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8
9 UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

10
11 _____)
FEDERAL TRADE COMMISSION,)
12)
Plaintiff,)
13)
v.)
14)
CAPITAL CITY MORTGAGE CORP.,)
15 a Maryland corporation,)
and THOMAS K. NASH,)
16)
Defendants.)
17 _____)

18
19 **COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE**
20 **RELIEF AND MONETARY CIVIL PENALTIES**

21 Plaintiff, the Federal Trade Commission ("Commission"), by
22 its undersigned attorneys, alleges as follows:

23
24 JURISDICTION AND VENUE

25 1. This is an action under §§ 5(a), 5(m)(1)(A), 9, 13(b),
26 16(a), and 19 of the Federal Trade Commission Act ("FTC Act"),

1 15 U.S.C. §§ 45(a), 45(m)(1)(A), 49, 53(b), 56(a), and 57b,
2 § 108(c) of the Truth in Lending Act ("TILA"), 15 U.S.C.
3 § 1607(c), § 814(a) of the Fair Debt Collection Practices Act
4 ("FDCPA"), 15 U.S.C. § 16921(a), and § 704(c) of the Equal Credit
5 Opportunity Act ("ECOA"), 15 U.S.C. § 1691c(c), to secure
6 permanent injunctive relief and other equitable relief, including
7 rescission, restitution, and disgorgement, against defendants for
8 engaging in unfair or deceptive acts or practices in violation of
9 § 5(a) of the FTC Act, as amended, 15 U.S.C. § 45(a), and acts or
10 practices in violation of the TILA, 15 U.S.C. §§ 1601-1666j, and
11 its implementing Regulation Z, 12 C.F.R. § 226, and the FDCPA, 15
12 U.S.C. § 1692, and to obtain a monetary civil penalty for
13 violations of the ECOA, 15 U.S.C. § 1691, and its implementing
14 Regulation B, 12 C.F.R. § 202.

15
16 2. This Court has subject matter jurisdiction over this matter
17 pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and 15
18 U.S.C. §§ 45(a), 45(m)(1)(A), 49, 53(b), 56(a), 57b, 1607(c),
19 16921(a), and 1691c(c).

20
21 3. Venue is proper in the United States District Court for the
22 District of Columbia under 28 U.S.C. § 1391(b) and (c), 1395(a),
23 and 15 U.S.C. § 53(b).

DEFINITIONS

1
2 4. As used in reference to the TILA, the terms "advertisement,"
3 "amount financed," "annual percentage rate" ("APR"), "closed-end
4 credit," "consumer," "consumer credit," "creditor," "dwelling,"
5 "finance charge," "payment schedule," "security interest," and/or
6 "total of payments" are defined in §§ 103 and 128 of the TILA, 15
7 U.S.C. §§ 1602 and 1638, and §§ 226.2, 226.4, and 226.18 of
8 Regulation Z, 12 C.F.R. §§ 226.2, 226.4, and 226.18. As used in
9 reference to the FDCPA, the terms "creditor," "debt," and "debt
10 collector" are defined in § 803 of the FDCPA, 15 U.S.C. § 1692a.
11 As used in reference to the ECOA, the terms "adverse action,"
12 "applicant," "application," and "creditor" are defined in § 702
13 of the ECOA, 15 U.S.C. § 1691a, and Regulation B, 12 C.F.R.
14 § 202.2.

15
16 5. "Loan instrument" means the legal obligations between
17 defendants and a borrower that are created in extending credit.

18
19 6. "Monthly payment" means a monthly or other periodic payment
20 a borrower must make under the loan instrument to repay the loan
21 principal, pay interest on the principal, and, if necessary, fund
22 escrow accounts for insurance and/or real estate taxes.

23
24 7. "Overdue balance" means the sum a borrower must pay under
25 the loan instrument to bring current a loan.

1 8. "Arrears" means a sum which, pursuant to the loan
2 instrument, is owed by a borrower but not claimed due by
3 defendants until the loan is paid off or foreclosed upon.

4
5 9. "Service fees" means fees for late payments, inspections,
6 courier services, appraisals, legal services, reinstatement,
7 penalties for "no insurance," and other penalties and fees which
8 a borrower must pay when billed by defendants.

