

1681-1681x; and Section 6 of the Real Estate Settlement Procedures Act (“RESPA”), 12 U.S.C. § 2605, and its implementing regulation, Regulation X, 12 C.F.R. part 1024, to obtain permanent injunctive relief, restitution, disgorgement, civil money penalties, and other relief for violations of the CFPA, FDCPA, FCRA, and RESPA by Green Tree.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331, 1337(a), and 1345; under 15 U.S.C. §§ 45(a)(1) and 53(b) with respect to FTC Act claims; under 12 U.S.C. § 5565(a)(1) with respect to CFPA claims; under 15 U.S.C. § 1692l with respect to FDCPA claims; under 15 U.S.C. § 1681s with respect to FCRA claims; and under 12 U.S.C. § 2614 with respect to RESPA claims.

4. Venue is proper in the United States District Court for the District of Minnesota because Green Tree is located in and does business in this District, 28 U.S.C. §§ 1391(b) and (c), 15 U.S.C. § 53(b), and 12 U.S.C. § 5564(f).

PARTIES

5. Plaintiff FTC is an independent agency of the United States Government given statutory authority and responsibility by the FTC Act, as amended, 15 U.S.C. §§ 41-58.

6. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to address violations of any provision of law enforced by the FTC. 15 U.S.C. § 53(b).

deceptive, and unfair debt collection practices and the FCRA, 15 U.S.C. § 1681-1681x, which imposes duties upon consumer reporting agencies and those who furnish information to a consumer reporting agency or use information obtained from a consumer reporting agency.

7. Plaintiff CFPB is an independent agency of the United States Government charged with regulating the offering and provision of consumer financial products or services under Federal consumer financial laws. 12 U.S.C. § 54

8. The CFPB is authorized to initiate federal district court proceedings, by its own attorneys, to address violations of Federal consumer financial law, including the CFPA, the FDCPA, the

Green Tree's Loss Mitigation Activities

21. Through Green Tree, consumers who are having difficulty paying their mortgages can seek loss mitigation assistance, which includes loan modifications, deferrals, extensions, and forbearances. Consumers may also seek a short sale of their house as long as they obtain approval. As a mortgage servicer, Green Tree has the delegated authority from the investors that own the loans to approve short sale requests in some instances. In other cases, Green Tree must seek approval from the investors before a short sale can proceed.

22. Primary responsibility for guiding consumers through the loss mitigation process rests with Green Tree's back-end collectors. The back-end collector assigned to the consumer's account is responsible for sending the consumer application materials, contacting the consumer about missing documents, and otherwise interacting with the consumer throughout the loss mitigation evaluation process.

23. Green Tree has not always informed consumers that those tasked with providing assistance are back-end collectors. Rather, Green Tree has represented correspondence to consumers that "customer service" and "account representatives" will assist consumers with loss mitigation options, questions about pending loan modification applications, missing loan modification application documents, and questions about debt validation notices involving delinquencies.

24. But Green Tree's compensation structure has not incentivized back-end collectors to work on loan modifications. The company's performance evaluations and compensation plans have not rewarded back-end collectors for work on loan

modifications. Instead, a back collector's primary responsibility has been to handle collection work for the consumer's account if it is more than 30 days delinquent.

25. Green Tree participates in the Making Home Affordable ("MHA") program, which was launched by the United States Department of the Treasury in February of 2009. The MHA program was designed to help eligible homeowners refinance or modify their loans to obtain affordable payments. The Home Affordable Modification Program ("HAMP"), which is part of the MHA program, allows participating mortgage servicers to provide loan modifications under certain terms proscribed by the program in exchange for incentive payments.

26. As a participating mortgage servicer, Green Tree offers loan modifications to consumers under HAMP. Consumers may be eligible for HAMP modifications if they have a financial hardship, are behind on their payments, or default is reasonably foreseeable. Consumers may also be eligible for proprietary modifications offered by the investors who own their mortgage loans. The guidelines for proprietary modifications are set by these groups of investors.

27. HAMP focuses on affordable and sustainable modifications. HAMP also provides consumers and the investors who own the consumers' mortgages financial incMC /L6Tfor su557,Asl harn19(y)Abulso

HAMP modification. Consumers who are unable to make a payment may, in fact, be considered for a loan modification or otherwise be evaluated for potential loss mitigation options.

