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Complaint

IN THE MATTER OF

GUILD MORTGAGE COMPANY

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
THE TRUTH IN LENDING ACT, REGULATION Z, AND
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3320. Complaint, Dec. 31, 1990—Decision, Dec. 31, 1990

This consent order requires, among other things, a San Diego, Ca., corporation to accurately calculate and disclose the annual percentage rate, finance charge, payment schedule and other information required by Regulation Z; and to make adjustments to the accounts of consumers listed, by paying restitution to consumers totalling almost \$500,000 over a five-year-period.

Appearances

For the Commission: *Carole L. Reynolds* and *Stephen Cohen*.

For the respondent: *Stephen Douglas Royer, Seltzer, Caplan, Wilkins & McMahon*, San Diego, CA.

COMPLAINT

The Federal Trade Commission, having reason to believe that Guild Mortgage Company, a corporation, hereinafter sometimes referred to as respondent, has violated the Federal Trade Commission Act (FTC Act), 15 U.S.C. 45-58, as amended, and the Truth in Lending Act (TILA), 15 U.S.C. 1601-1667, as amended, and its implementing Regulation Z, 12 CFR Part 226, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, hereby issues this complaint and alleges:

PARAGRAPH 1. Guild Mortgage Company, is a corporation organized, existing and doing business under and by virtue of the laws of the State of California, with its office and principal place of business located at 4180 Ruffin Road, San Diego, California.

PAR. 2. Respondent has been and is now engaged in the business of offering "consumer credit" to the public and is a "creditor," as those terms are defined in the TILA and Regulation Z.

PAR. 3. The acts and practices of respondent alleged in this

complaint have been and are in or affecting commerce, as "commerce" is defined in the FTC Act.

PAR. 4. Respondent, in the course and conduct of its business, on numerous occasions, has failed to disclose accurately a composite annual percentage rate and, thus, has underdisclosed the annual percentage rate and finance charge in its TILA disclosures for discounted adjustable rate mortgages.

PAR. 5. Respondent's aforesaid practice violates Sections 106, 107 and 128 of the TILA, 15 U.S.C. 1605, 1606 and 1638, respectively, and Sections 226.4, 226.22, and 226.18(d) and (e) of Regulation Z, 12 CFR 226.4, 226.22 and 226.18 (d) and (e), respectively, and Section 226.17(c)(1) of Regulation Z, 12 CFR 226.17(c)(1), as more fully set out in Sections 226.17(c)(1)-8 and 226.17(c)(1)-10 of the Federal Reserve Board's Official Staff Commentary to Regulation Z (Commentary), 12 CFR 226.17(c)(1)-8 and 226.17(c)(1)-10 (formerly Sections 226.18(f)-2 and 226.18(f)-8 of the Commentary, 12 CFR 226.18(f)-2, 226.18(f)-8), and constitutes an unfair and deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

PAR. 6. Respondent, in the course and conduct of its business, on numerous occasions, has failed to disclose accurately the annual percentage rate and finance charge in its TILA disclosures.

PAR. 7. Respondent's aforesaid practice violates Sections 106, 107 and 128 of the TILA, 15 U.S.C. 1605, 1606 and 1638, respectively, and Sections 226.4, 226.22, and 226.18(d) and (e) of Regulation Z, 12 CFR 226.4, 226.22 and 226.18(d) and (e), respectively, and constitutes an unfair and deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

PAR. 8. Respondent, in the course and conduct of its business, on numerous occasions, has failed to include the premiums for mortgage insurance in the annual percentage rate, finance charge and monthly payments scheduled to repay the obligation in its TILA disclosures.

PAR. 9. Respondent's aforesaid practice violates Sections 106, 107 and 128 of the TILA, 15 U.S.C. 1605, 1606 and 1638, respectively and Sections 226.4(b)(5), 226.22 and 226.18(d), (e) and (g) of Regulation Z, 12 CFR 226.4, 226.22 and 226.18(d), (e) and (g), respectively, and constitutes an unfair and deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

PAR. 10. Respondent, in the course and conduct of its business, on numerous occasions, has failed to disclose accurately the number,

amount, and timing of payments scheduled to repay the obligation in its TILA disclosures.