9
10 10. "Advances" means expenses that defendants incurred which a
11 borrower must pay when billed by defendants.

12
13 11. "Pay-off amount" means the sum a borrower must pay under the
14 loan instrument completely to extinguish a loan.

15
16 12. "Loan payments" incorporates by reference the "monthly
17 payment," "overdue balance," "arrears," "service fees,"
18 "advances," "pay-off amount," "annual percentage rate," "finance
19 charge," "amount financed," "total of payments," and/or "payment
20 schedule."

21
22 13. "Loan terms" means the terms of a loan instrument,
23 including, but not limited to, the duration of the loan in years,
24 the interest rate, whether the loan is amortizing or interest-
25 only, the terms of default, the requirements for reinstatement,
26 the monthly payment, and the amounts of service fees.

1
2 THE PARTIES

3 14. The Commission is an independent agency of the United States
4 Government given statutory authority and responsibility by the
5 FTC Act, as amended, 15 U.S.C. §§ 41-58. The Commission is
6 charged, inter alia, with enforcing § 5(a) of the FTC Act, 15
7 U.S.C. § 45(a), which prohibits unfair or deceptive acts or
8 practices in or affecting commerce, the TILA, 15 U.S.C. §§ 1601-
9 1666j, which grants to consumers certain substantive rights in
10 credit transactions, the FDCPA, 15 U.S.C. § 1692, which prohibits
11 certain debt collection practices, and the ECOA, 15 U.S.C.
12 § 1691, which prohibits certain forms of discrimination in credit
13 transactions. The Commission is authorized by § 13(b) of the FTC
14 Act, 15 U.S.C. § 53(b), the TILA, 15 U.S.C. §§ 1601-1666j, and
15 the FDCPA, 15 U.S.C. § 1692, respectively, to initiate court
16 proceedings to enjoin violations of the FTC Act, the TILA and
17 Regulation Z, and the FDCPA and to secure such equitable relief
18 as may be appropriate in each case. The Commission also is
19 authorized by the FTC Act, 15 U.S.C. § 45(m)(1)(A), and the ECOA,
20 15 U.S.C. § 1691c(c), to initiate court proceedings to obtain a
21 civil penalty for violations of the ECOA if the Attorney General
22 does not file within 45 days of the Commission's referral the
23 Commission's complaint alleging violations of the ECOA and
24 Regulation B.

25
26 15. Defendant Capital City Mortgage Corp. ("Capital City") is a

1 for-profit corporation organized, existing, and doing business
2 under the laws of the State of Maryland. Its principal place of
3 business is at 1223 11th Street, N.W., Washington, D.C. 20001.
4 Capital City transacts business in this District.

5
6 16. Defendant Thomas K. Nash ("Nash") is an individual who
7 transacts business in this District. He is President and sole
8 shareholder of Capital City, and directs, supervises, controls,
9 formulates, and participates in the acts or practices of
10 defendant Capital City, including those acts or practices
11 complained of herein. Nash's principal place of business is the
12 same as Capital City's.

13
14 DEFENDANTS' BUSINESS

15 17. Defendants maintain a substantial course of trade in
16 offering and extending credit to consumers and others, including,
17 but not limited to: (1) consumer credit transactions in which
18 defendants acquire or retain a security interest in a borrower's
19 dwelling and (2) business credit transactions in which
20 defendants sometimes acquire a security interest in an
21 applicant's dwelling or other real property.

22
23 18. In many instances, defendants' borrowers are minority and/or
24 elderly persons living on fixed or low incomes in Washington,
25 D.C., Maryland, and Virginia, who borrow primarily for personal,
26 family, or household purposes.

1 19. Defendants find borrowers by word-of-mouth, advertisements,
2 and other solicitations. They often qualify borrowers for loans
3 not on creditworthiness but on equity in property. They fund the
4 loans using their own monies and monies from other sources and
5 service all the loans, including, but not limited to, monitoring
6 all payments, maintaining books of account, taking action to
7 collect on loans in default, and selling or transferring the
8 loans to others. In connection with offering and extending
9 credit, each defendant has been the creditor on a number of
10 loans.

