

Selected Law Enforcement Agency and Bank Regulatory Matters

Overview

BuckleySandler's attorneys have represented many of the nation's leading banks, insurance companies, securities firms and other financial services companies in a broad array of federal and state government investigations and enforcement actions focused on the marketing, underwriting, pricing, and servicing of a wide range of financial products and services. In particular, we have defended our clients in civil and criminal investigations brought by the U.S. Department of Justice, Federal Trade Commission, U.S. Department of Housing and Urban Development, Securities and Exchange Commission, Financial Crimes Enforcement Network, federal and state bank regulatory agencies, state attorneys general, and other federal and state regulatory and enforcement agencies.

The Firm's attorneys have represented clients in the following representative matters:

Department of Justice Fair Lending / Access and Fair Accommodation Cases

United States v. Nationwide Nevada, LLC, No. 2:08-cv-01309 (D. Nev. 2008) – Consent decree resolution of allegations that Nationwide Nevada engaged in a pattern or practice of discrimination by declining to purchase automobile finance contracts because the applicant resided on an Indian reservation, in violation of the Equal Credit Opportunity Act and Regulation B.

United States v. First Lowndes Bank, No. 2:08-cv-00798 (M.D. Ala. 2008) – Consent decree resolution of allegations that First Lowndes engaged in a pattern or practice of discrimination by charging higher interest rates to African-American borrowers on loans for manufactured housing as compared to White borrowers with manufactured housing loans, in violation of the Equal Credit Opportunity Act and Regulation B.

United States v. Erie Insurance Company of New York, et al., Civil Action No. 08-CV-0945-S (W.D.N.Y. 2008) – Consent decree resolution of allegations that Erie Insurance engaged in a pattern and practice of discrimination on the basis of race in the sale of homeowner's and renter's insurance in New York State, in violation of the Fair Housing Act.

United States v. Compass Bank, No. CV-07-H-0102-S (N.D. Ala. 2007) – Consent decree resolution of allegations of a pattern or practice of discrimination on the basis of marital status by charging higher buy rates for indirect auto loans to co-applicants who were not married to each other than for loans to co-applicants who were married to each other, in violation of Equal Credit Opportunity Act and Regulation B.

United States v. First American Bank, No. 1:04-CV-04585 (N.D. Ill. 2004) – Consent decree resolution of allegations of a pattern or practice of redlining by failing to market, operate branches, and provide lending products in predominantly African-American areas in violation of the Fair Housing Act and Equal Credit Opportunity Act.

United States v. Old Kent Financial Corporation and Old Kent Bank, No. 2:04-CV-71879 (E.D. Mich. 2004) – Consent decree resolution of allegations of a pattern or practice of redlining by failing to market, operate branches, and provide lending products in predominantly African-American areas in violation of the Fair Housing Act and Equal Credit Opportunity Act.

United States v. Fidelity Federal Bank, FSB, No. 1:02 CV 03906 (E.D.N.Y. 2002) – Consent decree resolution of allegations of a pattern or practice of discrimination against persons of Hispanic national origin relating to credit card programs in violation of the Equal Credit Opportunity Act.

United States v. Edward Rose Construction Co. and Occidental Development Co., No. 3:01-CV-0040-AS (N.D. Ind. 2001) – Consent decree resolution of allegations of a pattern or practice of discrimination against persons with disabilities by failing to include accessible features in apartment complexes in violation of the Fair Housing Act and the Americans with Disabilities Act.

United States v. Deposit Guaranty National Bank, No. 3:99-CV-00670-TSL (S.D. Miss. 1999) – Consent decree resolution of allegations of racial discrimination against African-American loan applicants through underwriting practices in violation of the Fair Housing Act and Equal Credit Opportunity Act.

United States v. Associates National Bank, No. 1:99-CV-00196-SLR (D. Del. 1999) – Lawsuit alleging discrimination against Spanish-language credit card applicants and cardholders in violation of the Equal Credit Opportunity Act.