PAR. 11. Respondent's aforesaid practice violates Section 128 of the TILA, 15 U.S.C. 1638, and Section 226.18(g) of Regulation Z, 12 CFR 26.18(g), and constitutes an unfair and deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

Commissioner Strenio dissenting as to the terms of the consent order, and Commissioner Starek not participating.

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished thereafter with a copy of a draft complaint that the Bureau of Consumer Protection proposed to present to the Commission for its consideration and that, if issued by the Commission, would charge the respondent with violation of the Truth in Lending Act, 15 U.S.C. 1601 *et seq.* and its implementing Regulation Z, 12 CFR Part 226, and the Federal Trade Commission Act, 15 U.S.C. 45 *et seq.*; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondent has violated the said Acts and Regulation, and that complaint should issue stating its charge in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings, and enters the following order:

1. Respondent Guild Mortgage Company is a corporation organized, existing, and doing business under and by virtue of the laws of the

state of California, with its principal office and place of business located at 4180 Ruffin Road, San Diego, California.

2. The Federal Trade Commission has jurisdiction over the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions apply:

1. *Composite APR* means a blend of interest rates as described in Section 226.17(c)(1)-10 of the Federal Reserve Board's Official Staff Commentary to Regulation Z;

2. *First adjustment date* is the date on which the consumer's monthly payment of principal and interest is first changed, in accordance with the terms set forth in the consumer's note or adjustable rate rider;

3. *Original TIL disclosure* is the last TIL disclosure given to a consumer by respondent before consummation of the loan.

I.

It is ordered, That respondent Guild Mortgage Company, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, subsidiary, division, or any other device, in connection with any extension of consumer credit in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Failing to disclose accurately in its discounted adjustable rate mortgages a composite annual percentage rate and, thereby, failing to disclose accurately the annual percentage rate and the finance charge, as required by Sections 106, 107 and 128 of the Truth in Lending Act, 15 U.S.C. 1605, 1606 and 1638, and Sections 226.4, 226.22, and 226.18(d) and (e) of Regulation Z, 12 CFR 226.4, 226.22 and 226.18 (d) and (e) and Section 226.17(c)(1) of Regulation Z, 12 CFR 226.17(c)(1), as more fully set out in Section 226.17(c)(1)-10 of the Federal Reserve Board's Official Staff Commentary to Regulation Z, 12 CFR 226.17(c)(1)-10.

2. Failing to disclose accurately the annual percentage rate and finance charge, as required by Sections 106, 107 and 128 of the Truth in Lending Act, 15 U.S.C. 1605, 1606 and 1638, and Sections 226.4, 226.22 and 226.18(d) and (e) of Regulation Z, 12 CFR 226.4, 226.22 and 226.18(d) and (e).

3. Failing to include the premiums for mortgage insurance when computing the annual percentage rate, finance charge, and number, amount and timing of payments scheduled to repay the obligation, as required by Sections 106, 107 and 128 of the Truth in Lending Act, 15 U.S.C. 1605, 1606 and 1638, and Sections 226.4, 226.22 and 226.18(d), (e) and (g) of Regulation Z, 12 CFR 226.4, 226.22 and 226.18(d), (e) and (g).

4. Failing to disclose accurately the number, amount, and timing of payments scheduled to repay the obligation, as required by Section 128 of the Truth in Lending Act, 15 U.S.C. 1638, and Section 226.18(g) of Regulation Z, 12 CFR 226.18(g).

5. Failing to make all disclosures determined in accordance with Sections 106 and 107 of the Truth in Lending Act, 15 U.S.C. 1605 and 1606, and Sections 226.4 and 226.22, in the manner, form and amount required by Sections 226.17, 226.18, 226.19 and 226.20 of Regulation Z, 12 CFR 226.17, 226.18, 226.19 and 226.20.

II.