11
12 20. In offering credit, defendants routinely have represented to
13 prospective borrowers material facts about loan terms, including,
14 but not limited to: the term of the loan in years; the terms of
15 default; whether it is an amortizing loan or an interest-only
16 balloon loan; the interest rate; the monthly payment; that
17 borrowers will have access to records of their loan accounts,
18 including that an annual escrow accounting will be provided; and
19 that as long as a borrower complies with the terms of the loan,
20 defendants will not take title to the property securing the loan.

21
22 21. After extending credit, defendants do not provide borrowers
23 with coupon books or payment books setting out the amounts and
24 due dates of loan payments. Instead, defendants routinely have
25 sent borrowers monthly or periodic statements ("monthly
26 statements") purporting to represent the loan payment due under

1 the loan instrument.

2
3 22. Defendants' finance charges on their loans include, but are
4 not limited to, interest rates that generally have ranged between
5 20 and 24 percent for loans secured by home equity and between 9
6 and 12 percent for purchase money loans. In many instances,
7 defendants' loans are interest-only balloon loans rather than
8 amortizing loans.

9
10 23. In the course and conduct of offering and extending credit
11 and throughout the duration of their loans, defendants have
12 engaged in acts or practices having the result that a number of
13 borrowers were overcharged on their loans, were defaulted, and
14 often had title to their homes or other property impaired or
15 completely lost title to their homes or other property and their
16 equity therein, and of which the following are illustrative:

- 17
18 (a) in offering credit, defendants represented a loan was an
19 amortizing loan when, in fact, it was an interest-only
20 balloon loan;
- 21 (b) in offering credit, defendants represented there would be
22 only a slight difference between the loan payment on an
23 existing loan and on a new loan consolidating the existing
24 loan and providing new funds, when, in fact, the new loan
25 payment was substantially higher and exceeded the monthly
26 income disclosed in the borrower's loan application;

- 1 (c) defendants represented that a borrower's loan payment was
2 higher than it should have been under the loan instrument,
3 by demanding that the borrower:
- 4 (1) pay for utility services that were provided not to the
5 borrower but to defendants;
 - 6 (2) pay a litter control charge imposed by government on
7 defendants or a related entity before the borrower purchased
8 the property from defendants or the related entity; and
 - 9 (3) pay a "no-insurance" penalty of one percent of the
10 outstanding loan balance when defendants were to provide
11 insurance or the borrower timely had purchased appropriate
12 insurance;
- 13 (d) defendants collected real estate tax escrow payments from
14 a borrower, failed to pay the taxes, and then represented to
15 the borrower, a church, that they had paid the taxes;
- 16 (e) defendants refused to explain overcharges, such as set forth
17 above, to borrowers who asked for explanations;
- 18 (f) defendants initiated foreclosure proceedings after a
19 borrower did not pay overcharges, such as set forth above,
20 and obtained title by foreclosing or taking a deed in lieu
21 thereof;
- 22 (g) without notice to a borrower, defendants added various
23 charges to arrears or the loan principal, thereby accruing
24 compound interest on these amounts at the note rate and
25 increasing the borrower's pay-off amount;
- 26

1 (h) after receiving a payment sufficient to pay-off a borrower's
2 loan, defendants refused to release their lien on the
3 borrower's property without further payment by the borrower;
4 (i) defendants refused to reinstate a borrower after the
5 borrower paid defendants' designated reinstatement fee; and
6 (j) after loaning funds to buy and remodel a property,
7 defendants withheld remodeling funds from a borrower while
8 collecting loan payments sufficient to repay the full amount
9 of the loan.

10
11 24. Defendants often have foreclosed upon properties securing
12 their loans. After foreclosing, defendants have bought the
13 foreclosed-upon property at the foreclosure auction at which they
14 were the only bidder, for a price substantially less than
15 appraised value. Defendants then resold the property, and the
16 foreclosed-upon borrower did not receive the surplus from the
17 resale.

18
19 25. Defendants' course of trade is in or affecting commerce, as
20 "commerce" is defined in § 4 of the FTC Act, 15 U.S.C. § 44.

