

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

FEDERAL TRADE COMMISSION, Plaintiff,	)	
v.	)	Civil No.
GATEWAY FUNDING DIVERSIFIED MORTGAGE SERVICES, L.P. and GATEWAY FUNDING, INC., Defendants.	)	
	)	

**COMPLAINT FOR PERMANENT INJUNCTION  
AND OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its complaint alleges that:

1. Plaintiff brings this action under Sections 5(a), 13(b), and 16(a) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 53(b), and 56(a); Section 704(c) of the Equal Credit Opportunity Act (“ECOA”), 15 U.S.C. § 1691c(c); and Section 202.16(a)(2) of its implementing Federal Reserve Board Regulation B (“Regulation B”), 12 C.F.R. § 202.16(a)(2), to obtain a permanent injunction, consumer redress, disgorgement, and other equitable relief for defendants’ violations of the FTC Act, the ECOA, and its implementing Regulation B.

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(a), 53(b), 56(a), and 1691c(c).

3. Venue in the United States District Court for the Eastern District of Pennsylvania

is proper under 28 U.S.C. §§ 1391(b-c) and 1395(a) and under 15 U.S.C. § 53(b).

### **DEFENDANTS**

4. Defendant Gateway Funding Diversified Mortgage Services, L.P. (“Gateway”) is a Pennsylvania limited partnership that maintains its principal place of business in Horsham, Pennsylvania. Gateway transacts business in the Eastern District of Pennsylvania.

5. From January 1, 2004 to the present, Gateway has had three limited partners. From at least January 1, 2004 to the present, Michael Karp has been a limited partner of Gateway; from about January 1, 2008 to the present, Michael Karp has been the sole limited partner of Gateway. From at least January 1, 2004 until about July, 2006, Regina Lowrie, through her wholly-owned corporation, RML Investments, Inc., was a limited partner of Gateway. From at least January 1, 2004 until about January 1, 2008, Paul Catinella, through the Catinella Family Partnership, of which he was the general partner, was a limited partner of Gateway.

6. At all times relevant to this complaint, Gateway has been a “creditor” as defined in Section 702(e) of the ECOA, 15 U.S.C. § 1691a(e), and Section 202.2(l) of Regulation B, 12 C.F.R. § 202.2(l), and is therefore required to comply with the applicable provisions of the ECOA and Regulation B.

7. Defendant Gateway Funding, Inc. (“GFI”) is a Pennsylvania corporation that maintains its principal place of business in Horsham, Pennsylvania. GFI transacts business in the Eastern District of Pennsylvania. From at least January 1, 2004 to the present, GFI has been and is the sole general partner of Gateway. As such, GFI is liable for any and all of Gateway’s violations of the FTC Act, the ECOA and Regulation B.

8. From January 1, 2004 to the present, GFI has had three owners. From at least January 1, 2004 to the present, Michael Karp has been an owner of GFI; from about January 1,

2008 to the present, Michael Karp has been the sole owner and sole director of GFI. From at least January 1, 2004 until about July, 2006, Regina Lowrie, through her wholly-owned corporation, RML Investments, Inc., was an owner of GFI. From at least January 1, 2004 until about January 1, 2008, Paul Catinella, through the Catinella Family Partnership, of which he was the general partner, was an owner of GFI.

### **COMMERCE**

9. The acts and practices of Gateway and GFI alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44, as amended.

### **GATEWAY’S COURSE OF BUSINESS**

10. From at least January 1, 2004 to the present, Gateway has been regularly engaged in the business of originating and financing mortgage loans. Approximately two-thirds of Gateway’s business is direct or “retail” mortgage lending, where it solicits applications for residential mortgage loans through its employee loan officers at its approximately 50 branches.

11. Gateway directly originates a variety of mortgage loans, including Fannie Mae loans, sub-prime and other less than prime (“Alt-A”) loans, jumbo loans, and government loans such as Federal Housing Administration and Veterans Administration loans. In 2004 and 2005, approximately 40 percent of Gateway’s retail mortgage loans were Fannie Mae loans, 40 percent were sub-prime or Alt-A loans, 5 percent were jumbo loans and 15 percent were government loans.

12. Gateway determines whether applicants are qualified for financing and sets the terms and conditions of any financing to be granted. All direct mortgage loans are funded by, and in the name of, Gateway. Gateway has submitted mortgage loan data to the Federal Reserve Board pursuant to the Home Mortgage Disclosure Act, 12 U.S.C. §§ 2801–2810, since at least

2004.

13. Gateway's loan officers offer mortgage loans to applicants at interest rates and with up-front fees determined in part by the credit characteristics of applicants and the underwriting risk to Gateway (the "risk-based price") and in part at the discretion of the loan officers (the "overage").