It is further ordered, That:

A. In accordance with Section 108(e) of the TILA, 15 U.S.C. 1607, and as shown on the attached Exhibits 1 (adjustable rate mortgage list), 2 (mortgage insurance premium list), and 3 (adjustable rate mortgage and mortgage insurance premium list), respondent shall make adjustments to the current and past accounts of each consumer listed who was extended credit by respondent; except, any adjustment relating solely to respondent's failure to use a composite annual percentage rate shall be limited to the time period up to the first adjustment date;

B. For those adjustments resulting from mortgage insurance premium errors, respondent shall refund the mortgage insurance premium collected to date as shown on Exhibits 2 and 3;

C. Not later than thirty (30) days following the date of service of this order, for those consumers listed on Exhibits 2 and 3, respondent shall have either cancelled the remaining mortgage insurance or taken

whatever action is necessary so that the applicable consumer is not charged for any additional mortgage insurance premiums for the life of the loan;

D. Respondent shall have a five-year period in which to complete the adjustments described in paragraphs A and B; except, where the amount of the adjustment is \$200 or less, the adjustment shall be completed by the end of the first year. Each consumer listed on Exhibits 1, 2, and 3 shall receive payment from respondent for at least one fifth of the applicable adjustment for that consumer no later than the last day of each calendar year beginning with the current year.

III.

It is further ordered, That all payment adjustments required by this order shall be made by mailing the consumer a check by first class mail, certified, return receipt requested, to the current or last known address of each such consumer.

IV.

It is further ordered, That by not later than thirty (30) days from the date of service of this order, respondent shall send a letter by first class mail to all consumers listed on Exhibits 2 and 3 to eliminate the consumer's liability for future mortgage insurance premiums.

V.

It is further ordered, That respondent shall maintain for at least six (6) years from the date of service of this order and, upon request, make available to the Federal Trade Commission for inspection and copying, all records and documents necessary to demonstrate fully its compliance with this order.

VI.

It is further ordered, That respondent, its successors and assigns, shall distribute a copy of this order to any present or future officers, agents, representatives, and employees having responsibility with respect to the subject matter of this order and that respondent, its successors and assigns, shall secure from each such person a signed statement acknowledging receipt of said order.

VII.

It is further ordered, That respondent shall promptly notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment, or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation which may affect compliance obligations arising out of the order.

VIII.

It is further ordered, That respondent shall, within one hundred and twenty (120) days of the date of service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this order. Within thirty (30) days of the end of each year for five years, starting with the current year, respondent shall forward a copy of all checks mailed to consumers in that year to the Federal Trade Commission, Enforcement Division, Washington, D.C. 20580.

IX.

It is further ordered, That respondent shall have the right to request modification of this order.

Commissioner Strenio dissenting as to the terms of the consent order, and Commissioner Starek not participating.

EXHIBIT 1—FTC RESTITUTION INFORMATION

GUILD LOAN	RESTITUTION AMOUNT
FAB022443T	1,173.04
FAB202555X	687.48
FAB202574X	541.96
FAD780215T	808.23
FAD791001T	1,663.52
FAI208382T	651.24
FAI208396T	510.08
FAI208417T	558.74
FAI208468T	451.66
FAI208471T	657.39
FAQ210208T	1,070.70
FAR270323T	927.74
FAT200564T	1,114.24

GUILD LOAN	RESTITUTION AMOUNT
FAW560264X	327.78
FBB200144T	764.46
FBB430137T	607.74
FBB430207T	985.30
FCD190714T	1,334.59
FCD200688T	226.41
FCD200803T	1,663.35
FCD200902T	283.13
FCE081017X	268.66
FCE171068T	796.78
FCE191130X	718.27
FCE191859T	714.01
FCE200704T	1,434.13
FCE200738T	883.20
FCG030594T	351.42
FCG200457T	740.97
FCJ200051T	663.02
FCJ200079T	1,509.15
FCJ200215T	765.91
FGS080219T	1,153.32
FGS080229T	1,481.89
FGT020250T	171.91
FGT020265T	631.32
FGT030280T	1,666.34
FGT040287T	1,249.11
FGT050247T	973.19
FGT050262T	516.83
FGT050323T	42.57
FGT060230T	583.77
FGT060234T	978.17
FGT060255T	1,400.26
FGT060295T	360.60
FGT060301T	950.92
FGT060320T	972.76
FGT060327T	581.21
FGT060330T	132.63
FGT060335T	656.17
FGT060398T	317.91
FGT060442T	59.34
FGT060451T	81.54
FGT200211T	75.87
FGT200220T	396.02
FGT200233T	365.19
FGT200374T	170.27
FZA205419T	607.53
FZA205461T	655.08