21
22 VIOLATIONS OF SECTION FIVE OF THE FTC ACT

23 COUNT I

24 26. In the course and conduct of offering and extending credit,
25 defendants have represented, expressly or by implication, that
26 the terms on which credit was granted would be the same terms on

1 | which credit was offered.

2 |
3 | 27. In truth and in fact, in a number of instances, because of
4 | practices such as those described in Paragraphs 17 through 23,
5 | above, the terms on which credit was granted were not the same
6 | terms on which credit was offered. Therefore, the representation
7 | set forth in Paragraph 26, above, was, and is, false and
8 | misleading.

9 |
10 | COUNT II

11 | 28. In the course and conduct of offering and extending credit
12 | and throughout the duration of their loans, defendants have
13 | represented, expressly or by implication, that loan payments
14 | comply with and are accurate under the loan instrument.

15 |
16 | 29. In truth and in fact, in a number of instances, because of
17 | practices such as those described in Paragraphs 17 through 23,
18 | above, defendants' representations of loan payments do not comply
19 | with or are not accurate under the loan instrument. Therefore,
20 | the representations set forth in Paragraph 28, above, were, and
21 | are, false and misleading.

22 |
23 | COUNT III

24 | 30. In the course and conduct of offering and extending credit
25 | and throughout the duration of their loans, defendants have
26 | represented, expressly or by implication, that they possessed and

1 relied on a reasonable basis substantiating their representations
2 that loan payments comply with and are accurate under the loan
3 instrument.

4
5 31. In truth and in fact, in a number of instances, defendants
6 did not possess and rely on a reasonable basis substantiating
7 their representations that loan payments comply with and are
8 accurate under the loan instrument. Therefore, the
9 representations set forth in Paragraph 30, above, were, and are,
10 false and misleading.

11
12 COUNT IV

13 32. In the course and conduct of offering and extending credit
14 and throughout the duration of their loans, defendants have
15 represented, expressly or by implication, that they will maintain
16 and provide to borrowers accurate records of borrower accounts.

17
18 33. In truth and in fact, in a number of instances, defendants
19 did not maintain and provide to borrowers accurate records of
20 borrower accounts. Therefore, the representations set forth in
21 Paragraph 32, above, were, and are, false and misleading.

22
23 COUNT V

24 34. In the course and conduct of offering and extending credit
25 and throughout the duration of their loans, defendants have
26 represented, expressly or by implication, that they will not give

1 notice of an intent to take or take title to a secured property
2 from a borrower while the borrower was complying with the loan
3 instrument.

4
5 35. In truth and in fact, in a number of instances, defendants
6 have given notice of an intent to take or have taken title to a
7 secured property from a borrower while the borrower was complying
8 with the loan instrument. Therefore, the representations set
9 forth in Paragraph 34, above, were, and are, false and
10 misleading.

11
12 COUNT VI

13 36. In the course and conduct of offering and extending credit,
14 defendants in a number of instances: (a) failed to disburse loan
15 proceeds to borrowers; and (b) required borrowers either to pay
16 monies not due under their loan instrument or by operation of
17 law, or suffer impairment or clouding of title to the home or
18 other property securing their loan and/or lose title to their
19 home or other property and the equity therein.

20
21 37. Defendants' acts and practices set forth in Paragraph 36,
22 above, have caused substantial injury to consumers which is not
23 reasonably avoidable by consumers themselves and not outweighed
24 by countervailing benefits to consumers or to competition.

25
26 38. By engaging in the acts or practice set forth in Paragraphs

1 26, 28, 30, 32, 34, and 36, above, defendants have engaged in
2 unfair or deceptive acts or practices in violation of §§ 5(a) and
3 (n) of the FTC Act, 15 U.S.C. §§ 45(a) and (n).

4
5 VIOLATIONS OF THE TRUTH IN LENDING ACT

6 39. Defendants are "creditors" as that term is defined in § 103
7 of the TILA, 15 U.S.C. § 1602, and § 226.2(a)(17) of Regulation
8 Z, 12 C.F.R. § 226.2(a)(17), and therefore are required to comply
9 with the applicable provisions of the TILA and Regulation Z.