United States v. KeyBank National Association, No. 3:97-CV-7801 (N.D. Ohio 1998) – Lawsuit alleging discriminatory treatment to African-American borrowers.

United States v. Oakridge Park, Inc., (E.D. La. 1997) – Consent decree resolution of allegations of racial discrimination in marketing and sale of time share condominiums in violation of the Fair Housing Act.

United States v. Fleet Mortgage Corporation, No. 1:96-CV-02279-ERK-ASC (E.D.N.Y. 1996) – Consent decree resolution of allegations of violations of the Fair Housing Act and Equal Credit Opportunity Act by charging African-American and Hispanic borrowers higher prices than similarly situated White borrowers in connection with home mortgage loans.

United States v. Mitchell Brothers, Inc., No. 95-0694-RV-S (S.D. Ala. 1996) – Consent decree resolution of allegations of discrimination against African-Americans seeking to rent apartments in violation of the Fair Housing Act.

United States v. Chevy Chase Federal Savings Bank et al., No. 1:94-CV-01829-JLG (D.D.C. 1994) – Consent decree resolution of allegations of a pattern or practice of redlining by failing to market loans in predominantly African-American areas in violation of the Fair Housing Act and Equal Credit Opportunity Act.

United States v. Shawmut Mortgage Company, No. 3:93-CV-02453 AVC (D. Conn. 1993) – Consent decree resolution of allegations of a pattern or practice of discriminating against African-American and Hispanic consumers in connection with its underwriting practices in violation of the Fair Housing Act and Equal Credit Opportunity Act.

Department of Justice Lending Practices Cases

Option One Mortgage Corporation, United States Attorney's Office for the Eastern District of Pennsylvania (2005) – Joint agreement relating to forbearance policy of requiring delinquent borrowers to execute a deed in lieu of foreclosure.

American Business Financial Services, Inc., United States Attorney's Office for the Eastern District of Pennsylvania (2003) – Joint agreement relating to fraud detection and prevention in mortgage loan origination.

Department of Justice Bank Secrecy Act Matters

United States v. AmSouth Bancorporation and AmSouth Bank, Nos. 3:04-CR-00167-TSL-JCS-1, 3:04-CR-00167-TSL-JCS-2 (S.D. Miss. 2004) – Deferred prosecution agreement involving one count information alleging failure to file suspicious activity reports in violation of the Bank Secrecy Act.

Department of Justice Mortgage Fraud / False Claims Act

United States v. RBS Mortgage Company, U.S. Attorney's Office for the Northern District of Illinois / Department of Housing and Urban Development Office of the Inspector General (2008) – Pre-suit settlement of Civil False Claims Act and Program Civil Fraud Remedies Act claims relating to Federal Housing Administration guaranteed mortgage loans.

Federal Trade Commission Lending Practices Cases

Federal Trade Commission v. EMC Mortgage Corporation and The Bear Stearns Companies, LLC, 4:08-cv-338 (E.D. Tex. 2008) – Consent Decree resolution of lawsuit alleging unfair and deceptive trade practices as well as violations of the FDCPA, FCRA, and TILA in connection with the servicing of residential mortgages.

Federal Trade Commission v. Citigroup Inc. et al., No. 1:01-CV-00606-JTC (N.D. Ga. 2001) – Lawsuit alleging unfair and deceptive trade practices with respect to nationwide lending practices of The Associates that was resolved as part of a global settlement of multiple nationwide class actions.

State Law Enforcement

State of Ohio v. Carrington Mortgage Services, LLC, No. 09 CVH 0711433 (Ct. of Common Pleas, Franklin County 2009) Ohio Attorney General – Lawsuit alleging breach of contract and unfair and deceptive trade practice relating to mortgage loan servicing and modifications.

Jackson Hewitt Tax Services, Inc. v. New York Human Rights Commission, No. 08-cv-8863 (S.D.N.Y. 2008) – Action seeking injunctive and declaratory relief against state investigation of marketing and distribution of refund anticipation loans.