GUILD LOAN	RESTITUTION AMOUNT
FZA205473T	517.06
FZA205513T	309.08
FZA395593T	502.47
GAB022423T	340.06
GAB202556X	687.72
GAB202562X	751.13
GAB330760T	1,387.21
GAB330774T	1,590.99
GAD202324T	522.13
GAD202330X	707.06
GAD202333X	707.44
GAD202334X	707.44
GAD202336X	737.09
GAD202337X	660.84
GAD202340X	884.51
GAD202342X	836.41
GAD202348X	495.29
GAD202350X	227.33
GAD202351X	796.68
GAD202355X	691.98
GAD202357X	805.74
GAD202368X	865.05
GAD231003T	447.65
GAD260832T	2,275.50
GAD260866T	1,633.79
GAD264145T	1,891.86
GAD264190T	1,319.52
GAD264216T	441.91
GAD570604X	563.15
GAD570735T	599.48
GAD690209T	561.86
GAD690213T	662.81
GAD690214T	850.11
GAD690230T	921.01
GAD690234T	1,354.43
GAD690357T	782.51
GAD690403T	648.13
GAD692053X	595.34
GAD693523T	694.57
GAD710249T	1,304.38
GAD713014X	306.11
GAD750214T	537.52
GAD750215T	831.71
GAD780203T	2,215.79
GAD781004T	749.27
GAD788026X	715.04

GUILD LOAN	RESTITUTION AMOUNT
GAD788034X	520.41
GAD788040T	755.27
GAD800219T	1,066.96
GAD804021X	884.51
GAG041000T	561.40
GAG041002T	203.23
GAG136993T	311.01
GAG207113T	482.14
GAG207381T	789.93
GAG707119T	1,295.85
GAG707123T	1,976.32
GAG707124T	1,769.43
GAG707307X	385.56
GAG707320X	648.81
GAG787141X	408.55
GAG837046T	1,127.35
GAI048250T	1,312.78
GAI108165T	1,105.44
GAI108244T	1,471.51
GAI148749T	774.53
GAI208568X	333.77
GAI208584T	200.63
GAI318274T	533.93
GAI328273T	292.45
GAJ040001T	913.78
GAJ200001X	476.11
GAJ200004X	558.92
GAJ200005X	621.66
GAJ200007X	70.49
GAJ200018X	573.48
GAJ200026X	157.23
GAJ208315T	3,154.29
GAJ209971X	767.01
GAJ209975X	477.84
GAJ209992X	637.67
GAJ298904T	1,413.88
GAJ298985T	3,066.84
GAJ299072T	828.96
GAJ299090T	1,304.92
GAJ299107T	965.30
GAJ299108T	949.41
GAJ299128T	153.76
GAJ299224T	71.89
GAJ299262T	1,049.64
GAJ299323T	2,649.60
GAJ299338T	714.74

