

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

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In the other action, the operators of a payday lending scheme that allegedly took millions of dollars from consumers by trapping them into loans they never authorized agreed to be banned from the consumer lending business under settlements with the FTC.¹⁹ The settlements stem from charges previously filed alleging that Timothy A. Coppinger, Frampton T. Rowland III, and their companies, including CWB Services, targeted online payday loan applicants and, using information from lead generators and data brokers, deposited money into those applicants' bank accounts without their permission, and told consumers they had agreed to, and were obligated to pay for, the unauthorized "loans." To support their claims, the defendants provided consumers with fake loan applications or other loan documents purportedly showing that the consumers had authorized the loans, which misstated the loans' finance charge, annual percentage rate, payment schedule, and total number of payments, while burying the loans' true costs in fine print. The complaint alleged that defendants violated the FTC Act and TILA, among other laws. Under the stipulated orders, among other things, the defendants

further proceedings relating to the monetary award (previously reported).²³ Upon remand, the district court rejected the defendants' arguments regarding the FTC's burden of proof with respect to estimating monetary injury. Litigation in the matter continued in 2015, with the Commission seeking over \$14 million to compensate consumers.

2. Mortgage-Related Credit: Forensic Audit Scams

The FTC also continued litigation in three cases involving mortgage assistance relief services, several of which involved forensic audit scams. In these scams, mortgage assistance relief providers offer, for a substantial fee, to review or audit the mortgage documents of distressed homeowners to identify violations of TILA, Regulation Z, and other federal laws. The defendants, in violation of the FTC Act and other laws, falsely claim that locating such violations will give consumers leverage over their lenders and servicers to persuade them to modify or cancel loans and allow consumers to avoid foreclosure.

In one matter, the FTC obtained a final judgment against Mortgage Relief Advocates, a case that had been filed as part of a 2014 Mortgage Assistance Relief Services (MARS) law enforcement sweep.²⁴ The judgment includes a permanent injunction and order requiring defendants to pay \$1.8 million in monetary relief. Previously in 2015, the court granted the FTC's motion for summary judgment, finding that four corporate defendants and two individual defendants were jointly and severally liable for violations of Section 5 of the FTC Act and the MARS Rule, Regulation O.²⁵

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asset freeze and other equitable relief. The FTC continues to seek redress and other relief in this continuing litigation.

In a third matter, two of the defendants in a mortgage relief scheme appealed to a federal circuit court after a district court entered default judgments against them, and in 2015, the FTC filed its answering brief.²⁷ As previously reported, the FTC had obtained stipulated orders against A to Z Marketing and twenty-one other defendants who used a range of mortgage relief schemes such as forensic audit scams, charging consumers illegal up-front fees \$2,500 to \$3,500 for the foreclosure rescue services, but providing little or no help, deepening their victims' financial distress. As noted above, the district court entered default judgments against two defendants, and the two defendants appealed those judgments.²⁸ Litigation continues in that appeal.

B. Truth in Lending: Rulemaking, Research, and Policy Development

The FTC does not have rulemaking authority under the Truth in Lending Act, but three of its activities in 2015 pertained to rulemaking, research, and policy development that addressed issues related to the TILA.

The Commission announced that it was seeking public comment on a proposed qualitative survey of consumers to learn about their experiences in buying and financing automobiles at dealerships, and published a Federal Register Notice on the matter.²⁹ The comments – which the Commission posts on its website – will be considered before the FTC seeks clearance for the survey

3. Payday Lending

In 2015, the Commission issued additional guidance to businesses through its business blog, on deceptive payday lending practices, with information from a recent FTC settlement on this topic.⁴⁰ The material addresses the laws allegedly violated in the action, including TILA, and the order provisions. The Commission's blog post on the conference discussed above, jointly held with the NAACP on "Obstacles to Economic Opportunity," also includes information about short-term loan scams.⁴¹

4. Military Lending

Additionally, in 2015, in connection with Military Consumer Protection Day on July 15, the Commission hosted a Twitter Town Hall chat, along with its law enforcement partners at DoD, CFPB, and Military Saves.⁴² Topics covered during the chat included credit issues, such as discussion of deceptive auto ads, and issues with short-term high interest rate loans.⁴³ The Commission also issued a blog post announcing the upcoming event, and encouraging military and veteran communities to visit the Military Consumer website, in which the FTC participates, for resources from more than 30 federal, state, and municipal agencies, and consumer advocacy and military support organizations, on topics related to education and recognizing and avoiding fraud.⁴⁴