10
11 COUNT VII

12 40. In the course and conduct of offering and extending credit,
13 defendants in many instances violated the requirements of the
14 TILA and Regulation Z in the following and other respects:

- 15
16 (a) by failing to identify the creditor in violation of § 128 of
17 the TILA, 15 U.S.C. § 1638, and § 226.18(a) of Regulation Z,
18 12 C.F.R. § 226.18(a);
19 (b) by stating a rate of finance charge without disclosing the
20 "annual percentage rate" or "APR" in violation of § 144 of
21 the TILA, 15 U.S.C. § 1664, and § 226.24(b) of Regulation Z,
22 12 C.F.R. § 226.24(b);
23 (c) by failing to make required TILA disclosures before
24 consummating a consumer credit transaction in violation of
25 §§ 121 and 128 of the TILA, 15 U.S.C. §§ 1631 and 1638, and
26 §§ 226.17 and 226.18 of Regulation Z, 12 C.F.R. §§ 226.17

1 and 226.18;

2 (d) by failing to make required TILA disclosures in the required
3 manner and form before consummating a consumer credit
4 transaction in violation of §§ 121 and 128 of the TILA, 15
5 U.S.C. §§ 1631 and 1638, and §§ 226.17 and 226.18 of
6 Regulation Z, 12 C.F.R. §§ 226.17 and 226.18;

7 (e) by failing timely to make or correct certain "good faith"
8 disclosures in violation of § 226.19 of Regulation Z, 12
9 C.F.R. § 226.19;

10 (f) by understating the disclosed finance charge in violation of
11 § 128 of the TILA, 15 U.S.C. § 1638, and § 226.18(d) of
12 Regulation Z, 12 C.F.R. § 226.18(d);

13 (g) by overstating the amount financed in violation of § 128 of
14 the TILA, 15 U.S.C. § 1638, and § 226.18(b) of Regulation Z,
15 12 C.F.R. § 226.18(b);

16 (h) by understating the disclosed annual percentage rate in
17 violation of § 128 of the TILA, 15 U.S.C. § 1638, and
18 § 226.18(e) of Regulation Z, 12 C.F.R. § 226.18(e);

19 (i) by failing to disclose or accurately disclose the "payment
20 schedule" or the "total of payments," including but not
21 limited to failing to disclose a balloon payment, in
22 violation of § 128 of the TILA, 15 U.S.C. §§ 1638, and
23 §§ 226.18(g) and (h) of Regulation Z, 12 C.F.R. §§ 226.18(g)
24 and (h); and

25 (j) by making disclosures that do not reflect accurately the
26 legal obligation between the parties in violation of § 128

1 of the TILA, 15 U.S.C. §§ 1638, and § 226.17(c) of
2 Regulation Z, 12 C.F.R. § 226.17(c).

3
4 41. Pursuant to § 108(c) of the TILA, 15 U.S.C. § 1607(c), every
5 violation of the TILA and Regulation Z constitutes a violation of
6 the FTC Act.

7
8 42. Therefore, by engaging in the violations of the TILA and
9 Regulation Z set forth in Paragraph 40, above, defendants also
10 have engaged in unfair or deceptive acts or practices in
11 violation of § 5(a) of the FTC Act, 15 U.S.C. § 45(a).

12
13 VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

14 43. In the course and conduct of offering and extending credit,
15 Nash, as creditor, occasionally has endorsed a loan in default
16 over to Capital City for collection.

17
18 44. In the course and conduct of offering and extending credit,
19 Eric Sanne, Capital City's general counsel, has sent to Capital
20 City borrowers debt collection letters that identified him as an
21 attorney but not as a Capital City employee.

22
23 45. Capital City and Nash, as the person controlling the acts
24 and practices of Capital City, are both "debt collectors" as
25 these terms are defined in § 803 of the FDCPA, 15 U.S.C. § 1692a,
26 and therefore are required to comply with the applicable

1 provisions of the FDCPA.

2
3 COUNT VIII

4 46. Defendants in many instances violated the requirements of
5 the FDCPA, in the following and other respects: (a) by making
6 false and misleading representations such as those alleged in
7 Paragraphs 23 and 44, above, in violation of § 807 of the FDCPA,
8 15 U.S.C. § 1692e; and (b) by engaging in unfair or
9 unconscionable debt collection practices such as those alleged in
10 Paragraph 23, above, in violation of § 808 of the FDCPA, 15
11 U.S.C. 1692f.

12
13 47. Pursuant to § 814(a) of the FDCPA, 15 U.S.C. § 1692l(a),
14 every violation of the FDCPA constitutes a violation of the FTC
15 Act.

16
17 48. Therefore, by engaging in the violations of the FDCPA set
18 forth in Paragraph 46, above, defendants also have engaged in
19 unfair or deceptive acts or practices in violation of § 5(a) of
20 the FTC Act, 15 U.S.C. § 45(a).

21
22 VIOLATIONS OF THE EQUAL CREDIT OPPORTUNITY ACT

23 49. Defendants are "creditors" as that term is defined by
24 § 702(e) of the ECOA, 15 U.S.C. § 1691a(e), and § 202.2(1) of
25 Regulation B, 12 C.F.R. § 202.2(1), and therefore are required to
26 comply with the applicable provisions of the ECOA and Regulation

1 B, 12 C.F.R. § 202.

2
3 COUNT IX

4 50. In the course and conduct of offering and extending credit,
5 defendants in many instances violated the requirements
6 of the ECOA and Regulation B in the following and other respects:

7
8 (a) by failing to take a written application for credit
9 primarily for the purchase or refinancing of a dwelling
10 occupied or to be occupied by the applicant as a principal
11 residence, where the extension of credit will be secured by
12 the dwelling, in violation of § 202.5(e) of Regulation B,
13 12 C.F.R. § 202.5(e);

14 (b) by taking a written application for credit primarily for the
15 purchase or refinancing of a dwelling occupied or to be
16 occupied by the applicant as a principal residence, where
17 the extension of credit will be secured by the dwelling, but
18 failing to do the following in violation of
19 §§ 202.13(a), (b), and (c) of Regulation B, 12 C.F.R.
20 §§ 202.13(a), (b), and (c):

21 (1) request as part of the application the following
22 information about the applicant(s):

23 (i) race or national origin, using the categories
24 American Indian or Alaskan native; Asian or Pacific
25 Islander; Black; White; Hispanic; or Other (Specify);

26 (ii) sex;

1 (iii) marital status, using the categories Married,
2 Unmarried, and Separated; and

3 (iv) age;

4 (2) list questions regarding the race or national origin,
5 sex, marital status, and age on the application form or on a
6 separate form that refers to the application;

7 (3) note the race or national origin and sex of the
8 applicant(s) on the basis of visual observation or surname
9 when the applicant chose not to provide the information
10 or any part of it; or

11 (4) inform the applicant(s) that:

12 (i) the information regarding race or national origin, sex,
13 marital status, and age is being requested by the federal
14 government for the purpose of monitoring compliance with
15 federal statutes that prohibit creditors from discriminating
16 against applicants on those bases; or

17 (ii) if the applicant(s) chooses not to provide the
18 information, the creditor is required to note the race
19 or national origin and sex of the applicant(s) on the
20 basis of visual observation or surname;

21 (c) by failing to provide applicant(s) for credit with written
22 notification of adverse action on an application in
23 violation of § 701(d) of the ECOA, 15 U.S.C. § 1691(d), and
24 § 202.9(a) of Regulation B, 12 C.F.R. § 202.9(a); and

25 (d) by providing written notification of adverse action on
26 an application for credit, but failing to provide the

1 applicant(s) with: (1) the correct principal reasons for the
2 action taken; or (2) the correct name and address of the
3 federal agency that administers compliance with the ECOA
4 with respect to defendants, in violation of § 701(d) of the
5 ECOA, 15 U.S.C. § 1691(d), and §§ 202.9(a) and (b) of
6 Regulation B, 12 C.F.R. §§ 202.9(a) and (b).

7
8 51. Pursuant to § 704(c) of the ECOA, 15 U.S.C. § 1691c(c),
9 every violation of the ECOA and Regulation B constitutes a
10 violation of the FTC Act.

11
12 52. Therefore, by engaging in the violations of the ECOA and
13 Regulation B set forth in Paragraph 50, above, defendants also
14 have engaged in unfair or deceptive acts or practices in
15 violation of § 5(a) of the FTC Act, 15 U.S.C. § 45(a).

16
17 CIVIL PENALTY

18 53. Defendants have violated the ECOA and Regulation B, as
19 described in Paragraph 50, above, with knowledge as set forth in
20 § 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

21
22 54. Each application, during the five years preceding the filing
23 of this complaint, with respect to which defendants have violated
24 the ECOA and Regulation B in one or more of the ways described
25 above constitutes a separate violation for which plaintiff seeks
26 a monetary civil penalty.

1 55. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A),
2 authorizes this Court to award a monetary civil penalty of not
3 more than \$11,000 for each such violation of the ECOA and
4 Regulation B.

5
6 CONSUMER INJURY

7 56. Borrowers have suffered, and will continue to suffer,
8 substantial injury as a result of defendants' violations of
9 § 5(a) of the FTC Act, the TILA, the FDCPA, and the ECOA, as set
10 forth above.

11
12 THIS COURT'S POWER TO GRANT RELIEF

13 57. This Court has authority pursuant to § 13(b) of the FTC Act,
14 15 U.S.C. § 53(b), § 108(c) of the TILA, 15 U.S.C. § 1607(c),
15 § 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), and its own inherent
16 equitable powers, to grant injunctive relief to prevent and
17 remedy violations of any provision of law enforced by the FTC.
18 Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A),
19 and § 704(c) of the ECOA, 15 U.S.C. § 1691c(c), empower this
20 Court to impose a civil monetary penalty for violations of the
21 ECOA and Regulation B. Defendants' violations of § 5(a) of the
22 FTC Act, the TILA, the FDCPA, and the ECOA have, in fact, injured
23 borrowers and, absent injunctive and other relief by this Court,
24 are likely to continue to injure borrowers and harm the public
25 interest.

1
2 PRAYER FOR RELIEF

3 WHEREFORE, plaintiff respectfully requests that this Court,
4 as authorized by §§ 5(a), 5(m)(1)(A), 9, 13(b), and 19 of the FTC
5 Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A), 49, 53(b), and 57b, §108(c)
6 of the TILA, 15 U.S.C. § 1607(c), § 814(a) of the FDCPA, 15
7 U.S.C. § 16921(a), and § 704(c) of the ECOA, 15 U.S.C. §
8 1691c(c), and pursuant to its own inherent equitable powers:

- 9
- 10 (a) Enter judgment against defendants and in favor of plaintiff
11 for each violation charged in the complaint;
- 12 (b) Permanently enjoin and restrain defendants from violating
13 § 5(a) of the FTC Act in connection with offering and
14 extending credit and any provision of the TILA and
15 Regulation Z, the FDCPA, and the ECOA and Regulation B;
- 16 (c) Find the defendants jointly and severally liable for redress
17 to all borrowers who were injured as a result of defendants'
18 violations of § 5(a) of the FTC Act, the TILA, the FDCPA,
19 and the ECOA;
- 20 (d) Award such relief as the Court deems necessary to prevent
21 unjust enrichment and to redress borrower injury resulting
22 from defendants' violations of § 5(a) of the FTC Act, the
23 TILA, and the FDCPA, including, but not limited to,
24 rescission of contracts, the refund of monies paid, and
25 disgorgement of ill-gotten gains;
- 26

1 (e) Award plaintiff monetary civil penalties for each of
2 defendants' violations of the ECOA and Regulation B; and

3
4 (f) Award plaintiff its costs of bringing this action, as well
5 as such other additional equitable relief as the Court may
6 determine to be just and proper.

7
8 Respectfully submitted,

9 DEBRA A. VALENTINE
10 General Counsel

11 _____
12 SANDRA M. WILMORE

13 _____
14 ALAIN SHEER

15 _____
16 SUSAN M. STOCKS

17 Federal Trade Commission
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19 Room S-4019
20 Washington, D.C., 20580
21 (202) 326-3169

22 Dated: _____
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