"), the State of Illinois ("Illinois"), and the Department of Housing and Urban Development ("HUD"). The Consent Order resolves charges that Mercantile engaged in deceptive practices and other violations of law in the marketing of mortgage loans. More specifically, the FTC and Illinois have alleged that Mercantile misrepresented certain terms and costs of mortgage loans, and that Mercantile has violated various credit statutes. HUD has alleged that Mercantile violated the Real Estate and Settlement Procedures Act. We are providing this summary to alert you to certain obligations you may have as a Mercantile employee under the Consent Order.

Mercantile has agreed to the Consent Order to settle these charges. The Consent Order is for settlement purposes only and is not an admission of violations of law by Mercantile. Under the Consent Order, Mercantile has agreed not to make misrepresentations in the offering or extending of credit to consumers. In addition, Mercantile has agreed not to violate the credit statutes. Mercantile will be providing a $250,000 fund to distribute to former borrowers. Mercantile also will offer certain borrowers with balloon loans (who state that they did not know that their loan had a balloon payment) the opportunity to refinance into new loans with no balloon payment, in which Mercantile will pay for all or most of the closing costs. In addition, Mercantile will establish a program to monitor oral and written presentations and communications made by loan officers to potential borrowers.

Specifically, the Order prohibits you, as a Mercantile employee, from engaging in certain practices, including misrepresenting:

1. The payment schedule of the loan;

2. The monthly payment amount, interest rate, annual percentage rate, finance charge, loan amount, loan term or any other term of repayment;

3. The existence, absence, or terms of any prepayment penalty on the loan, or the cost involved in refinancing the loan;

4. The amount of cash to be disbursed to the borrower out of the loan proceeds, or to be disbursed on behalf of the borrower to any third party, including any creditors or any home improvement companies;

5. That the monthly payment amount includes the payment into an escrow account for property taxes and insurance; or

6. The existence, non-existence, due-date, or the amount of any balloon payment.

Specifically, you should not:

- represent that the loan's payment schedule consists only of a specified monthly payment schedule, without disclosing the balloon payment;

- represent that the loan principal would be fully paid off at the end of the loan term, without disclosing the balloon payment; or

- explicitly represent that the loan does not contain a balloon payment when in fact it does.

The Order also requires Mercantile to provide a written disclosure statement when offering a balloon loan. The disclosure states the amount and due-date of the balloon payment and must be given to borrowers three (3) business days before loan closing. A copy of the affirmative disclosure statement is attached.

We are advising all employees to comply with the terms of the Consent Order in marketing Mercantile loans. If Mercantile receives information that you have violated the Consent Order, you may be subject to investigation and disciplinary action.

You may review a full copy of the Order on the FTC's Web site, at [URL]. If you have any questions, you can contact the management at [phone number].