


CFPB Enforcement Actions

North Carolina State Bar
Committee on Legal Assistance for Military Personnel (LAMP)
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Note: This document was used in support of a live discussion. As such, it does not necessarily express the entirety of that discussion nor the relative emphasis of topics therein.



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Centralizing Consumer Financial Protection Accountability

Federal agencies with consumer financial protection duties, in addition to their many other responsibilities:

FDIC	OCC
Federal Reserve	(FTS)
FTC	HUD
NCUA	



■ Scattered approach resulted in ineffective oversight and regulatory gaps of consumer financial products or services
■ Centralized consumer financial protection responsibilities



Our Mission

The Consumer Financial Protection Bureau is a 21st century agency that helps consumer financial markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives.

- We will achieve our mission through ...
 - data-driven analysis;
 - innovative use of technology;
 - valuing the best people and great teamwork.

Our Vision

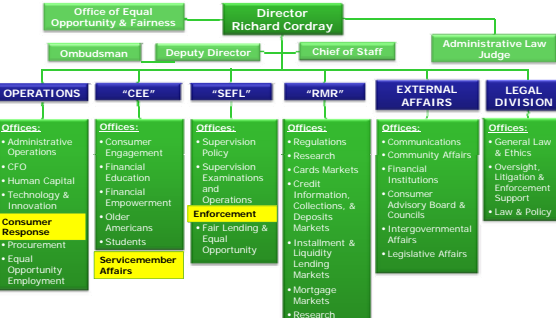
A consumer finance marketplace...

where **customers** can see prices and risks up front and where they can easily make product comparisons;


in which **no one** can build a business model around unfair, deceptive, or abusive practices;

that **works for** American consumers, responsible providers and the economy as a whole.


CFPB's Structure



CEE = Consumer Education & Engagement
 SEFL = Supervision, Enforcement, & Fair Lending
 RMR = Research, Markets, & Regulations




OFFICE OF ENFORCEMENT



Office of Enforcement


- \$20 trillion consumer finance marketplace
- Subjects:
 - **Depository institutions and credit unions** with assets over \$10 billion, as well as affiliates and service providers (less than 200); and
 - **Non-bank providers of consumer financial products and services** (more than 80,000)
 - **Aiders & abettors** who “knowingly or recklessly provide substantial assistance to a covered person or service provider” in violation of Section 1031
 - Subjects of various specific statutes, such as the Fair Debt Collection Practices Act



Office of Enforcement

Core Work


- Auto loans
- Bank accounts and deposit products
- Consumer credit reporting
- Credit cards
- Debt collection
- Debt relief and credit counseling
- Electronic fund transfers
- Fair lending
- General consumer finance
- Mortgage origination
- Mortgage servicing
- Payday lending
- Prepaid cards
- Student loans




Office of Enforcement

Selected Laws the CFPB Enforces


- Alternative Mortgage Transaction Parity Act (AMTPA)
- Consumer Financial Protection Act (Title X of Dodd-Frank)
- Consumer Leasing Act (CLA)
- Electronic Fund Transfer Act
- Equal Credit Opportunity Act (ECOA)
- Fair Credit Billing Act (FCBA)
- Fair Credit Reporting Act (FCRA)
- Fair Debt Collection Practices Act (FDCPA)
- Federal Deposit Insurance Act (FDIA)
- Gramm-Leach-Bliley Act
- Home Mortgage Disclosure Act (HMDA)
- Home Owners Protection Act (HOPA)
- Home Ownership and Equity Protection Act (HOEPA)
- Interstate Land Sales Full Disclosure Act (ILSA)
- Military Lending Act (MLA)
- Omnibus Appropriations Act 2009
- Real Estate Settlement Procedures Act (RESPA)
- S. A. F. E. Mortgage Licensing Act
- Truth in Lending Act (TILA)
- Truth in Savings Act (TISA)



Office of Enforcement



- **Choice of Fora**
 - Administrative proceedings
 - Federal courts
- **§ 1055 Remedies** (including without limitation)
 - Injunctive relief
 - Disgorgement of profits
 - Monetary restitution and damages
 - Rescission of contracts
 - Civil money penalties
 - “any appropriate legal or equitable relief”