29. In numerous instances, however, Green Tree's back-end collectors have represented to consumers that they must make a loan payment before they can be considered for a loan modification.

30. Another loss mitigation option that consumers might explore is a short sale. When a consumer sells a home in a short sale, the proceeds obtained typically fall short of the mortgage balance. The investor group that owns the consumer's mortgage must agree to the short sale, since it typically means they will release their claims on the property for less than the amount they are owed. As the investors' agent, Green Tree either makes the short sale decision if it has authority to do so or facilitates the communication between the investors and consumer if it cannot approve or deny a short sale request itself.

31. In numerous instances, the investors who own consumers' mortgages have an incentive to agree to short sales because the amount they are paid is even if less than the amount owed is greater than what they would typically recover if the property went into foreclosure. By agreeing to a short sale, they also avoid the fees and costs associated with a foreclosure action.

32. In relation to foreclosure, short sales also can be advantageous to consumers. Although a short sale will negatively impact a consumer's credit, the impact is generally less severe than that of a foreclosure. In addition, short sales are

usually easier to plan for, as opposed to the unpredictable and frequently lengthy foreclosure process, and typically result in a waiver of deficiency amounts.

33. Some of the loans Green Tree services are owned by participants in the Home Affordable Foreclosure Alternative (“HAFA”) program which is part of the MHA program. HAFA requires short sale requests to be reviewed within 30-45 days depending on the owner of the loan. Green Tree also services loans for investors that do not participate in HAFA. These loans often have their own short sale requirements that Green Tree must follow.

34. In response to consumer requests for approval of a short sale, Green Tree has represented to consumers in numerous instances that it would review and respond to the request within a set time period, e.g. within 30 days.

35. In numerous instances however, consumers’ requests to Green Tree for approval of a short sale have met with significant delays. Green Tree’s short sale department frequently has been unreachable and nonresponsive. Despite multiple calls to the short sale negotiators, consumers and those working on their behalf have not received return calls. Negotiator voice mailboxes often have been full and would not accept messages. In numerous instances, Green Tree has taken two to six months to respond to consumers’ short sale requests.

36. In numerous instances, as a result of these representations, consumers have lost potential buyers who were not expecting to wait months to complete the sale. They also may have forgone other loss mitigation alternatives while their short sale requests were pending and ultimately faced foreclosures they could have avoided.

Green Tree's Failure to Recognize Consumers' "In-Process" Modifications

37. After Green Tree acquires servicing rights to a portfolio of loans, it gathers certain information about those loans from the prior servicer. The data gathered is commonly referred to as the "standard servicing data extract." Detailed loss mitigation data is not part of the standard servicing data extract that Green Tree acquires from prior servicers. In many instances, the loss mitigation data acquired by Green Tree has been incomplete or inaccurate.

38. To obtain a permanent HAMP modification, consumers are required to first enter into a trial period plan ("TPP") with the servicer. HAMP TPPs generally entitle the

data such as the trial payment history and modification documents, but in numerous instances, there has been no process in place to confirm that this data has in fact been requested or received.

41. In numerous instances, Green Tree ~~learned~~ about In-Process Modifications from consumers during Green Tree's initial "Welcome Call" or subsequent collection calls. Green Tree would

recognized at all. Green Tree has required by consumers to be re-evaluated for a modification and to resubmit documents several months after beginning or completing their initial trial modification. Consumers also have continued to receive collection calls while their In-Process Modification is being resolved. And Green Tree has continued to seek payments from these consumers under the original, unmodified mortgage loan, and has continued with its foreclosure timeline if consumers do not make payments.

46. In numerous instances, Green Tree has received written inquiries from consumers regarding errors in their accounts related to their In-Process Modifications, including the monthly payment amount, interest rate, and delinquency status.

47. In numerous instances, Green Tree has failed to recognize such inquiries as “qualified written requests” subject to RESPA and has failed to acknowledge receipt within 20 days and to respond to consumers about account errors within 60 days by either correcting erroneous account information or explaining why the account information is not in error.