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GUILD LOAN	RESTITUTION AMOUNT
GAJ299544T	751.67
GAJ299579T	57.30
GAJ299917T	2,873.32
GAJ340552T	1,051.08
GAJ340554T	933.15
GAJ340644T	1,002.17
GAJ340648T	603.51
GAJ510110T	263.96
GAJ688769T	702.72
GAJ689078T	917.91
GAJ689198T	1,143.90
GAJ698606T	784.40
GAJ698777T	1,596.83
GAJ699330T	87.77
GAJ868759T	444.84
GAJ899887X	715.07
GAJ899907X	852.90
GAJ979180T	871.98
GAJ979255T	1,835.30
GAK032454T	718.70
GAK033083X	790.70
GAK033356T	658.01
GAK062424T	2,483.47
GAK102484T	1,395.25
GAK103032X	619.99
GAK103092X	505.57
GAK103114X	584.82
GAK113046T	1,473.11
GAK202641T	1,732.33
GAK202664T	1,892.47
GAK203075T	387.83
GAQ150280T	1,889.59
GAQ180218T	611.14
GAQ180241T	764.22
GAQ180243T	957.19
GAQ180254T	501.09
GAQ180278T	196.55
GAQ180313X	322.33
GAQ201311T	856.20
GAQ201312T	1,305.78
GAQ201355T	441.39
GAQ201367T	472.75
GAQ201371T	79.70
GAQ201390T	1,007.66
GAQ201426T	396.69
GAQ201433T	86.67

GUILD LOAN	RESTITUTION AMOUNT
GAQ201473T	552.88
GAQ201474T	595.22
GAQ201475T	386.09
GAQ201487T	1,263.11
GAQ201532T	638.22
GAQ201553T	153.94
GAQ201594T	829.74
GAQ201595T	622.48
GAQ201605X	559.01
GAQ201606X	724.75
GAQ210211T	932.26
GAQ210251T	319.34
GAQ220213T	313.07
GAQ220218T	682.42
GAQ220220T	983.42
GAQ220267X	490.24
GAQ220268X	440.25
GAR110560T	987.73
GAR205646X	729.04
GAR280180T	245.15
GAT110439T	1,139.97
GAT110474T	1,890.33
GAT110480T	304.95
GAT110508T	1,065.14
GAT110509T	522.13
GAT110556T	281.74
GAT110566T	418.40
GAT110603T	523.54
GAT140541T	612.32
GAT140544T	612.32
GAT150354T	787.58
GAT150358T	1,524.70
GAT180104T	857.02
GAT180105T	850.77
GAT180107T	1,316.57
GAT180109T	1,847.62
GAT190104T	1,016.66
GAT200551T	828.72
GAT200552T	557.72
GAT200679T	1,098.18
GAT200721X	751.36
GAT280101X	717.97
GAW201341T	898.04
GAW201418X	822.33
GAW201457X	77.36
GAW201461X	674.69

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GUILD LOAN	RESTITUTION AMOUNT
GAW340513T	763.93
GAW340531T	634.41
GAW450423X	195.36
GAW470370T	1,120.62
GAY142546T	781.03
GAY142572T	1,534.31
GAY142573T	3,326.89
GAY142607T	3,047.40
GAY142627T	2,073.17
GAY142683T	733.36
GAY142686T	358.81
GAY142742T	375.67
GAY142804T	116.05
GAY142805T	424.97
GAY142868T	1,058.29
GAY142941T	165.27
GAY143031T	252.21
GAY143032X	893.95
GAY143144T	197.45
GAY143391T	1,509.96
GAY172640T	639.32
GAY173057X	1,273.16
GAY173058X	1,022.20
GAY173065X	640.59
GAY173133X	954.74
GAY183204T	2,159.23
GAY212419T	455.31
GAY232336T	2,026.48
GAY232345T	1,697.76
GAY232593T	2,088.71
GAY232618T	673.56
GAY232665T	387.30
GAY232682T	328.29
GAY232688T	1,707.53
GAY272358T	519.64
GAY272583T	1,244.33
GAY272612T	685.95
GAY282523T	1,968.78
GAY282554T	590.40
GAY282565T	3,620.16
GAY282570T	2,132.89
GAY282588T	562.31
GAY282625T	1,750.46
GAY282626T	674.22
GAY282653T	1,327.66
GAY282676T	437.38

GUILD LOAN	RESTITUTION AMOUNT
GAY282697T	1,548.33
GAY282932T	192.88
GAY283020X	943.92
GAY283035X	1,115.36
GAY283052X	787.93
GAY283134X	1,030.32
GAY283394T	1,545.13
GAY302584T	1,433.15
GAY302609T	988.11
GAY302915T	277.39
GAY302922T	1,771.69
GAY303048X	1,007.34
GAY303063X	958.22
GAY303092X	818.20
GAY312561T	1,253.36
GAY322695T	353.89
GBB450178T	434.38
GBB450371T	578.72
GBC410107T	341.76
GBC451404T	294.66
GBE030487T	470.08
GBE040363T	215.48
GBE060446T	572.31
GBE200223T	1,080.10
GBE200332T	986.31
GCD130582T	2,271.21
GCD170319T	1,638.41
GCD170331T	938.00
GCD200581T	1,006.46
GCD200587T	1,498.22
GCD201066T	499.01
GCD201075X	419.72
GCD201087T	571.26
GCD201097X	629.33
GCD201099X	629.33
GCD201105X	629.33
GCD201108X	488.75
GCD201110T	535.99
GCD210723T	614.66
GCD220994T	267.97
GCD221080X	653.63
GCD251489T	606.71
GCD251611T	506.88
GCE060471T	471.50
GCE060487T	779.47
GCE080753T	1,420.77

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GUILD LOAN	RESTITUTION AMOUNT
GCE171897T	470.61
GCE191114X	715.26
GCE200540T	937.51
GCE232141T	571.07
GCF030211T	1,183.70
GCF030213T	765.66
GCF030247T	547.20
GCF030316X	705.97
GCF050382X	306.15
GCF050437X	764.89
GCF050440X	828.41
GCF200292T	1,448.55
GCF200319T	933.81
GCG020641T	533.12
GCG020642T	498.16
GCG200234T	431.96
GCH020202T	1,225.12
GCH020253T	1,617.92
G CJ200220T	718.77
GCK110783X	525.55
GCK270119X	542.86
GCL040281T	679.38
GCL200254T	792.73
GCO030242T	53.78
GCO040232T	588.25
GCO040241T	289.82
GCP200226T	244.85
GEA840251T	2,718.04
GEA840252T	2,167.97
GEA840253T	1,625.57
GEA840254T	2,568.29
GEA840260T	594.06
GEA840263T	1,505.51
GEC840228T	698.23
GEH840216T	6,923.01
GEH840217T	5,541.50
GEH840225T	749.70
GEH840226T	418.62
GEI840214T	3,520.01
GEI840217T	1,296.68
GEJ010001T	923.42
GEJ010002T	2,884.72
GFY840481T	3,000.84
GFY840488T	3,210.14
GFY840491T	971.26
GFY840493T	1,192.49

GUILD LOAN	RESTITUTION AMOUNT
GFY840498T	2,201.60
GFY840502T	1,728.23
GFY840505T	1,146.25
GFY840513T	1,452.67
GFY840517T	838.83
GFY840546T	644.73
GFZ840284T	870.65
GFZ840287T	1,134.07
GFZ840294T	1,265.18
GFZ840309T	553.97
GFZ840315T	1,467.85
GFZ840322T	474.31
GFZ850225T	895.22
GGH022606T	1,578.53
GGH022612T	212.42
GGH022613T	798.25
GGH022617T	451.07
GGH022704T	56.52
GGH072636T	234.06
GGH072692T	368.83
GGH202642T	29.48
GGR030636X	222.27
GGR200403T	765.34
GGR200717X	135.96
GGs070310T	578.77
GGs070313T	1,130.35
GGs090206T	1,079.44
GGs090254T	1,015.62
GGs090267T	256.91
GGs090375X	431.32
GGs090376X	513.39
GGs090387X	495.13
GGs100269T	463.74
GGs110220T	874.47
GGs200320T	1,466.39
GGs200390T	1,081.85
GGs200392T	1,325.37
GGs200396T	199.33
GGs200452T	826.58
GGs200564T	339.89
GGs200567T	392.29
GGs200610X	691.48
GGs200718X	518.65
GGT020243T	484.75
GGT020293T	806.69
GGT020299T	538.27

Decision and Order

GUILD LOAN	RESTITUTION AMOUNT
GGT020377T	188.41
GGT020393T	549.23
GGT050271T	1,181.77
GGT050380T	115.35
GGT060308T	1,505.26
GGT060506X	229.10
GGT070242T	350.29
GGT070313T	543.11
GGT070340T	973.70
GGT090510X	756.99
GGT090511X	475.31
GGT090513X	314.19
GGT090514X	305.96
GGT090517X	442.97
GGT200304T	611.29
GGT200515X	839.98
GGT200518X	582.36
GGT200523X	370.06
GZA195199T	1,420.68
GZA195200T	1,662.05
GZA195624T	294.04
GZA195901T	428.94
GZA195917T	292.89
GZA285286T	2,602.79
GZA335357T	139.24
GZA335432T	417.61
GZA385512T	2,330.60
GZA385517T	1,874.50
GZA385527T	1,455.40
GZA385540T	1,355.34
GZA385574T	762.69
GZA385618T	517.72
GZA385675T	841.62
GZA385954T	684.61
GZA386028T	245.72
GZA386139T	565.88
GZA386241T	220.07
GZA386264T	991.32
GZA386294T	991.32
RAG837061T	3,505.47
RAI188095T	2,878.49
RFZ840281T	6,789.49
RGS090247T	5,160.43

432,025.27 *

TOTAL NUMBER OF RECORDS PROCESSED 470

EXHIBIT 2—MORTGAGE INSURANCE SCHEDULE

Loan No.	Total Refund Due
GAJ10-0035T	\$1,016.45
GBD45-1193C	\$994.61
GBE04-0252F	\$517.98
GBB43-0577F	\$1,151.68
GAY31-3614C	\$674.85
GCO05-0285C	\$908.63
GBC45-1403F	\$964.79
GCO02-0205C	\$791.35
GBC99-1129C	\$915.33
FAD78-1328C	\$1,418.17
GCO03-0338C	\$1,349.26
GBE05-0280C	\$185.40
GBE20-0285F	\$1,421.67
GBE03-0409C	\$742.74
FBB43-0770F	\$831.27
GBE02-0625C	\$762.70
GAY18-3548C	\$1,417.87
GAY27-3704C	\$822.67
GBC66-1811C	\$780.54
GBC43-0936C	\$686.84
GBC20-0554C	\$798.00
GBC55-1104C	\$962.03
GCJ08-0207F	\$757.26
GBC99-1146C	\$1,831.41
GBC99-1343C	\$1,012.69
FBE07-0437F	\$1,151.09
GBB54-1168C	\$1,317.96
GBC45-1301F	\$1,140.76
GBC43-0455F	\$759.41
FBB43-0921F	\$1,047.49
GBC55-1258F	\$938.53
GAY18-3075X	\$1,869.49
	\$31,940.92

EXHIBIT 3

Loan No.	Restitution Amount for ARM Discount Only	Restitution Amount for MI Portion Only	Total Restitution Amount
GCL03-0223T	\$300.75	\$1,718.98	\$2,019.73
FGT06-0319T	\$741.90	\$1,527.39	\$2,269.29

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Dissenting Statement

GAY18-3067X	\$305.16	\$1,987.79	\$2,292.95
GAR20-5642X	\$208.89	\$1,762.27	\$1,971.16
GAJ04-9924X	\$198.98	\$1,691.71	\$1,890.69
GAY18-3061X	\$423.69	\$1,993.78	\$2,417.47
			\$12,861.29

DISSENTING STATEMENT OF COMMISSIONER ANDREW J. STRENIO, JR.

Good law and sound policy considerations support requiring respondent Guild Mortgage Company to fully redress consumers for its alleged violation of the Truth-In-Lending Act. Because the company should not receive a 0.25% "tolerance" deduction, I oppose final issuance of this consent order.