In re: GreenPoint Mortgage Co., (2007) New York State Attorney General – Investigation of alleged disparities in pricing of loans made to African-American and Latino customers by brokers doing business with GreenPoint Mortgage. Resulted in settlement without filing of a civil action.

Commonwealth of Mass. v. Fremont Investment & Loan et al., No. 07-4373 (Mass. Sup. Ct. 2007) Massachusetts Attorney General – Lawsuit brought by the Commonwealth of Massachusetts alleging unfair and deceptive lending and loan servicing practices.

District of Columbia v. Metropolitan Money Store Corp., et al., 2007 CA 006023 (D.C. Super. Ct. 2007) District of Columbia Attorney General – Non-monetary settlement of lawsuit under the D.C. Consumer Protection Procedures Act against New Century Mortgage Corporation, among others, alleging that it originated mortgages it knew or should have known to be part of a fraudulent "equity-stripping" scheme.

The People of California v. Jackson Hewitt Inc., No. 07034558 (Sup. Ct. Cal. Alameda County 2007) California Attorney General – Consent judgment relating to sales and marketing practices regarding refund anticipation loans and related financial products.

State of Ohio v. New Century Mortgage Corporation and New Century Financial Corporation, CV 07-618660 (Ct. Common Pleas, Cuyahoga County 2007) Ohio Attorney General – Lawsuit arising out of failure to file requisite financials and inability to fund residential mortgage loans.

People of the State of Connecticut v. Acordia, Inc. (Conn. Super. Ct. 2006) Connecticut Attorney General – Lawsuit alleging "contingent commissions" are unlawful under common law and unfair trade laws of the state.

People of the State of Illinois v. Acordia, Inc. (Ill. Cir. Ct. 2006) Illinois Attorney General – Lawsuit alleging "contingent commissions" are unlawful under common law and unfair trade laws of the state.

People of the State of New York v. Acordia, Inc. and Wells Fargo Bank, N.A. (N.Y. Sup. Ct. 2006) New York Attorney General – Lawsuit alleging "contingent commissions" are unlawful under common law and unfair trade laws of the state.

In re: An Investigative Hearing into the Cash Advance Business of Advance America, Cash Advance Centers of North Carolina, Inc., OCOB Docket No. 04:128:CF (2004) North Carolina Commissioner of Banks – Investigation relating to possible violations of state law in connection to payday lending activities.

Minnesota v. Fleet Mortgage Corporation, No. 0:01-CV-00048-ADM-AJB (D. Minn. 2001) Minnesota Attorney General – Privacy action alleging violations of state and federal telemarketing and unfair and deceptive trade practices acts relating to third party vendor telemarketing to mortgage customers.

Ohio Civil Rights Commission v. Farmers Insurance of Columbus, Inc. and Farmers Insurance Exchange, No. G-480I-CI-0200002981 (Ohio Com. Pleas Lucas County 2000) Ohio Attorney General – Lawsuit alleging Ohio Fair Housing Act violations in the provision and sale of homeowners insurance.

Associates First Capital Corporation and Associates Corporation of North America, North Carolina Attorney General (1999) – Investigation alleging a violation of state unfair and deceptive trade practices in the sale of single-premium credit insurance in connection with real estate secured lending resulted in settlement without filing of an action.

In the Matter of The Roslyn Savings Bank, New York State Banking Department (1998) – Remediation Agreement regarding bank lending practices.

Bank Regulatory Enforcement Actions

In the Matter of Fremont Investment & Loan, Federal Deposit Insurance Corporation and California Department of Financial Institutions (2007) – Cease and desist order relating to underwriting and lending practices in subprime residential real estate lending operations; lending practices in commercial real estate lending operations; and capital, reserve, and asset management.

In the Matter of AmSouth Bancorporation and AmSouth Bank, Federal Reserve Board and Alabama Department of Banking (2004) – Cease and desist order relating to anti-money laundering compliance and suspicious activity reporting.

In the Matter of Citigroup Inc. and CitiFinancial Credit Company, Federal Reserve Board (2004) – Cease and desist order relating to examination conduct and unsafe and unsound practices with respect to underwriting and lending.