48. In numerous instances, Green Tree has furnished adverse information regarding payments that were the subject of qualified written requests to consumer reporting agencies during the 60 day period following receipt.

Green Tree’s False or Unsubstantiated Claims

49. A large number of loans Green Tree acquired from other servicers have contained inaccurate data regarding the status of the loan, fees owed, and corporate advances.

50. As described above, a large number of loans acquired from other servicers have contained inaccurate or incomplete data regarding the consumers' in-process loan modifications.

51. In some instances, Green Tree knew or had reason to believe that specific portfolios of loans contained unreliable or missing data about the consumers' loans.

52. In many instances, consumers have disputed or attempted to dispute the amounts that Green Tree claims the consumers owe or other aspects of the loan terms. In many of these instances, Green Tree has refused to consider the disputes.

53. In many instances in which consumers have disputed the amounts that Green Tree claims they owe, Green Tree eventually has admitted that consumers do not owe the amounts initially claimed.

54. In many instances, Green Tree has made false representations about the amounts consumers owe or the terms of their loans. For the reasons described above in paragraphs 49-53, in many instances, Green Tree knew or should have known that the amounts it claimed consumers owed or the loan terms it imposed upon consumers were inaccurate.

Green Tree's Unlawful Collection Practices

55. From its offices in St. Paul, Minnesota, Tempe, Arizona, Fort Worth, Texas, and Rapid City, South Dakota, and from several smaller regional offices, Green Tree engages in debt collection activities throughout the United States. Green Tree regularly attempts to collect debts by placing telephone calls to consumers.

56. Green Tree's collection activities are governed by Section 5 of the FTC Act and Sections 1031 and 1036(a)(1)(B) of the CFPA, both of which prohibit unfair or deceptive acts or practices. For mortgages in default at the time Green Tree acquired them, Green Tree is a debt collector as defined by the FDCPA and its collection activities are covered by the FDCPA, in addition to the FTC Act and the CFPA.

57. In numerous instances in which the debt was already in default at the time Green Tree acquired it, Green Tree has called third parties more than once to obtain location information for consumers, even though: (i) the third parties have not requested additional calls, and (ii) Green Tree had no reason to believe that the information originally obtained from the third parties was inaccurate or incomplete.

58. In numerous instances, Green Tree has revealed debts to consumers' employers and co-workers. Such disclosures can adversely affect consumers' employment situations, including, among other things, job retention, promotions, compensation, or job assignments.

59. In numerous instances in which the debt was already in default at the time Green Tree acquired it, Green Tree has revealed debts to third parties, such as family members, employers, co-workers, tenants, and neighbors of consumers. Sometimes, Green Tree has encouraged

times or places which it knew or should have

garnishment, attachment, or sale of property or wages, when in fact such action is not lawful or Green Tree does not intend to take such action. Green Tree often has represented that it will foreclose upon consumers' homes if consumers do not make their payments over the phone immediately. In fact, Green Tree often makes such representations even though (a) it was long before it was lawful to initiate foreclosure proceedings; (b) the company lacks authority to arrest or imprison consumers, or it is not company policy to seek a garnishment of consumers' wages.

Green Tree's Representations Regarding Payments

Speedpay have later discovered that the company used their account information to set up additional, unauthorized payments.

67. In numerous instances, Green Tree ~~has~~ represented that consumers do not have a “grace period” after the due date on their loans, during which they would be able to make a payment without incurring a late fee. In fact, consumer ~~promissory~~ promissory notes do recognize a period between the due date and the date on which a late fee is assessed. In other words, the notes contain a “grace period.” In part due to Green Tree’s misrepresentations regarding the grace period, many consumers have used expedited payment methods that charge a convenience fee under the belief that such methods are the only way to make timely payments without a grace period.

Green Tree’s Inaccurate Reporting to Credit Bureaus

68. In numerous instances, Green Tree has furnished consumers’ credit information to consumer reporting agencies when it knew, or ~~has~~ had reasonable cause to believe, that the information was inaccurate. Similarly, in numerous instances, Green Tree has failed to correct information that it furnished to a consumer reporting agency once it determined that the information furnished was not complete or accurate. In many of these instances, consumers ~~have~~ have informed Green Tree that it reported incorrect information to the consumer reporting agencies, yet ~~it~~ it failed to correct the information.