Office of Enforcement

Consumer Financial Civil Penalty Fund
 12 CFR Part 1075

Civil Penalties

- “Any person that violates . . . any provision of Federal consumer financial law shall forfeit and pay a civil penalty pursuant to this subsection”
 - Section 1055(c)(1)
- Civil money penalties available both administratively and in federal court
- Three tiers of penalties:
 - Up to \$5,000/day
 - Up to \$25,000/day for reckless violations
 - Up to \$1 million/day for knowing violations



MILES PROGRAM

2013-CFPB-0003 In re U.S. Bank, N.A
2013-CFPB-0004 In re Dealers' Financial Services, LLC



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MILES Program

- US Bank
 - Created MILES program and finances a substantial majority of program loans
 - 110K+ loans to SMs since 2001
 - Required payment by allotment*
 - \$3 processing fee not included in the finance charge, resulting in an inaccurate APR

* *Such allotments prohibited by DoD as of 1/1/2015*



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MILES Program

- DFS
 - Exists solely to operate the MILES program
 - Manages MILES day-to-day operations
 - Recruits and maintains 700+ auto dealer network
 - Marketed and sold add-on products
 - GAP insurance
 - Understated cost
 - Service contracts
 - Understated cost
 - Misled product benefits



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2013-CFPB-0003 In re U.S. Bank (MILES Program)

- Truth in Lending Act
 - Failing to properly inform SMs about fees associated with the loan
 - *"finance charge" "includes any charge payable directly or indirectly by the consumer and imposed directly or indirectly by the creditor as an incident to or a condition of the extension of credit" 12 C.F.R. 1026.4(a)(1)(i)*
 - Failing to properly disclose schedule of payments
- CFPA
 - Deceptive marketing of add-on products (cost of GAP insurance; cost and coverage of service contracts)



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MILES Program

"MILES Program Engaged in Deceptive Marketing and Lending Practices"

"The CFPB has a special mission to protect servicemembers. The MILES program failed to properly disclose costs associated with repaying auto loans through the military allotments system and the expensive auto add-on products sold to active-duty military. We will continue our work to ensure that servicemembers are treated fairly."

Director Richard Cordray
June 27, 2013



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Remedies

- Stop deceptive practices
- Restitution - \$6.5M to Servicemembers
- Provide refunds or credits (w/o action)
- Stop requiring the use of allotments*
- Improve disclosures
- Required reporting



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2014-CFPB-0009 "ROME FINANCE CO."



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2014-CFPB-0009 In re "Rome Finance Co."

- Culver Capital, LLC, Colfax Corp.
 - AND two of its principals (Mr. Wilson and Mr. Collins)
 - Chapter 7 bankruptcy proceedings
- Offered credit for purchasing computers, electronics, television, etc.
- Frequently in kiosks of malls near military installations
- Promised instant financing with no money down
- Inflated the cost of the goods to hide the true cost of credit provided



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2014-CFPB-0009 In re "Rome Finance Co."

- Regulation Z (Truth in Lending Act)
 - Hid finance charges when marketing products
 - Failed to provide periodic disclosures in monthly billing statements
- CFPA
 - Unfairly facilitated deceptive information about the cost of credit and the goods
 - Unfairly, deceptively, and abusively collected void debt



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2014-CFPB-0009 In re "Rome Finance Co."

"CFPB and 13 State Attorneys General Obtain About \$92 Million in Debt Relief for Servicemembers Harmed by Predatory Lending Scheme"

"Rome Finance's business model was built on fleecing servicemembers. Rome Finance lured servicemembers in with the promise of instant financing on expensive electronics, then masked the finance charges with inflated prices in marketing materials and later withheld key information on monthly bills. Today, their long run of picking the pockets of our military has come to an ignominious end."