5. Other Credit

Also in 2015, the Commission published an article, and issued a blog post, on solar power for homes, along with discussion of buying and financing a system or using power purchase agreements (among other options).⁴⁵ This information included tips on points to consider in deciding which option is best, issues related to the costs and terms that may be involved, and important guidance about reviewing and understanding the contract, before consumers select a company. The Commission also published a new article, and released a blog post, on rent-to-own

⁴⁰ See Lesley Fair, *Turning the tables on deceptive payday lenders*, FTC BUSINESS CENTER BUSINESS BLOG (Jan. 16, 2015), [https://www.ftc.gov/news-events/blog/5ans1\(S\)5.4\(s\)9r8\(IN\)TT0 1](https://www.ftc.gov/news-events/blog/5ans1(S)5.4(s)9r8(IN)TT0 1)

terms such as the total amount due at signing, whether a security deposit was required, and credit score requirements. According to the complaint, only in fine print at the bottom of the promotion did the advertisement disclose that the offer required an 800 Beacon score or higher with approved credit. The complaint alleged that fewer than 20% of consumer have such a credit score, and typical consumers could not qualify for the advertised terms. The companies were charged with running deceptive advertisements in violation of the FTC Act, and with violating the CLA and Regulation M by failing to disclose or clearly and conspicuously disclose required lease terms. The proposed settlement order, which would remain in effect for 20 years, prohibits the companies from advertising misleading lease or financing terms. It also would require them to clearly and conspicuously disclose all qualificationc 0 Tw[a.fid [(pr)-12(y)20o(rTw 3.91,)]u12(n(o)-10(r)3(-)-10(u Tw[a]1.1

to turn in a vehicle whose trade-in value is at least \$2,500 to lease the vehicle. According to the FTC's complaint

complaint, the defendants also make it difficult for consumers to cancel the memberships, stop or avoid the charges, or obtain a refund. They allegedly debited consumers' bank accounts on a recurring basis without obtaining a written authorization from, or providing a copy of the authorization to, consumers for the preauthorized electronic fund transfers, in violation of EFTA and Regulation E. The FTC also charged defendants with unfair and deceptive practices, including for deceptive representations to consumers and unauthorized charging of consumers' accounts, in violation of the FTC Act, and with violations of the Restore Online Shoppers' Confidence Act. The court later also issued preliminary injunctions (some stipulated) as to several defendants.⁵⁹ Litigation continues in the matter.

In a second case, which was previously filed, the court granted partial summary judgment in favor of the FTC.⁶⁰ The court ruled, among other things, that the 61 corporate defendants, including I Works, had operated as a common enterprise and that Johnson – the corporate defendants' CEO, owner, or co-owner – is personally liable for the corporations' violations. In addition to violations of the FTC Act, the FTC's complaint alleges that the defendants violated EFTA and Regulation E by debiting consumers' bank accounts without their signed written authorization and without providing consumers with a copy of their written authorization. Litigation continues in the matter.

In the third case, the FTC obtained a preliminary injunction against a marketer of diet supplements, Health Formulas, for deceptive advertising and recurring unauthorized withdrawals, in violation of the FTC Act and EFTA.⁶¹ The Commission later obtained a stipulated order with certain defendants, providing for a \$105 million judgment (with part of the judgment suspended upon payment of specified funds in view of defendants' financial condition), banning negative option sales in most instances, and banning sales of dietary supplements, among other relief.⁶² Litigation continues in that matter. In a fourth case, the FTC mailed 23,406 checks totaling more than \$3.7 million to consumers, as a result of a prior settlement of a complaint including FTC Act and EFTA violations.⁶³

⁵⁹ *Id.* (C.D. Cal. July 23, 2015) (order on stipulation to enter preliminary injunction with asset freeze, appointment of permanent receiver, and other equitable relief as to Alon Nottea and Roi Reuveni); (C.D. Cal. July 23, 2015) (amended order on stipulation to enter preliminary injunction with asset freeze, appointment of permanent receiver,

2. Other Cases

Also in 2015, the Commission engaged in litigation in three other cases, two involving payday lending and one involving consumer electronics financing.

In one of the payday lending cases, described above, AMG Services and MNE Services, and others, agreed to settle charges in a lawsuit the FTC had pre(litig)12(a)6(tio)-8(n)2i /Artifact < 04 Tc 0.co

We hope that the information discussed above responds to your inquiry and will be useful in preparing the CFPB's Annual Report to Congress.⁷⁴ Should you need additional assistance, please contact me at (202) 326-2972, or Carole Reynolds at (202) 326-3230.

Sincerely,

Malini Mithal
Acting Associate Director
Division of Financial Practices

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