Green Tree’s Problems with Handling Escrow Accounts

69. As part of its work as a mortgage servicer, Green Tree administers consumers’ escrow accounts. For consumers whose loans include escrow accounts, Green Tree calculates the annual amount necessary to cover required property tax and

insurance payments, as applicable, divides that sum into 12 installments, and includes the resulting amount in consumers' required monthly payment. Green Tree generally includes an additional amount as a "cushion" to prevent a shortfall in the escrow account. Cushions, if properly calculated, are permissible under RESPA.

70. When Green Tree receives payments from consumers with escrow accounts, it disburses the principal and interest portion of the payment to the appropriate entity. The remaining amount is held in a segregated account to be disbursed to the appropriate taxing authority or insurance company when their tax and insurance payments come due.

71. In numerous instances, however, Green Tree failed to timely pay property taxes for consumers. Green Tree's failure to make timely tax payments has jeopardized consumers' continued home ownership and, in some instances, also caused consumers' names to be listed in local publications on the delinquent tax rolls.

VIOLATIONS OF SECTION 5 OF THE FTC ACT AND THE CFPA

72. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts or practices in or affecting commerce."

73. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act. Acts or practices are unfair under Section 5 of the FTC Act if they cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n).

74. Sections 1031 and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531 and 5536(a)(1)(B), prohibit covered persons from engaging “in any unfair, deceptive, or abusive act or practice. Acts or practices are unfair under the CFPA if “the act or practice causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers” and “such substantial injury is not outweighed by countervailing benefits to consumers or competition.” 12 U.S.C. § 5531(c).

75. Green Tree is a “covered person” within the meaning of the CFPA, 12 U.S.C. §§ 5481(6).

Deceptive Acts and Practices Regarding Account Terms and Status

76. In numerous instances in the course of servicing mortgage loans and collecting debts from consumers, Green Tree has represented to consumers, directly or indirectly, expressly or by implication, that the consumer's mortgage loans have certain unpaid balances, payment due dates, interest rates, monthly payment amounts, delinquency status and unpaid fees or other amounts due.

77. In truth and in fact, in numerous instances the material representations set forth in Paragraph 76 were false or were not substantiated at the time the representations were made, including but not limited to representations made where:

- a. Green Tree had knowledge or reason to believe that a specific portfolio contained unreliable data but failed to obtain information substantiating the accuracy of the data prior to collecting;
- b. Green Tree had knowledge or reason to believe that a consumer had an In-Process Loan Modification with the prior servicer of the loan but continue

to seek to collect payments from the consumer under the original, unmodified mortgage loan terms; or

c. Consumers disputed or attempted to dispute the validity or accuracy of the amount of debt and Green Tree failed to review information substantiating the amount of debt, or failed to consider the consumers' disputes, prior to continuing collection.

Count I by Plaintiff FTC

78. Green Tree's representations as set forth in Paragraph 76 are false or misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. §5(a).

Count II by Plaintiff CFPB

79. Green Tree's representations as set forth in Paragraph 76 are false or misleading and constitute a deceptive act or practice in violation of the CFPA, 12 U.S.C. §§ 5531(a) and 5536(a)(1)(B).

Deceptive Acts and Practices Regarding the Requirements
for Loan Modification Consideration

80. In numerous instances, in connection with servicing mortgage loans, Green Tree employees have represented, directly or indirectly, expressly or by implication, that consumers have to make a payment on their loans before Green Tree would consider them for a loan modification.

81. In truth and in fact, in numerous instances, consumers said to make payments on their loans before they could be considered for a loan modification. For

Count V by Plaintiff FTC

86. Green Tree's representations as set forth in Paragraph 84 are false or misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. §5(a).

Count VI by Plaintiff CFPB

87. Green Tree's representations as set forth in Paragraph 84 are false or misleading and constitute a deceptive act or practice in violation of the CFPA, 12 U.S.C. §§ 5531(a) and 5536(a)(1)(B).