Director Richard Cordray
July 29, 2014



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Remedies

- \$92 million in debt relief; consumers may keep the merchandise
- Update consumers' credit reports as paid
- Permanently barred Mr. Williams, Mr. Collins, and Rome Finance
- Pay redress for hidden charges (suspended)
- Pay \$1.00 CMP
- Trustee will cooperate with SMs and consumers to vacate judgments



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2014-CFPB-0011 IN RE USA DISCOUNTERS, LTD (USA LIVING)



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2014-CFPB-0011 In re USA Discounters, LTD

- Operates a chain of retail stores near military installations and offers financing for purchases
- Based in Norfolk, VA
- Uses standardized contracts tailored to members of the Armed Forces
- SMs agreed in the contract to pay a \$5 fee for SCRA Specialists to be their representative under the SCRA
- SCRA Specialists sole source of revenue was USA Discounters
- Helped USA Discounters sue SMs



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2014-CFPB-0011 In re USA Discounters, LTD

- Consumer Financial Protection Act
- Deceptively marketing its own legal obligation as a service to servicemembers
- Misleading servicemembers into believing they would have an independent representative
- Failing to provide actual services to borrowers



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2014-CFPB-0011 In re USA Discounters, LTD

CFPB Shuts Down USA Discounters' Servicemember Fee Scam

"Today we shut down USA Discounters' fee scam that was designed to exploit unsuspecting servicemembers. USA Discounters charged servicemembers for legal protections they were already entitled to, and for services that were never actually provided. Targeting servicemembers with scams disguised as legal benefits is unconscionable, and we will not allow this injustice to continue."

Director Richard Cordray
August 14, 2014



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Remedies

- End unfair and deceptive practices
- Stop charging SCRA-related fees
- Restitution - \$350,000
- Penalty - \$50,000



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CFPB v. FREEDOM STORES, INC.

2:14cv643 ANA/TEM (Dec. 18, 2014)

The States of North Carolina and Virginia Joined in this Action.



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Freedom Stores, Inc. et al.

- Defendants: Freedom Stores, Inc.; Freedom Acceptance Corp.; Military Credit Services, LLC; Mr. J. Melley; Mr. Leonard Melley
- Freedom Stores operate in 14 stores nationwide near military installations
- Military Credit Services is owned by the Melleys and finances over 300 independent consumer goods retailers



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Freedom Stores, Inc. *et al.*

- Defendants:
 - Filed over 3,500 lawsuits from July 2011 until December 2013; almost all resulted in default judgments
 - Double dipped with receipts of allotments AND taking funds from bank accounts
 - Contacted the chain of command to collect
 - Debited accounts of prior payors
- Freedom Stores: failed to disclose terms of pre-authorized charges



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Freedom Stores, Inc. *et al.*

- Truth in Lending Act
 - Bureau claim only against MCS only
- Electronic Funds Transfer Act
 - Bureau claim only against Freedom only
- CFPB (Bureau with NC and VA)
 - Unfairness claims
 - Distant forum
 - Improper 3rd party
 - Withdrawing payments from a related payor without authorization
 - Causing double payments
 - Abusive claim – Distant forum
 - State law claims – NC and VA



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Freedom Stores, Inc. *et al.*

“CFPB and States Take Action Against Freedom Stores for Illegal Debt Collection Practices Against Servicemembers”

“Our nation’s servicemembers deserve better than to be targeted with illegal collection tactics when they are struggling to pay their bills. Freedom Stores and its affiliated companies were filing thousands of lawsuits in Virginia against consumers not from there, taking money from some consumers’ bank accounts without permission, and using the military chain of command to pressure and humiliate servicemembers. Today’s action sends a clear message that the Consumer Bureau will continue to aggressively defend the rights of servicemembers and all consumers.”

Director Richard Cordray
December 18, 2014



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Remedies

- \$2.5 million in consumer redress
- \$100,000 civil money penalty
- Barred from further violations
- Subject to monitoring



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Resources for JAGs

- consumerfinance.gov/complaints
- consumerfinance.gov/servicemembers
- consumerfinance.gov/askcfpb
- military@cfpb.gov
- Training and regional teleconferences
- Individual responses from liaison
- Distribution list
- Link CFPB website to LA websites



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QUESTIONS?

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