**Re: Petition to Quash Subpoena
Nippon Sheet Glass Co., et al.
File No. 891-0088**

January 17, 1990

Dear Mr. Hobbs:

This is to advise you of the Federal Trade Commission's response to the Petitions to Quash Investigational Subpoenas (Petition), which you filed on behalf of your client, Pilkington plc ("Pilkington" or "petitioner"), in the above matter.

The ruling set forth herein has been made by Commissioner Terry Calvani pursuant to authority delegated under Commission Rule of Practice 2.7(d)(4). *See* 49 Fed. Reg. 6089 (Feb. 17, 1984). Pursuant to Rule 2.7(f), within three days after service of this decision, petitioner may file with the Secretary of the Commission a request for full Commission review. The timely filing of such a request shall not stay the return date in this ruling, unless the Commission otherwise specifies.

The petition is denied for the reasons stated below.

I. Background

On June 8, 1989, the Commission issued a resolution authorizing the use of compulsory process in its investigation of the proposed acquisition by Nippon Sheet Glass Co. ("NSG") of shares in Libby-Owens-Ford Company ("LOF"), a wholly-owned subsidiary of Pilkington. The resolution states that the purpose of the investigation is to determine whether the proposed acquisition violates or may violate Section 5 of the Federal Trade Commission Act, 15 U.S.C. 45, or Section 7 of the Clayton Act, 15 U.S.C. 18. *See* Resolution, June 8, 1989. Two subpoenas have been issued to petitioner, one on December 14, 1989 and the other on December 29, 1989. The first one, addressed to Pilkington c/o Anthony R. Pilkington in his capacity as director of LOF (Mr. Pilkington is also the Chairman of Pilkington), was received at LOF in Toledo, Ohio on or about December 18, 1989. When Pilkington advised that Mr. Antony R. Pilkington was no longer a director of LOF, a second subpoena was issued, addressed to Pilkington c/o Derek Cook, who is a director of LOF as well as of Pilkington. That subpoena was received at LOF January 2, 1990. Both subpoenas purport to require testimony from petitioner on three matters. The testimony is to be delivered by Mr. Geoffrey H. Iley, who

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is a director of Pilkington and a resident of the United Kingdom, or by another Pilkington employee having knowledge of the matters specified on the subpoena.

On January 2, 1990 Pilkington filed its Petition to quash the subpoena. The Petition advances four arguments: first, that Section 9 of the Federal Trade Commission Act does not give the Commission authority to subpoena a foreign corporation or individual; second, that the Commission does not have authority to subpoena Mr. Iley because he lacks the requisite contacts with the United States; third, that the subpoena was not served properly because service on the United States subsidiary is not sufficient for service on a foreign corporation and because service through the corporation was not sufficient to effect extraterritorial service on Mr. Iley personally; and fourth, that the subpoena is overbroad and burdensome and the testimony of Mr. Iley would be cumulative because other Pilkington officials have been deposed on the specified matters.

Commissioner Calvani has carefully reviewed the Petition. He has also considered the presentations by the petitioner and Commission counsel at the hearing on the petition conducted on January 10, 1990. Petitioner's objections to the subpoena are discussed below.

II. Specific Objections

Commission counsel has made clear that the subpoena is directed to Pilkington plc, seeking testimony from a knowledgeable employee: it is not directed to Mr. Iley personally. *See* transcript, January 10, 1990 at 56-57. Commission counsel believes, based on the investigation to date, that Mr. Iley is the person at Pilkington most qualified to give evidence on the specified matters. Nonetheless, counsel is willing to take testimony under oath from any knowledgeable representative Pilkington in good faith believes can satisfactorily answer the questions. If such a representative can indeed give the necessary evidence, counsel does not insist on an appearance by Mr. Iley. Therefore, the following discussion presumes that the subpoena is directed only to the corporation, and all arguments addressed to problems that would arise with a subpoena directed to Mr. Iley personally are dismissed as moot.

Whether there is *in personam* jurisdiction over a foreign party and whether there has been proper service of process on that party are often treated together because they involve the same or similar issues. 4A C. Wright and A. Miller, *Federal Practice and Procedure* Section

