



CFPB Files First Public Enforcement Action Against California Loan Modification Operation

Taking a page from the playbook of the Federal Trade Commission, the new Consumer Financial Protection Bureau (CFPB) has filed its first civil enforcement action in federal court against participants in a Los Angeles-based loan modification program. [Consumer Financial Protection Bureau v. Gordon et al](#), initially filed under seal in the Central District of California on July 18, named California attorney Chance E. Gordon and The Gordon Law Firm, P.C., along with another individual and corporations allegedly involved in the program.

The CFPB sought and obtained a temporary restraining order freezing the defendants' assets and appointing a temporary receiver; District Court Judge Ronald Lew granted the CFPB's requests the same day the action was filed. The action also seeks an unspecified amount of monetary equitable relief for rescission or reformation of contracts, refund of moneys paid, restitution and disgorgement or compensation for unjust enrichment.

The complaint alleges that the defendants charged advance fees ranging from \$2,500 to \$4,500 to consumers for mortgage relief services in violation of federal consumer financial laws governing mortgage relief services. The suit also alleges that the defendants made false statements about consumers' ability to obtain relief from foreclosures and reduced mortgage payments, misrepresented their affiliation with government entities and failed to provide consumers with disclosures required by law. The complaint does not specifically address potential legal issues relating to a limited exemption for attorneys under the Consumer Financial Protection Act of 2010 (CFPA), other than asserting

that the defendants are "covered persons" and "service providers," as defined by the Act.

Although the action is primarily based on alleged violations of the CFPA, it closely follows the form of typical FTC complaints and is being prosecuted by two former FTC attorneys who joined the CFPB after it began operating in July 2011. The FTC has used the strategy of filing actions under seal in federal court and seeking an order freezing the defendants' assets and appointing a receiver without notice in many instances.

The fact that the CFPB's first civil enforcement action targets loan modifications, which have previously been the subject of FTC enforcement actions, indicates that both the FTC and the CFPB may independently bring actions in areas where their jurisdiction overlaps.

Loeb & Loeb LLP's Consumer Financial Protection Bureau Task Force

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