

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

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In the Matter of)))))))))
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QUICKEN LOANS INC.,)))))))))
a corporation.)))))))))
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DOCKET NO. 9304

COMPLAINT

The Federal Trade Commission, having reason to believe that Quicken Loans Inc., a corporation ("respondent"), has violated provisions of the Federal Trade Commission Act, 15 U.S.C. § 41 et seq., and the Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq., and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Quicken Loans Inc. is a Michigan corporation, with its principal place of business in Livonia, Michigan.
2. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.
3. Respondent offered loans to consumers. Over approximately a one-year period, respondent maintained an Internet web site at which it provided information about its mortgage loans to "consumers," as that term is defined in Section 603(c) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(c). Respondent offered approximately 35 different loan products on its website ("online loan products") for which consumers might qualify. In addition, respondent offered approximately 65 loan products that could only be obtained offline. On its website, respondent invited consumers to submit information, such as their income and assets, and the loan amount, down payment and type of loan sought.
4. During the online application process, respondent invited consumers to request that respondent either "prequalify" the consumer for a loan based solely on information the consumer entered, or

“preapprove” the consumer for a loan based on the consumer’s consumer report as well as the consumer-supplied information. In selecting the preapproval option, consumers were required to click a radio button next to the statement “Order my credit report and use it to preapprove me for a loan.” Through these means, respondent communicated the message that by selecting the preapproval option, consumers were filing applications for preapproval of a loan, as “application” is defined in Section 202.2(f) of Regulation B, 12 C.F.R. § 202.2(f).

5. For those consumers who requested preapproval, respondent obtained “consumer reports,” as that term is defined in Section 603(d) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(d), from “consumer reporting agencies,” as that term is defined in Section 603(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(f), and used the consumer reports among other information to evaluate the consumers’ creditworthiness for any of its online loan products.

6. For those consumers whom respondent preapproved for one of its online loan products, respondent provided an online preapproval letter containing the specific terms (*e.g.*, loan amount, interest rate, points, and APR) of the loans for which the consumers were preapproved.

7. Those consumers whom respondent did not preapprove for one of its online loan products received an online advisory informing them that, “[b]ased on the information you have provided, it appears that you have unique borrowing needs.” Quicken invited these consumers to click a button reading “NEXT STEP” to permit a Quicken loan consultant to contact them about other possible Quicken loan options. The message communicated through the advisory was that consumers’ online applications for preapproval had been denied. As a result, many consumers who received this advisory left the website without submitting contact information. Consumers who received the “unique borrowing needs” advisory but did not then submit contact information online received no further contact from respondent.

8. Section 615 of the Fair Credit Reporting Act, 15 U.S.C. § 1681m, requires credit grantors who take “adverse action,” as that term is defined in Section 603(k) of the Fair Credit Reporting Act, 15 U.S.C. § 1681a(k), based in whole or in part on information in a consumer’s consumer report, to notify the consumer of the action taken; the name, address, and telephone number of the consumer reporting agency from which the consumer report was obtained; the consumer’s right to obtain a free copy of the consumer report; and the consumer’s right to dispute the accuracy or completeness of information in the consumer report.

9. Through the practices described in Paragraphs 3 through 7, respondent took adverse action with respect to consumers in some instances based in whole or in part on information contained in a consumer report, but failed to notify the consumer of the action taken; the name, address, and telephone number of the consumer reporting agency from which the consumer report was obtained; the consumer’s right to obtain a free copy of the consumer report; and the consumer’s right to dispute the accuracy or completeness of information in the consumer report.

10. By and through the use of the practices described in Paragraphs 3 through 7, respondent has violated Section 615(a) of the Fair Credit Reporting Act, 15 U.S.C. § 1681m(a).

11. By its violations of Section 615(a) of the Fair Credit Reporting Act and pursuant to Section 621(a) thereof, respondent has engaged in unfair and deceptive acts or practices in or affecting commerce in violation of Section 5(a)(1) of the Federal Trade Commission Act.

NOTICE

Proceedings on the charges asserted against you in this complaint will be held before an Administrative Law Judge (ALJ) of the Federal Trade Commission, under Part 3 of the Commission's Rules of Practice, 16 C.F.R. Part 3. A copy of Part 3 of the Rules is enclosed with this complaint.

You may file an answer to this complaint. Any such answer must be filed within 20 days after service of the complaint on you. If you contest the complaint's allegations of fact, your answer must concisely state the facts constituting each ground of defense, and must specifically admit, deny, explain, or disclaim knowledge of each fact alleged in the complaint. You will be deemed to have admitted any allegations of the complaint that you do not so answer.

If you elect not to contest the allegations of fact set forth in the complaint, your answer shall state that you admit all of the material allegations to be true. Such an answer will constitute a waiver of hearings as to the facts alleged in the complaint and, together with the complaint, will provide a record basis on which the ALJ will file an initial decision containing appropriate findings and conclusions and an appropriate order disposing of the proceeding. Such an answer may, however, reserve the right to submit proposed findings and conclusions and the right to appeal the initial decision to the Commission under Section 3.52 of the Commission's Rules of Practice.