Deceptive Acts and Practices Regarding Payment Collection Threats

88. In numerous instances in the course of servicing mortgage loans and collecting debts from consumers, Green Tree has represented to consumers, directly or indirectly, expressly or by implication, that nonpayment of their mortgage loan will result in the arrest or imprisonment of consumers or the seizure, garnishment, attachment, or sale of the consumers' property or wages.

89. In truth and in fact, in numerous instances, nonpayment of a mortgage loan would not have resulted in a consumer's arrest or imprisonment, or seizure, garnishment, or attachment of a consumer's property or wages.

Count VII by Plaintiff FTC

90. Green Tree's representations as set forth in Paragraph 88 are false or misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. §5(a).

Count XIII by Plaintiff FTC

102. Green Tree's practices as described in Paragraph 100 constitute unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. §§

Count XVI by Plaintiff CFPB

107. Green Tree's practices as described in Paragraph 104 constitute unfair acts or practices in violation of the CFPA, 12 U.S.C. §§ 5531(a) and (c)(1), and 12 U.S.C. § 5536(a)(1)(B).

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

108. In 1977, Congress passed the FDCPA, 15 U.S.C. §§ 1692 et seq., which became effective on March 20, 1978, and has been in force since that date. Section 814 of the FDCPA, 15 U.S.C. § 1692a, provides that a violation of the FDCPA shall be deemed an unfair or deceptive act or practice in violation of the FTC Act. Section 814 of the FDCPA, 15 U.S.C. § 1692a, also authorizes the Federal Trade Commission to use all of its functions and powers under the FTC Act to enforce compliance with the FDCPA by any debt collector, irrespective of whether that debt collector is engaged in commerce or meets any other jurisdictional tests set by the FTC Act. The authority of the Federal Trade Commission in this regard includes the power to enforce the provisions of the FDCPA in the same manner as if the violations of the FDCPA were violations of an FTC trade regulation rule. In 2010, Congress amended the FDCPA to grant authority to the CFPB, in addition to the FTC, to enforce the FDCPA with respect to any person subject to the CFPA. 15 U.S.C. § 1692l(b)(6).

109. The term "consumer" as defined in Section 803(3) of the FDCPA, 15 U.S.C. § 1692a(3), means "any natural person obligated or allegedly obligated to pay any debt."

110. The term “debt” as defined in Section 803(5) of the FDCPA, 15 U.S.C. § 1692a(5), means “any obligation or alleged obligation of a consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family or household purposes, whether or not such obligation has been reduced to judgment.”

111. The term “location information” as defined in Section 803(7) of the FDCPA, 15 U.S.C. § 1692a(7), means “a consumer’s place of abode and his telephone number at such place, or his place of employment.”

112. The term “debt collector” as defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6), includes any person who “regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.” It does not include a person collecting debts ~~that~~ were not in default at the time ~~that~~ doe

connection with the collection of debts at a time or place known by

126. In numerous instances in connection with the collection of debts, Green Tree, directly or indirectly, has used obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.

127. In numerous instances in connection with the collection of debts, Green Tree, directly or indirectly, has caused telephones to ring or engaged persons in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass the persons at the called numbers, and the natural consequence of such calls has been to harass, oppress or abuse persons.

128. The acts and practices alleged in Paragraphs 125-127 constitute violations of Section 806 of the FDCPA, 15 U.S.C. § 1692d.

Count XXI by Plaintiffs FTC and CFPB:
False or Misleading Representations to Collect a Debt

129. Section 807 of the FDCPA, 15 U.S.C. § 1692e, prohibits debt collectors from using any false, deceptive, or misleading representation or means in connection with the collection of any debt. Section 807(2)(a) specifically prohibits the false representation of the character, amount, or legal status of any debt. Section 807(4) prohibits the representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action. Section 807(10) prohibits debt collectors from using any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.

130. In numerous instances in connection with the collection of debts, Green Tree, directly or indirectly, has made false representations about the character, amount, or legal status of a debt, including but not limited to false statements:

A. About consumers' loan terms, when it acquired loans that had In-Process Modifications and

B. That consumers owe fees or other amounts

131. In numerous instances in connection with the collection of debts, Green Tree, directly or indirectly, has represented that nonpayment of a debt would result in the arrest or imprisonment of consumers or the seizure, garnishment, attachment, or sale of the consumers' property or wages, when in fact such actions were not lawful or Green Tree did not intend to take such action.

