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FEBRUARY 27, 2008

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

**JUDGE GUZMAN
MAGISTRATE JUDGE VALDEZ**

J. N.

**FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

SAFE HARBOUR FOUNDATION OF
FLORIDA, INC., a Florida corporation,

SILVERSTONE LENDING LLC, a Florida

limited liability company,

SILVERSTONE FINANCIAL LLC, a Florida
limited liability company,

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) Civ. No.
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) **COMPLAINT FOR INJUNCTIVE
) AND OTHER EQUITABLE
) RELIEF**
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Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its complaint,
alleges as follows:

1. This is an action under Sections 5(a) and 12(b) of the Federal Trade

[REDACTED]

principal place of business is in Las Vegas, Nevada

13. Defendant Peter J. Porcelli, II, is a member, partner, and/or owner of Silverstone Lending and Silverstone Financial, and manages Safe Harbour. Individually or in concert with others, at all times material to this action, he has formulated, directed

controlled, supervised, and/or participated in the acts and practices of defendants Silverstone Lending, Silverstone Financial, and Safe Harbour, including the acts or practices set forth in

United States District Court for the Northern District of Illinois. On a motion by the FTC, Judge Darrah entered a temporary restraining order with asset freeze and appointed a receiver over the corporate entities on August 15, 2002. *FTC v. Bay Area Business Council, Inc., et al.*, No. 02-C-5762 (N.D. Ill.).

18. On April 14, 2004, the Court in *FTC v. Bay Area Business Council, Inc., et al.*, entered an order for permanent injunction and monetary relief against, *inter alia*,

consumer redress to the FTC. Section two of the Order (at 6) also provides:

advertising, promotion, offering for sale, or sale of Credit-Related Products to
any consumer.

“Credit-Related Product” is defined by the Order (at 4) as:

1. A consumer credit product which is advertised, offered for sale, or sold

as a method by which persons may establish or obtain any extension of credit
or credit device, including, but not limited to credit cards, loans, or financing,
or as a method to consolidate or liquidate debts.

20. Since at least 2004, Defendants have maintained a substantial course of trade

23. The Safe Harbour flyer goes on to describe Safe Harbour as “having been established to give people a second chance when no one else will.” It warns consumers to “Be careful of other companies who look to profit from your misfortune.”

total loan amount. If a loan qualifies as a high-cost loan under HOEPA, the lender is required to provide the consumer with specific disclosures at least three days before the loan is consummated; certain loan terms are prohibited; and specified practices are barred.

28. In the course of offering and extending HOEPA loans to borrowers,

City of Kansas, Kansas Department of Banking and Finance, and Kansas Department of Consumer Protection

payment at the end of the loan term. Thus, at the end of the term, the consumer will owe a large lump-sum payment that is greater than the principal balance of the loan.

consumer, three business days before closing of the mortgage transaction, with specific disclosures, which must include the Annual Percentage Rate ("APR"), the amount of the regular monthly payment and the amount of any balloon payment, and the statement that the

111 - This disclosure is required to be contained into the transaction. "HODPA

actual APR was greater than 100%.

substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4
of the FTC Act, 15 U.S.C. §44.

mortgage loans, as described in Paragraph 36, Defendants Silverstone Lending, Silverstone Financial, and Keystone Financial, violate Section 129(e) of TILA, 15 U.S.C. § 1639(e), and Sections 226.32(d)(1) of Regulation Z, 12 C.F.R. § 226.32(d)(1).

COUNT THREE

Prohibited Negative Amortization

Silverstone Lending, Silverstone Financial, and Keystone Financial, in numerous instances, have included a prohibited "negative amortization" provision in six-month balloon loans.

- (ii) the amount of any balloon payment, in violation of Section 129(a)(2) of TILA, 15 U.S.C. § 1639(a)(2), and Section 226.32(c)(3) of Regulation Z, 12 C.F.R. § 226.32(c)(3); and
- (b) failing to furnish the disclosures described in Paragraph 40(a)(i) and (ii) above clearly and conspicuously in writing at least three business days prior to consummation of a HOEPA mortgage loan transaction,

Section 226.31(b) and (c)(1) of Regulation Z, 12 C.F.R. § 226.31(b)

and (c)(1).

COUNT SIX

TILA Disclosure Violations

Y. H. CHANG, JR., 12345 MAIN ST., SUITE 100, LOS ANGELES, CA 90001

Sections 226.18(e) and 226.22 of Regulation Z, 12 C.F.R.

§§ 226.18(e) and 226.22:

- (iv) the payment schedule, in violation of Section 128(a)(6) of TILA, 15 U.S.C. § 1638(a)(6), and Section 226.18(g) of Regulation Z, 12 C.F.R. § 226.18(g);
- (v) the total of payments, in violation of Section 128(a)(5) of TILA, 15 U.S.C. § 1638(a)(5), and Section 226.18(h) of Regulation Z, 12 C.F.R. § 226.18(h); and
- (vi) the fact that the creditor has or will acquire a security interest in the consumer's principal dwelling, in violation of Section 128(a)(9) of TILA, 15 U.S.C. § 1638(a)(9), and Section 226.18(m) of Regulation Z, 12 C.F.R. § 226.18(m).

Injury

45. Consumers have suffered, and will continue to suffer, substantial injury as a result of defendants' violations of HOEPA, TILA, and Section 5(a) of the FTC Act, as set forth above.

This Court's Power to Grant Relief

Act have injured consumers and, absent injunctive and other relief by this Court, are likely to continue to injure consumers and harm the public interest.

Prayer For Relief

WHEREFORE, Plaintiff Federal Trade Commission, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and Section 108(c) of TILA, 15 U.S.C. § 1607(c), and the Court's own equitable powers, requests that the Court:

necessary to avert the likelihood of consumer injury during the pendency of

DATED: February 27, 2008

/s/ David A. O'Toole
DAVID A. O'TOOLE