If you do not answer within the specified time, you waive your right to appear and contest the allegations of the complaint. The ALJ is then authorized, without further notice to you, to find that the facts are as alleged in the complaint and to enter an initial decision and a cease and desist order.

The ALJ will schedule an initial prehearing scheduling conference to be held not later than 14 days after the last answer is filed by any party named as a respondent in the complaint. Unless otherwise directed by the ALJ, the scheduling conference and further proceedings will take place at the Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Rule 3.21(a) requires a meeting of the parties' counsel as early as practicable before the prehearing scheduling conference, and Rule 3.31(b) obligates counsel for each party, within 5 days of receiving a respondent's answer, to make certain initial disclosures without awaiting a formal discovery request.

A hearing on the complaint will begin on February 5, 2003, at 10:00 A.M. in Room 532, or such other date as determined by the ALJ. At the hearing, you will have the right to contest the allegations of the complaint and to show cause why a cease and desist order should not be entered against you.

The following is the form of order which the Commission has reason to believe should issue if the facts are found to be as alleged in the complaint. If, however, the Commission should

conclude from record facts developed in any adjudicative proceedings in this matter that the proposed order provisions might be inadequate to fully protect the consuming public, the Commission may order such other relief as it finds necessary or appropriate.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. “Consumer,” “consumer report” and “consumer reporting agency” shall be defined as provided in Sections 603(c), 603(d) and 603(f) respectively, of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. §§ 1681a(c), 1681a(d) and 1681a(f).
2. “Application” shall be defined as provided in Sections 202.2(f) of Regulation B, 12 C.F.R. § 202.2(f).
3. “Adverse action” shall be defined as provided in Section 603(k) of the FCRA, 15 U.S.C. § 1681a(k), Section 701(d)(6) of the Equal Credit Opportunity Act, 15 U.S.C. § 1691(d)(6), and Section 202.2(c) of Regulation B, 12 C.F.R. § 202.2(c).
4. “Respondent” shall mean Quicken Loans Inc., a corporation, its successors and assigns, and its officers, agents, representatives, and employees.
5. “Preapproval” shall mean a determination by respondent, after receiving a request for credit from a consumer and analyzing the consumer’s creditworthiness, that the consumer appears to be eligible for credit from respondent in a specified amount on stated terms, subject to limited conditions, that is conveyed to the consumer in a written statement.

I.

IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, or other device, in connection with any application by a consumer for credit, whenever respondent takes adverse action with respect to such application, either wholly or partly because of information contained in a consumer report from a consumer reporting agency, unless alternative credit is offered and accepted by the applicant, shall, as required by Section 615 of the FCRA, 15 U.S.C. § 1681m, provide to the applicant at the time such adverse action is communicated to the applicant or within thirty (30) days thereafter, orally, in writing, or electronically (1) notice of the adverse action; (2) the name, address, and telephone number of the consumer reporting agency (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis) that furnished the report to the person; (3) a statement that the consumer reporting agency did not make the

decision to take the adverse action and is unable to provide the consumer the specific reasons why the adverse action was taken; and (4) notice of the consumer's right

(A) to obtain, under Section 612 of the FCRA, 15 U.S.C. § 1681j, a free copy of a consumer report on the consumer from the consumer reporting agency referred to at (2) above, which notice shall include an indication of the 60-day period under that section for obtaining such a copy; and

(B) to dispute, under Section 611 of the FCRA, 15 U.S.C. § 1681i, with a consumer reporting agency the accuracy or completeness of any information in a consumer report furnished by the agency.

For purposes of this Part, it shall be considered an adverse action when respondent denies preapproval of a loan in response to a request by a consumer, or the consumer otherwise does not qualify for the requested credit.

II.

IT IS FURTHER ORDERED that respondent shall, for five (5) years maintain and upon request make available to the Federal Trade Commission for inspection and copying documents demonstrating compliance with the requirements of Part I of this order, such documents to include, but not be limited to, all credit evaluation criteria relating to consumer reports, written or electronic instructions given to employees regarding compliance with the provisions of this order, all notices or a written or electronically stored notation of the description of the form of notice and the date such notice was provided to applicants pursuant to any provisions of this order, and the complete application files for all applicants for whom consumer reports were obtained to whom offers of credit are not made or have been withheld, withdrawn, or rescinded based, in whole or in part, on information contained in a consumer report.

III.

IT IS FURTHER ORDERED that respondent Quicken Loans Inc. shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondent shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

IV.

IT IS FURTHER ORDERED that respondent Quicken Loans Inc. and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the corporation that may affect compliance obligations arising under this order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

V.

IT IS FURTHER ORDERED that respondent Quicken Loans Inc. shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order.

VI.

This order will terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed

and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

THEREFORE, the Federal Trade Commission this fifth day of November 2002, has issued this complaint against respondent.

By the Commission.

Benjamin I. Berman
Acting Secretary

SEAL: