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DELTA FUNDING CORPORATION SETTLES U.S.
CHARGES OF FAIR LENDING AND CONSUMER LAW

WASHINGTON, D.C. -- Delta Funding Corporation, a consumer finance company, today agreed to change its lending policies and to compensate African American female borrowers who were charged higher mortgage broker fees than similarly situated white borrowers. The agreement was announced today by the Department of Justice, the United States Attorney for the Eastern District of New York, the Department of Housing and Urban Development, and the Federal Trade Commission.

In a complaint, filed together with the agreement in U.S. District Court in Brooklyn, the government alleged that the subprime mortgage lender violated fair lending and consumer protection laws by charging higher mortgage broker fees to African American females than similarly situated white males, paying kickbacks to brokers to induce them to refer loan applicants to Delta, and approving loans without regard to the borrower's ability to repay. The government alleges that Delta's actions put borrowers thousands of dollars in debt and exposed them to unwarranted risk of default or foreclosure.

Today's suit against Delta, which operates mainly in minority areas of Brooklyn and Queens, is the first suit brought by the federal government that combines allegations of fair lending and consumer protection violations by the same lender.

The Justice Department Allegations

The Justice Department and the U.S. Attorney in Brooklyn focused their investigation on allegations that Delta engaged in a practice of charging higher prices to African American females for home mortgage loans than for white males with similar credit in violation of the Fair Housing Act (FHA) and the Equal Credit Opportunity Act (ECOA). It reviewed Delta's lending practice in Brooklyn and Queens, where the company makes about 25 percent of its loans annually, primarily in minority neighborhoods.

The complaint alleged that from January 1996, through December 1998, Delta intentionally charged African American females higher loan prices than similarly situated white males by underwriting and funding home mortgages -- mostly refinancing loans-- for which the broker fees were substantially higher for African American females than for similarly situated white males. The complaint alleges that Delta offered a variety of inducements to brokers to do business with Delta. These inducements seldom benefit consumers, but result in higher fees and points to Delta.

"Today's suit sends a clear message that the United States government will not tolerate discriminatory or illegal lending practices," said Acting Assistant Attorney General for Civil Rights Bill Lann Lee. "Federal enforcement agencies are committed to working side by side to fight lending discrimination and consumer fraud across the nation. Residents of minority neighborhoods should no longer be denied the opportunity to obtain credit on fair terms at fair prices."

"Home ownership is an integral part of the American Dream," said Loretta Lynch, U.S. Attorney in Brooklyn. "Lending decisions should be based on the qualifications of the borrower and not in any way on race, or gender."

HUD Allegations

The complaint also included claims brought on behalf of HUD alleging that Delta was aware that its brokers were charging fees that were not commensurate with the services provided by the broker. The complaint alleged that Delta aided its brokers in obtaining unearned fees by performing many of the services for them, in violation of the Real Estate Settlement Procedures Act (RESPA), the Fair Housing Act, the Equal Credit Opportunity Act (ECOA) and the Home Ownership and Equity Act (HOEPA).

"The dream of homeownership should not be encumbered by unfair and excessive mortgage loan costs," said Secretary of Housing and Urban Development Andrew Cuomo. "Lenders and mortgage brokers are put on notice by this settlement agreement that HUD and the Federal government are prepared to fight for borrowers who are being victimized by predatory mortgage lending practices."

RESPA highlights of the Settlement Agreement are:

- Delta will provide, to every borrower from whom it receives a mortgage loan application, a new Broker Information Disclosure form that informs the borrower about fees paid to the mortgage broker, both by Delta and by the borrower.
- In its relationships with mortgage brokers, Delta is required to establish policies and business practices that would conform to HUD's Statement of Policy on mortgage broker fees and ensure that mortgage broker fees for Delta loans are appropriate.
- If Delta does not believe that the mortgage broker's compensation is reasonably related to services, goods, and facilities provided by the mortgage broker, Delta will reduce any lender-paid fee to the mortgage broker, seek the mortgage broker's agreement to reduce its borrower-paid fee, or decline to fund the loan.

FTC Allegations

Finally, the complaint also included claims brought on behalf of the FTC,

alleging that Delta engaged in equity-based lending without considering the borrower's ability to repay the loan, in violation of the Home Ownership and Equity Protection Act of 1994 (HOEPA). A number of the victims identified by the Justice Department were African American widows living in Brooklyn who had little or no outstanding mortgage debt and who were persuaded to obtain high-priced refinance loans they could not afford. Delta's high cost loans also contained prepayment penalty provisions, in violation of HOEPA.

Jodie Bernstein, Director of the FTC's Bureau of Consumer Protection, commended both the Justice Department and the Department of Housing and Urban Development for their efforts targeting Delta's abusive lending practices. "Not only did Delta put these consumers into loans that they couldn't afford," she said, "but the company also charged some borrowers even more because of their sex or race. That's just intolerable."

Today's settlement

Under today's settlement, Delta is prohibited from engaging in any lending practice that discriminate on the basis of sex, race, or color in pricing of mortgage loans. Delta has also agreed to change the way it deals with mortgage brokers.

- Delta will reject a broker's proposal when the associated costs and fees are not permitted under fair lending law.
- Delta will maintain loan underwriting standards to ensure that loans are based on the borrower's ability to pay.
- Delta is enjoined from violating RESPA, as well as the Fair Housing Act, HOEPA, and ECOA in the pricing and funding of mortgage loans and in its dealings with mortgage brokers.
- Delta will provide new training to its employees on the requirements of RESPA, the Fair Housing Act, ECOA, and HOEPA, and will offer similar training to all mortgage brokers with whom it does business.
- The agreement also will establish a monitoring and compliance system, and recordkeeping and reporting requirements.

Last September, Delta entered into a remediation agreement with the New York State Banking Department (NYSBD), which resolved allegations by the Department that Delta violated New York's fair lending and consumer protection laws. Under the agreement, Delta is required to establish a \$7.25 million "Remediation Fund" and an "Amelioration Fund" valued at approximately \$5 million. The funds are to be used to compensate borrowers identified by NYSBD and the federal agencies.

Under today's agreement, individuals identified by the Justice Department to have been victims of the federal violations may be eligible to receive compensation from the funds established under the September agreement.

The agreement still must be approved by the U.S. District Court.

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