THE FEDERAL TRADE COMMISSION3.987.94r7M-3.2667.2D5.rR521 Tw( )Tjon3.98-4.8112 -3.2667.2D57

[1] The views expressed in this statement represent the views of the Commission. My oral presentation and responses to any questions you have are my own, however, and do not necessarily reflect the Commission's views or the views of any individual Commissioner.

[2] 15 U.S.C. § 45(a).

For the subprime market to operate efficiently for the benefit of consumers, it is critical that it be free of deception and other illegal practices. As the market has grown, however, some lenders and loan servicers have engaged in illegal practices to the detriment of borrowers. The Commission, working with its federal and state law enforcement partners, particularly, the State Attorneys General, has been active in bringing enforcement actions against such conduct. In recent years, the agency has settled or prosecuted cases against twenty companies in the subprime mortgage lending industry, involving numerous illegal practices by companies of various sizes, as well as companies operating in various regions of the country.[12] Several of these cases have resulted in large monetary judgments, including a record-setting $215 million consumer redress order against Citigroup and The Associates.[13]

I would like to highlight a few of our recent e

tl3at8ethe agegegThe ay, inv.s685 Tc0.0006 Tcc0.00gainst Ci/11 Tw(The Associates)Tj/TThe ay,253 -2.

---

[12] *See infra* pp. 4-8 and note 23.

[13] The Commission also has acted to halt illegal practices in connection with subprime personal loans (that is, loans not secured by real estate). *See, e.g., Stewart Finance Co., Inc*, No. 1:03-CV-2648 (N.D. Ga. 2003) (charging Stewart Finance and its affiliates with violating federal lending laws in the making of personal loans to consumers).

[14] *The Associates*, No. 1:01-CV-00606 (N.D. Ga. 2001).

Reporting Act, and the Fair Debt Collection Practices Act. The defendants paid $215 million for consumer redress to resolve the charges, in addition to a concurrent $25 million class action settlement.

First Alliance Mortgage Co.

In another major case focusing on loan origination practices, the FTC and others, including six states, private plaintiffs, and the AARP, reached a major settlement with mortgage lender First Alliance Mortgage Co. in March 2002.[15] The complaint alleged that the defendants' loan officers in their sales presentations made blatantly deceptive claims about monetary and other loan terms. Most disturbingly, the defendants allegedly promised consumers that the loans contained no upfront fees, when in fact they imposed exorbitant origination fees, typically 10 percent and as much as 20 percent of the loan. The settlement required the defendants to pay an amount equal to virtually the entirety of the corporate assets, as well as a $20 million payment from the individual who founded and ran the company. Recently, the Commission announced that the redress fund will ultimately total about $65 million for nearly 20,000 borrowers.[16]

Mercantile Mortgage Co. and Mark Diamond

In July 2002, the Commission, the Department of Housing and Urban Development ("HUD"), and the State of Illinois jointly settled a case against a regional subprime lender, Mercantile Mortgage Company, Inc., charging violations of the FTC Act, TILA, HOEPA, and the Re lelionpTHOEStlem7nt.ndants tov8rD0.007n Development

---

15 *First Alliance Mortgage Co.*, No. SA CV 00-964 (C.D. Cal. 2000).

16 http://www.ftc.gov/opa/2004/02/first.htm. Injured borrowers have already been sent partial redress and will be receiving a second check in the near future.

17 *Mercantile Mortgage Co.*, No. 02-5079 (N.D. Ill. 2002).

on its behalf, misrepresented key loan terms to borrowers. As a result, many borrowers did not realize that their loans required large "balloon" payments at the end of their terms. The settlement required the company to make a $250,000 payment for consumer redress and create a program to offer refinanced loans on favorable terms to certain borrowers with balloon loans.

At the same time, the Commission and the State of Illinois jointly sued the mortgage broker involved and ultimately reached a settlement providing for an additional $270,000 in consumer redress.[18] Last month, we sent redress checks to the consumers the broker solicited in an average amount of $1,000.

Fairbanks Capital Corp.

In November 2003, the Commission, along with HUD, announced a settlement with Fairbanks Capital Corp. and its parent company.[19] Fairbanks is one of the country's largest third-party subprime loan servicers – it does not originate any loans, but collects and processes payments on behalf of the holders of the mortgage notes. The Commission alleged that Fairbanks received consumers' payments that were made on time, but failed to post them until after the payment deadline had expired, and then imposed late fees and other charges as a result. It also challenged Fairbanks' alleged practice of charging for homeowners' insurance even though the borrowers already had insurance in place. The Commission further alleged that Fairbanks charged numerous fees to those borrowers whom it deemed were in default that were not authorized by the mortgage contract or by state law, or that were based on services that Fairbanks never performed. And, the complaint charged Fairbanks with violating federal laws in using dishonest or abusive tactics to collect debts, and in reporting consumer payment

---

18 *Mark Diamond*, No. 02-5078 (N.D. Ill. 2002).

19 *See Fairbanks Capital Corp.*, No. 03-12219 (D. Mass. 2003).

[25] To further the goal of preventing abusive lending, the FTC is conducting a research program designed to learn more about how consumers search for mortgages, what consumers understand about mortgage agreements, and how changes in the disclosure process might improve consumers' ability to avoid deception. *See* Notice of Proposed Information Collection Activity, 68 Fed. Reg. 19,825 (Apr. 22, 2003).

[26] Marsha J. Courchane, Brian J. Surette, and Peter M. Zorn, "Subprime Borrowers: Mortgage Transitions and Outcomes," *Journal of Real Estate Finance and Economics* (forthcoming 2004).

[27]

to, older consumers. For example, among our numerous free publications are ones entitled "Getting Credit When You're Over 62"[28] and "Reverse Mortgages."[29]

The Commission has been working to protect older Americans from illegal lending practices by educating them and using enforcement actions to halt law violations and return money to the victims. We will continue our vigorous efforts.

VII. CONCLUSION

The Commission believes that it is very important to preserve the benefits that increased access to credit bring, while preventing illegal practices from flourishing in the marketplace. Through our enforcement and consumer education, the Commission continues to work to protect consumers of all ages.

---

[28] Available at http://www.ftc.gov/bcp/conline/pubs/credit/over62.htm.

[29] Available at http://www.ftc.gov/bcp/conline/pubs/alerts/revralrt.htm.