

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS
JAN 18 2006
DAVID J. MALAND, CLERK
BY
DEPUTY _____

Federal Trade Commission,

Plaintiff,

v.

**Mortgages Para Hispanos.Com
Corporation and**

**Daniel Moises Goldberg,
an individual also known as
Daniel Martinez,**

Defendants.

Civil Action No. 4:06cv19

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), for its Complaint alleges:

1. Plaintiff FTC brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to secure a permanent injunction, rescission of contracts and restitution, disgorgement of ill-gotten gains, and other equitable relief against Defendants for engaging in unfair or deceptive acts or practices in connection with the brokering, originating, and closing of mortgage loans in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JURISDICTION AND VENUE

2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. §§ 45(a) and 53(b) and 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue is proper in the Eastern District of Texas under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c).

PLAINTIFF

4. Plaintiff Federal Trade Commission is an independent agency of the United States government created by the FTC Act, 15 U.S.C. §§ 41-58. The Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The Commission, through its own attorneys, may initiate federal district court proceedings to enjoin violations of the FTC Act and to secure such equitable relief, including rescission of contracts and restitution, and the disgorgement of ill-gotten gains caused by Defendants' law violations, as may be appropriate in each case. 15 U.S.C. § 53(b).

DEFENDANTS

5. Defendant Mortgages Para Hispanos.Com Corporation ("MPHC") is a Texas corporation with its office and principal place of business located at 1105 East Parker Road, # 283, Plano, Texas 75074. Defendant MPHC transacts or has transacted business in the Eastern District of Texas.

6. Defendant Daniel Moises Goldberg ("Goldberg") is the president and owner of defendant MPHC. Goldberg is also known as Daniel Martinez. At all times material to this Complaint, acting alone or in concert with others, Goldberg has formulated, directed, controlled,

or participated in the acts and practices of defendant MPHIC, including the various acts and practices set forth in this Complaint. Goldberg resides and transacts or has transacted business in the Eastern District of Texas.

COMMERCE

7. At all times relevant to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS ACTIVITIES

8. Since January 2000, Defendants, directly or through their representatives, have promoted, solicited, and offered mortgage lending services to Spanish-speaking consumers. Defendants specialize in brokering home mortgage refinance loans; however, Defendants also originate a small number of new home loans. Defendants entice consumers to refinance their mortgage loans by promising to secure loans with lower monthly payments, lower interest rates, shorter repayment terms, and large disbursements of cash back from the consumer's home equity.

9. Defendants routinely solicit consumers from the Hispanic community who have little understanding of the English language. Goldberg's Spanish fluency and familiarity with the Hispanic community help him gain the trust and confidence of his Spanish-speaking customers. Since most of the targeted borrowers do not read or write English, they rely on Goldberg to provide accurate information about the contents of the loan documents. Defendants frequently rush the loan closings, with some closings lasting just a few minutes. At the loan closings, Defendants' customers are presented with a stack of closing documents that are only in English and which they have not been given an opportunity to review. In instances where customers do

question loan terms, Defendants often misrepresent the significance or meaning of the terms.

10. After closing, Defendants' customers discover that their loans have substantially different terms than Defendants originally promised. In many instances, Defendants have misrepresented one or more of the following loan terms:

- the monthly payment amount;
- the interest rate;
- the finance charge;
- the annual percentage rate;
- the loan repayment term; and
- the amount of cash back that the borrower would receive from the equity in the home.

Defendants' customers discover that their monthly payment amounts, interest rates, finance charges, and/or annual percentage rates are higher than originally promised; they learn that their repayment term is substantially longer than represented; and/or they find that the cash back from their equity is much less than expected.

VIOLATION OF SECTION 5 OF THE FTC ACT

11. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts or practices in or affecting commerce."

12. In numerous instances, in the course and conduct of offering mortgage loans, Defendants have represented, expressly or by implication, that consumers would obtain a loan on specified terms, including, but not limited to:

- a. a loan with a specific monthly payment amount, interest rate, annual percentage rate, finance charge, and/or term of repayment; and
- b. a loan with a specified amount of cash to be disbursed to the borrower out of the loan proceeds.

13. In truth and in fact, in numerous of these instances, consumers did not obtain a loan on the specified loan terms. Instead, they received a loan on substantially different terms, including, but not limited to:

- a. a loan with a different monthly payment amount, interest rate, annual percentage rate, finance charge, and/or term of repayment; and
- b. a loan with a different amount of cash to be disbursed to the borrower out of the loan proceeds.

Therefore, Defendants' representations, as alleged in Paragraph 12, were, and are, false or misleading.

14. Defendants' practices constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

15. Consumers have suffered, and continue to suffer, substantial monetary loss as a result of Defendants' unlawful acts and practices in violation of Section 5(a) of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts and practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public.

THIS COURT'S POWER TO GRANT RELIEF

16. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to prevent and redress violations of the FTC Act. The Court, in the exercise of its equitable jurisdiction, may award other ancillary relief, including, but not limited to, rescission of contracts and restitution, and the disgorgement of ill-gotten gains, to prevent and remedy injury caused by Defendants' law violations.

PRAYER FOR RELIEF

WHEREFORE, plaintiff, the Federal Trade Commission, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that this Court:

- a. Permanently enjoin the Defendants from violating the FTC Act as alleged herein;
- b. Award such equitable relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including, but not limited to, rescission of contracts and restitution, and the disgorgement of ill-gotten gains by Defendants;
and
- c. Award plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine is just and proper.

Dated: 1/18/06

Respectfully submitted,

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