



Financial Services Litigation ADVISORY ■

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CFPB Brings Action Against Connecticut Mortgage Lender

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The number of enforcement actions by the Consumer Financial Protection Bureau (CFPB) more than doubled from 2019 to 2020. The CFPB made clear that cracking down on deceptive and unfair acts and practices under the Consumer Financial Protection Act of 2010 (CFPA) remains a core focus, with 11 of the 15 complaints it filed last year alleging such violations.

Earlier this month, the CFPB filed another lawsuit alleging unfair and deceptive acts or practices in violation of the CFPA. At the dawn of a new year and a new Administration, this litigation may be the proverbial canary in the coalmine for others in the financial services industry. As the case proceeds and briefing is filed, the tone and focus of the new Administration may be brought to light.

CFPB v. 1st Alliance Lending LLC

On January 15, 2021, the CFPB filed a [complaint](#) in the U.S. District Court for the District of Connecticut against 1st Alliance Lending LLC and its managing members. The CFPB alleged in its complaint that 1st Alliance and the managing members violated the CFPA, Equal Credit Opportunity Act, Fair Credit Reporting Act, Mortgage Acts and Practices – Advertising Rule, and Truth in Lending Act.

The Complaint

According to the complaint, from 2015 to August 2019, 1st Alliance engaged in a variety of unlawful practices in its mortgage-lending business. Specifically, the CFPB alleges that unlicensed 1st Alliance employees engaged in mortgage origination activities and other interactions with consumers that required those employees to be licensed under state and federal Secure and Fair Enforcement for Mortgage Licensing (SAFE) Acts. These unlicensed employees contacted consumer leads via email, text, and phone and conducted intake calls with prospective borrowers, during which they discussed interest rates and other loan terms, made credit decisions, and sometimes disqualified consumers. The company's employees routinely required consumers to submit verifying documents before issuing a loan estimate, denied credit to consumers without giving written notice, and made misrepresentations and false statements to

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consumers. These statements included assurances to consumers that they would qualify for a mortgage when 1st Alliance had already received disqualifying information about the consumer. Employees also repeatedly made representations to consumers about the availability and terms of FHA Streamline refinance loans when they had no way of knowing the truth or falsity of their statements.

The CFPB further alleged that 1st Alliance's business model was predicated on deceptive and unfair acts or practices. Its unlicensed employees held themselves out to the public as licensed loan originators in solicitations to consumers and on social media, all with the knowledge of the managing members. According to the CFPB, 1st Alliance's use of unqualified, unlicensed employees deprived consumers of important, accurate, and timely loan-term information, resulting in a loss of time and money.

The CFPB seeks injunctive relief, as well as damages, consumer redress, disgorgement, civil money penalties, and costs.

Takeaway

The CFPB is expected to pursue an even more aggressive agenda under the leadership of President Biden nominee Rohit Chopra. This litigation should be watched as a potential barometer of the new Administration's approach to enforcement and the statutes at issue in the litigation.

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