CFPB enforcement targets Lender in kickback scheme

LITIGATION TRENDS | JAN 17, 2014

On January 16, 2014 the CFPB took action against Fidelity Mortgage Corporation of Missouri in a scheme involving the funneling of illegal kickbacks to a bank in exchange for real estate referrals. The CFPB order was against Fidelity Mortgage, as well as its former owner and current president Mark Figert. The company and president were ordered to pay back $81,076. Fidelity is a non-depository mortgage lender.

The consent order, as part of the CFPB's enforcement mechanism, requires both the company and Figert to pay back the illegal proceeds. These proceeds stemmed from the referred real estate business as a result of the illegal kickbacks. Those proceeds totaled $27,076 which will go to the United States Treasury. The additional amount of $54,000 is part of a civil enforcement penalty which will go directly to the CFPB.

The charges and order were the result of an agreement that Fidelity had with a bank where the bank steered borrowers to Fidelity in exchange for the kickbacks. The kickbacks were disguised as inflated lease payments for renting office space within the bank. The Real Estate Settlement Procedures Act (RESPA) represents the enforcement mechanism for this civil penalty.   RESPA prohibits kickbacks for these type of referrals where a federally-related mortgage and a settlement service business is involved.

“Kickbacks harm consumers by hampering fair market competition and by unnecessarily increasing the costs of getting a mortgage,” said CFPB Director Richard Cordray. “The Consumer Financial Protection Bureau will continue to take action against schemes that steer consumers to lenders through unscrupulous and illegal business practices.”