14. Gateway's loan officers, at their discretion, may charge applicants a mortgage loan price that exceeds the risk-based price. These overages are not based on the underwriting risk or the credit characteristics of the applicants. Gateway's loan officers may charge applicants overages through a higher interest rate, higher up-front charges, or both.

15. Gateway's loan officers keep as compensation a portion of whatever overage that they charge applicants. Gateway's loan officers are paid a combination of a flat percentage of the amount of each mortgage loan they originate and a percentage of the overage charged to the applicant on each loan.

16. Gateway gives loan officers nearly complete discretion to determine the amount of overage charged to applicants over the risk-based prices set by Gateway. Aside from complying with certain limited overage and fee caps set forth in federal regulations relating to loans purchased by Fannie Mae or insured by the Federal Housing Administration, Gateway places no limits on the total amount of overage a loan officer can charge a borrower.

17. Gateway did not review, monitor, examine, or analyze the loan prices, including overages, charged to African-American and Hispanic applicants compared to non-Hispanic white applicants.

18. From at least January 1, 2004 to December 31, 2005, Gateway charged African-American and Hispanic applicants, on average, higher prices for their purchase and re-finance mortgage loans than non-Hispanic white applicants. These price differentials were caused by

Gateway's policy and practice of allowing loan officers to charge applicants discretionary overages. Gateway's policy and practice resulted in African-American and Hispanic applicants being charged higher overages because of their race or ethnicity. These disparities in overage are substantial, statistically significant and cannot be explained by factors related to underwriting risk or credit characteristics of the applicants.

19. Information as to each applicant's race and national origin was available and known to Gateway and its employees, including to the Gateway officials who made the decisions to grant or deny loans and to set or confirm the terms and conditions of each loan granted.

**VIOLATIONS OF THE ECOA, REGULATION B, AND THE FTC ACT**

20. Section 701(a)(1) of the ECOA 15 U.S.C. § 1691(a)(1), and Section 202.4(a) of Regulation B, 12 C.F.R. § 202.4(a), prohibit a creditor from discriminating against an applicant with respect to any aspect of a credit transaction on the basis of race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract).

21. Section 704(c) of the ECOA, 15 U.S.C. § 1691c(c), specifically empowers the Commission to enforce the ECOA. Under its provisions, Gateway's violations of the ECOA are deemed to be violations of the FTC Act and are enforceable as such by plaintiff under that Act. Further, the Commission is authorized to use all of its functions and powers under the FTC Act to enforce compliance with the ECOA by any person, irrespective of whether that person is engaged in commerce or meets any other jurisdictional tests set by the FTC Act. This includes the power to enforce a Federal Reserve Board regulation promulgated under the ECOA, such as Regulation B, in the same manner as if a violation of that regulation had been a violation of an FTC trade regulation rule.

22. From at least January 1, 2004 to December 31, 2005, defendants charged African-American and Hispanic applicants higher prices for mortgage loans than non-Hispanic white

applicants. These pricing disparities cannot be explained by any legitimate underwriting risk factors or credit characteristics of the applicants.

23. Defendants' acts and practices alleged in Paragraph 22 constitute discrimination against applicants with respect to credit transactions on the basis of race and national origin in violation of Section 701(a)(1) of the ECOA, 15 U.S.C. § 1691(a)(1), and Section 202.4(a) of Regulation B, 12 C.F.R § 202.4(a). Pursuant to Section 704(c) of the ECOA, 15 U.S.C. § 1691c(c), the acts and practices alleged in Paragraph 22 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). As the general partner of Gateway, GFI is liable for Gateway's violations of the ECOA, Regulation B, and the FTC Act.

#### **CONSUMER INJURY**

24. Consumers have suffered, and will continue to suffer, substantial injury as a result of defendants' violations of the ECOA, Regulation B, and the FTC Act, as set forth above.

#### **THIS COURT'S POWER TO GRANT RELIEF**

25. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this court to grant injunctive and other ancillary relief to prevent and remedy any violations of any provision of law enforced by the Commission.

#### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff requests that this Court, pursuant to Sections 13(b) and 16(a) of the FTC Act, 15 U.S.C. §§ 53(b), and 56(a), Section 704(c) of the ECOA, 15 U.S.C. § 1691c(c), and pursuant to the Court's own equitable powers:

- (1) Enter judgment against defendants and in favor of plaintiff for each law violation charged in this complaint;
- (2) Enter a permanent injunction to prevent future violations of the ECOA,

Regulation B and the FTC Act by defendants;

- (3) Award such relief as the Court finds necessary to redress injury to consumers resulting from defendants' violations of the ECOA, Regulation B and the FTC Act, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and
- (4) Award plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated:

Respectfully submitted,

FEDERAL TRADE COMMISSION:

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