Hudson Cook Enforcement Alert: CFPB Imposes Bans from Reverse Mortgage Servicing, $11.5 Million Restitution, and $5 Million in Civil Money Penalties for Mishandling Communications with Borrowers

June 21, 2024 | Julia K. Whitelock and Erik Kosa

HIGHLIGHTS

- HECM contract holder and two of its subcontractor's subsidiaries are permanently banned from reverse mortgage servicing activities.
- Respondents must pay $11.5 million to reverse mortgage borrowers financially harmed by companies' activities.
- Subcontractor entities must pay a civil penalty of $5 million.

CASE SUMMARY

The CFPB entered into consent orders with a Home Equity Conversion Mortgage ("HECM," also known as a "reverse mortgage") servicing contractor, its subcontractor, and two of its subcontractor's subsidiaries. The U.S. Department of Housing and Urban Development ("HUD") administered HECM program allows homeowners over age 62 to borrow money using their home as security for the loan.

The Bureau alleged the respondents—who serviced HECM loans from 2014 to 2022—failed to maintain staffing adequate to handle as many as 150,000 borrowers per year, preventing borrowers from fulfilling their annual occupancy requirements, obtaining loan payoff statements, and finding foreclosure alternatives. The Bureau alleged that this caused consumers to incur fees and charges they otherwise could have avoided.

Specifically, the Bureau alleged that the servicers failed to provide information necessary to process short sales or deeds in lieu of foreclosure, leading to consumers improperly being denied public-assistance benefits, losing opportunities to sell their homes for more money than they were ultimately able to obtain, and experiencing extreme stress from not being able to complete the sales in a timely manner. In addition, the CFPB alleged the companies sent false repayment letters to older homeowners saying their reverse mortgage loans were dueand must be paid within 30 days due to a default condition when no such event had occurred, then improperly ignored reverse mortgage borrowers' attempts to address the "due and payable" letters.

The Bureau alleged this conduct violated both the Consumer Financial Protection Act ("CFPA") and the Real Estate Settlement Procedures Act ("RESPA"). With respect to the CFPA, the Bureau alleged this conduct constituted (1) unfair acts or practices by failing to communicate with and respond to consumers, (2) deceptive acts or practices by sending misleading repayment letters to consumers in connection with reverse mortgage loans, and (3) abusive acts or practices by failing to respond to consumers' calls, e-mails, and inquiries, even after sending due and payable letters. In addition, the CFPB alleged that failing to acknowledge, investigate, and respond in a timely manner to notices of error and information requests violated RESPA.

The servicers neither admitted to nor denied the allegations. To resolve the matter, they agreed to pay monetary relief and strict injunctive relief. The consent orders permanently ban three of the four servicers from reverse mortgage servicing and requires the remaining entity to develop a plan to come into compliance with the law before the company may engage in reverse mortgage servicing again. The orders also require three of the companies—the subcontracting entities, which share common ownership—to pay $11.5 million in consumer redress and a $5 million civil money penalty. The remaining entity—the holder of the HECM servicing contract—must pay a nominal civil penalty of $1, discounted from $16.5 million based on the entity's sworn declaration and documented inability to pay.

RESOURCES:

You can review all of the relevant court filings and press releases at the CFPB's Enforcement page.

- Consent Order (Subcontractor Entities)
- Consent Order (HECM Contract Holder)
- Stipulation (Subcontractor Entities)
- Stipulation (HECM Contract Holder)
- CFPB Press Release

on a matter, one should seek the advice of counsel.

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