132. In numerous instances in connection with the collection of debts, Green Tree, directly or indirectly, has falsely represented that it is a creditor of consumers.

Section 808(1) specifically prohibits the collection of any amount unless such amount is expressly authorized by the agreement creating the debt or permitted by law.

135. In numerous instances in connection with the collection of debts, Green Tree has caused payments to be taken from consumers' bank accounts without having previously obtained consumers' consent.

136. In numerous instances in connection with the collection of debts, Green Tree unilaterally breached loan modification contracts that consumers negotiated with the prior servicers of their loans when it did not honor In-Process Loan Modifications that consumers were entitled to under these contracts. Green Tree subsequently collected or attempted to collect amounts that were not authorized by the company's contracts with consumers or permitted by law.

137. The acts and practices alleged in Paragraphs 135-136 constitute violations of Section 808 of the FDCPA, 15 USC § 1692f

enforcement specifically is committed to some other governmental agency, irrespective of whether the person is engaged in commerce or meets any other jurisdictional tests set forth by the FTC Act. In 2010, Congress amended the FCRA to grant authority to the CFPB in addition to the FTC, to enforce the FCRA with respect to any person subject to the CFPA. 15 U.S.C. § 1681s(b)(1)(H).

Count XXIII by Plaintiffs FTC and CFPB:
Furnishing Information Known to Be Inaccurate

140. Section 623(a)(1)(A) of the FCRA, 15 U.S.C. § 1681s-2(a)(1)(A), prohibits a person from furnishing information relating to any consumer to a consumer reporting agency if the person knows or has reasonable cause to believe that the information is inaccurate.

141. In numerous

consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate, and shall not thereafter furnish to the agency any of the information that remains incomplete or inaccurate.

144. Green Tree regularly and in the ordinary course of business furnishes information to one or more consumer reporting agencies about Green Tree's transactions or experiences with consumers.

145. In numerous instances in which Green Tree furnished to a consumer reporting agency information that it determines is not complete and accurate, Green Tree has failed to promptly notify the consumer reporting agency of that determination and provide to the agency any corrections to that information, or any additional information, that is necessary to make the information provided by the person to the agency complete and accurate, or thereafter furnishes to the agency any of the information that remains not complete and accurate

146. The acts and practices alleged in Paragraph 145 constitute violations of Section 623(a)(2) of the FCRA, 15 U.S.C. § 1681s-2(a)(2)

VIOLATIONS OF THE REAL ESTATE SETTLEMENT PROCEDURES ACT

147. The Real Estate Settlement Procedures Act ("RESPA"), 12 U.S.C. § 2605, covers certain acts and practices related to "federally related mortgage loans," including the servicing of those loans and the administration of their escrow accounts.

148. RESPA covers the conduct of “servicers”^A “servicer,” for purposes of RESPA, is “the person responsible for servicing of a loan.” Under RESPA, “servicing” means “receiving any scheduled periodic payments from a consumer pursuant to the terms of any loan . . . and making the payments of principal and interest and such other payments with respect to the amounts received from the consumer as may be required pursuant to the terms of the loan.”

149. During the relevant time period for our investigation, RESPA required servicers to provide a written response acknowledging receipt of borrower correspondence about errors in their accounts within 20 days. 12 U.S.C. § 2605(e). Effective January 10, 2014, the 20 day requirement was amended to 5 days.

150. During the relevant time period for our investigation, RESPA required servicers to respond to borrower correspondence about errors in their accounts within 60 days by either correcting erroneous account information or explaining to the borrower why the account information was not in error. 12 U.S.C. § 2605(e). Effective January 10, 2014, the 60 day requirement was amended, in most instances, to 30 days with a permissible 15 day extension.

151. Green Tree receives payments from consumers and is responsible for distributing those payments to the investors who own the consumers’ loans and, when the consumers’ loans include escrow accounts, to the consumers’ taxing authorities or insurance companies. Thus, it is a servicer within the meaning of RESPA. 12 C.F.R. § 1024.2(b).

