



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Division of Financial Practices
Bureau of Consumer Protection

Peggy L. Twohig
Associate Director

January 22, 2009

BY FAX AND FIRST-CLASS MAIL

Andrew L. Sandler, Esq.
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005-2111

Re: Homecomings Financial, LLC

Dear Mr. Sandler:

As you know, the staff of the Division of Financial Practices of the Federal Trade Commission has conducted an investigation of Homecomings Financial, LLC (“Homecomings”) for possible violations of the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f, and its implementing Regulation B, 12 C.F.R. § 202, and the Federal Trade Commission Act, 15 U.S.C. § 41 *et seq.* The staff initiated this investigation after reviewing Homecomings’ mortgage loan data reported pursuant to the Home Mortgage Disclosure Act, 12 U.S.C. §§ 2801–2810, which indicated that African-American and Hispanic borrowers paid more for mortgage loans than non-Hispanic whites. The staff’s investigation focused on whether the underwriting risk and the credit characteristics of the borrowers justified the reported disparities in loan price.

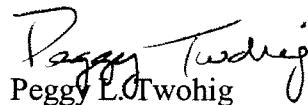
Homecomings originated the vast majority of its loans through independent brokers, and Homecomings’ policy and practice was to set the risk-based price and other terms of its brokered loans. In addition, Homecomings’ policy and practice was to allow brokers to assess discretionary charges on these loans, within certain limits set by Homecomings. These discretionary charges took the form of (1) fees charged at the time of origination, including broker points and fees, and (2) higher interest rates, in return for which Homecomings paid brokers yield spread premiums.

Based on an extensive investigation, which included obtaining and analyzing Homecomings’ full and complete loan data, the staff’s statistical analyses of the data show that, on average, Homecomings charged African-American and Hispanic borrowers substantially more for home purchase and refinance loans than similarly-situated non-Hispanic whites. The staff further determined that these disparities were caused by Homecomings’ policy and practice of allowing its brokers broad discretion to determine the amount of discretionary fees charged to borrowers in addition to the risk-based price. The staff concluded that the disparities in these discretionary charges are substantial, statistically significant, and cannot be explained by any legitimate underwriting or credit characteristics in violation of the ECOA and the FTC Act.

During the course of this investigation, Homecomings ceased originating mortgage loans and stated it has no intention to resume mortgage lending in the future. In addition, Residential Capital LLC (“ResCap”), an indirect parent company of Homecomings, filed a 10-Q Quarterly Report for the third quarter 2008 for ResCap and its direct and indirect subsidiaries, including Homecomings (collectively, the “Company”), which states that the ability of the Company to continue as a going concern is in substantial doubt. The 10-Q further notes that the Company is heavily dependent on its own indirect parent, GMAC, LLC, for funding and capital support and that there can be no assurance that such support will continue. Because of these developments and based on additional information provided by the Company regarding its financial status, the staff has closed the investigation. However, the staff will continue to monitor future developments concerning Homecomings, including whether GMAC’s recent conversion to a bank holding company¹ and its receipt of financial assistance from the U.S. Department of the Treasury,² may affect Homecomings’ operating and financial status. If warranted by materially changed circumstances, the staff will take appropriate action, including the reopening of this investigation.

This action is not to be construed as a determination by the Commission that a violation of the ECOA, its implementing Regulation B, and the FTC Act did not occur, just as the pendency of an investigation should not be construed as a determination that a violation has occurred. The Commission reserves the right to take such further action as the public interest may require.

Sincerely,



Peggy L. Twohig
Associate Director
Division of Financial Practices

¹ On December 24, 2008, the Board of Governors of the Federal Reserve System approved GMAC’s request to become a bank holding company. *See* GMAC LLC & IB Finance Holding Co., LLC, Order Approving Formation of Bank Holding Companies and Notice to Engage in Certain Nonbanking Activities, Fed. Reserve Sys. (Dec. 24, 2008), <http://www.federalreserve.gov/newsevents/press/orders/orders20081224a1.pdf>. GMAC’s new status as a bank holding company does not affect the Commission’s jurisdiction over Homecomings as a nonbank subsidiary.

² On December 29, 2008, the U.S. Treasury Department announced that it will purchase \$5 billion in senior preferred equity from GMAC and will lend up to \$1 billion to General Motors (GM) so that GM can contribute to GMAC’s reorganization as a bank holding company. *See* Press Release, U.S. Dept. of the Treasury, Treasury Announces TARP Investment in GMAC, (Dec. 29, 2008), <http://www.treas.gov/press/releases/hp1335.htm>.