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CFPB Hits Executive Compensation in Action Against National Mortgage Servicer for Illegal Foreclosure Practices

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On August 21, the CFPB entered into a consent order with a nonbank mortgage servicer for mortgage servicing violations and for violating an earlier 2017 CFPB consent order for deficient foreclosure practices.

In 2017, the CFPB took action against the servicer for violations of the Real Estate Settlement Procedures Act (RESPA) and the Consumer Financial Protection Act (CFPA) for, among other things, taking prohibited foreclosure actions against, and having deficient loss mitigation processes in place for, borrowers. The Bureau alleged that the borrowers were not informed about critical information that was needed to apply for foreclosure relief. At that time, the Bureau ordered the servicer to stop the illegal practices and pay $1.15 million in consumer redress.

In its most recent action, the Bureau found that the company violated the 2017 consent order, RESPA, the Truth in Lending Act (TILA), the Homeowners Protection Act, and the CFPA by taking prohibited foreclosure actions against borrowers seeking mortgage assistance and preventing borrowers from taking advantage of loss mitigation efforts available to them. Specifically, the Bureau alleged the servicer continued to harm borrowers by:

- **Violating the 2017 order**. The servicer failed to implement the 2017 Order's requirements, including ensuring that it did not engage in prohibited foreclosure activity; maintaining data about borrowers' loss mitigation applications; and developing written policies and procedures to ensure compliance
- **Failing to inform borrowers about their loss mitigation options**. The Bureau found that the servicer engaged in additional violations of Regulation X by engaging in prohibited foreclosure activity against borrowers entitled to foreclosure protections, failing to maintain adequate policies and procedures. Relatedly, the Bureau found that the servicer engaged in unfair practices by failing to inform borrowers about certain loss mitigation options, leading to additional fees and foreclosure-related costs.
- **Overcharging for private mortgage insurance and late fees:** The Bureau found that the

servicer violated multiple provisions of the Homeowners Protection Act, RESPA, TILA, and the CFPA's prohibition on unfair and deceptive practices in its administration of private mortgage insurance and assessment of late fees. For example, the Bureau found that the servicer failed to stop charging for private mortgage insurance when it was no longer necessary.

Under the consent order, the servicer is ordered to pay $3 million in consumer redress, a $2 million civil money penalty, and invest at least $2 million to upgrade its servicing technology and compliance systems. Finally, the consent order places limitations on compensation to the servicer's CEO if he does not take actions necessary to ensure compliance with the order. Specifically, the consent order states that the servicer "may not provide any compensation or non-tax distributions to [the CEO] directly or indirectly, if the Compliance Committee, internal audit group, or third-party auditor finds that [the CEO] did not take actions necessary to ensure compliance with this Consent Order, until such actions necessary to ensure compliance with this Consent Order are taken."

Putting It Into Practice: One of the themes of Chopra's CFPB has been a tougher stance towards executives and senior management. In a 2022 speech, Chopra noted that the Bureau needed to "pay close attention to executive compensation incentives. Important remedies for restoring law and order may include clawbacks, forfeitures, and other changes to executive compensation, including where we tie up compensation for longer periods of time and use that deferred compensation as the first pot of money to pay fines." The Bureau's actions here underscore that commitment.

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