152. The loans that Green Tree services are “secured by a first or subordinate lien on residential real property . . .” and are made in whole or in part by lenders that are regulated by agencies of the Federal Government. Therefore, those loans are “federally related mortgage loans” for the purposes of RESPA. 12 U.S.C. § 2602.

Count XXV by Plaintiff CFPB:
Failure to Timely Respond to Qualified Written Requests

161. The requirements of Section 6(g) are further explained in Regulation X, 12 C.F.R. § 1024.17(k), which states that “[i]f the terms of any federally related mortgage loan require the consumer to make payments to an escrow account, the servicer must pay the disbursements in a timely manner, that is, on or before the deadline to avoid a penalty, as long as the consumer’s payment is not more than 30 days overdue.”

162. In numerous instances, for consumers whose loans included escrow accounts and who were either current on their mortgage payments or no more than 30 days past due, Green Tree has failed to pay the property taxes on or before the date the consumer would be charged a penalty.

163. Since Green Tree has failed to ~~take~~ payments from consumers’ escrow accounts for property taxes “in a timely manner as such payments become due,” it has violated Section 6(g) of RESPA, 12 U.S.C. § 2605(g).

CONSUMER INJURY

164. Consumers have suffered, and will continue to suffer, substantial injury as a result of Green Tree’s violations of Section 5(a) of the FTC Act, Sections 1031 and 1036(a)(1)(B) of the CFPA, the FDCPA, the FCRA, and RESPA, as set forth above. In addition, Green Tree has been unjustly enriched as a result of its unlawful acts or practices. Absent injunctive relief by this Court, Green Tree is likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT’S POWER TO GRANT RELIEF

165. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is empowered to grant permanent injunctive relief and such other relief as the Court may

deem appropriate to halt and redress violations of any provision of law enforced by the FTC, including the FTC Act, the FDCPA, and the FCRA. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, the disgorgement of ill-gotten monies, and the costs of pursuing this action, to prevent and remedy any violation of any provision of law enforced by the FTC.

166. Under Section 1055 of the CFPB, 12 U.S.C. § 5565, this Court has “jurisdiction to grant any appropriate legal or equitable relief with respect to a violation of Federal consumer financial law . . .” including the CFPB, the FDCPA, the FCRA, and RESPA. 12 U.S.C. § 5565(a)(1). This relief includes rescission, refund of moneys, restitution, disgorgement or compensation for unjust enrichment, payment of damages or other monetary relief, public notification regarding the violation, limits on the activities or functions of the person, and civil money penalties. 12 U.S.C. § 5565(a)(2). In addition, the CFPB may recover its costs in connection with the action, if it is the prevailing party. 12 U.S.C. § 5565(b).

PRAYER FOR RELIEF

167. Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), Section 814(a) of the FDCPA, 15 U.S.C. § 1692b, Section 621(a) of the FCRA, 15 U.S.C. § 1681s(a), and the Court’s own equitable powers, Plaintiff CFPB, pursuant to Sections 1054 and 1055 of the CFPB, 12 U.S.C. §§ 5564 and 5565, 814(b)(6) of the FDCPA, 15 U.S.C. § 1692(b), Section 621(b)(1)(H) of the FCRA, 15

U.S.C. § 1681s(b)(1)(H), Section 6 of RESPA, 12 U.S.C. § 2605, and the Court's own equitable powers, request that the Court:

A. Permanently enjoin Green Tree from committing future violations of the FTC Act, the CFPA, the FDCPA, the FCRA, and RESPA;

B. Award such relief as the Court finds necessary to redress injury to consumers resulting from Green Tree's violations of the FTC Act, the CFPA, the FDCPA, the FCRA, and RESPA, including but not limited to rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies;

C. Award Plaintiff CFPB civil money penalties for Green Tree's violations of the CFPA, the FDCPA, the FCRA, and RESPA;

D. Award Plaintiffs the costs of bringing this action; and

E. Award additional relief as the Court may determine to be just and proper.

Dated: April 21, 2015

Respectfully submitted,

Assistant Litigation Deputy

Acting Assis