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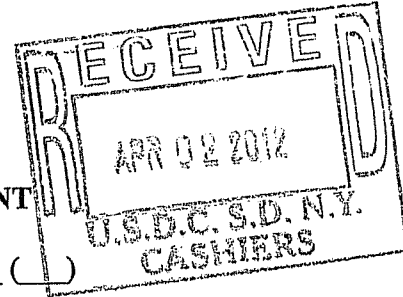
JUDGE FORREST

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,
Plaintiff,

v.

GFI MORTGAGE BANKERS, INC.,
Defendant.



COMPLAINT

12 Civ. ____ ()

ECF CASE

JURY TRIAL DEMANDED

The United States of America (the "United States") files this Complaint, alleging as follows:

INTRODUCTION

1. This action is brought by the United States to enforce the provisions of the Fair Housing Act, 42 U.S.C. §§ 3601-3619 ("FHA"), and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f ("ECOA").

2. From 2005 through at least 2009, defendant GFI Mortgage Bankers, Inc. ("GFI") engaged in a pattern or practice of discrimination on the basis of race and national origin by charging African-American and Hispanic borrowers higher interest rates and fees on home mortgage loans¹ compared to the rates and fees GFI charged to similarly-situated non-Hispanic white borrowers ("white borrowers"). In hundreds of instances, an African-American or Hispanic borrower with a similar credit and risk profile as a white borrower, entering into the same

¹ For purposes of this Complaint, and consistent with the Home Mortgage Disclosure Act ("HMDA"), the term "home mortgage loan" or "home loan" refers to loans originated for the purchase or refinance of owner-occupied, one-to-four family dwellings.

type of home mortgage loan with GFI, paid higher interest rates and fees because of his or her race or national origin.

JURISDICTION AND VENUE

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345, 42 U.S.C. § 3614, and 15 U.S.C. § 1691e(h).

4. Venue is appropriate pursuant to 28 U.S.C. § 1391, because GFI, the defendant in this action, conducts business in this district and its principal place of business is located in this district.

PARTIES

5. GFI is a mortgage banker licensed to do business in seven states, including New York and New Jersey, and operates twelve of its thirteen branch offices in New York and New Jersey. GFI's principal place of business is in New York, New York.

6. GFI is an affiliate of GFI Capital Resources Group, Inc., a diversified real estate and insurance company with its principal place of business in New York, New York.

7. From 2005 to 2009, the number of home mortgage loans issued by GFI increased from 974 in 2005 to 2,270 in 2009. From 2005 to 2009, GFI's revenue from its home mortgage loan services increased from approximately \$305 million in 2005 to approximately \$768 million in 2009.

8. From 2005 to 2009, GFI employed approximately 250 to 300 loan officers and loan processors. Most of these employees were based in New York and New Jersey. From 2005 to 2009, GFI made a total of approximately 300 home loans in New York and New Jersey to African-American borrowers and 440 home loans in New York and New Jersey to Hispanic borrowers.

9. GFI is subject to federal laws governing fair lending, including the FHA and the ECOA and the regulations promulgated under each of those laws. The FHA and the ECOA prohibit financial institutions from discriminating on the basis of, *inter alia*, race or national origin in their home mortgage lending practices. Charging higher prices for home mortgage loans on the basis of race or national origin, including charging higher fees and annual percentage rates of interest, is one of the discriminatory lending practices prohibited by the FHA and the ECOA.

10. GFI is a "creditor" within the meaning of the ECOA, 15 U.S.C. § 1691a(e), and engages in "residential real estate-related transactions" within the meaning of the FHA, 42 U.S.C. § 3605. GFI also is subject to the Home Mortgage Disclosure Act ("HMDA"), 12 U.S.C. § 2803, and its implementing regulations, 12 C.F.R. § 203.1 *et seq.*, which require mortgage lenders to maintain data on the race and national origin of each borrower, among other things.

11. Since June 2007, GFI has been the subject of a federal fair lending investigation by the U.S. Department of Housing and Urban Development ("HUD") for possible discrimination in home mortgage lending against African-American and Hispanic borrowers. In January of 2010, HUD concluded that there was a sufficient basis to warrant a pattern or practice referral for lending discrimination to the Department of Justice ("DOJ") and referred its investigation of GFI to DOJ.

FACTUAL ALLEGATIONS

A. GFI Charges African-American Borrowers More than Similarly-Situated White Borrowers

12. From 2005 through at least 2009, GFI charged higher interest rates and fees for home mortgage loans to African-American borrowers than it charged to similarly-situated white borrowers. The higher interest rates and fees were not based on objective criteria related to credit risk or loan characteristics, but instead, were based on race. The disparities in interest rates and fees between African-American borrowers and similarly-situated white borrowers are statistically

significant.

13. For example, GFI charged African-American borrowers interest note rates that were, on average, 41 basis points² higher in 2005, 19 basis points higher in 2007, and 25 basis points higher in 2008, than the interest rates it charged to similarly-situated white borrowers for home loans, after accounting for all factors related to the borrowers' credit risk and loan characteristics. The interest rate disparities mean that an African-American borrower securing a home loan of \$369,000, which is the average home loan amount that GFI originated to minority borrowers in the period from 2005 to 2009, paid, on average, approximately \$701 to \$1,513 more in interest annually, depending on the year of the loan, than a similarly-situated white borrower during each year that he or she remained in the loan.

14. Furthermore, GFI charged African-American borrowers fees on their home loans that were, on average, 102 basis points higher in 2005, 87 basis points higher in 2006, 105 basis points higher in 2007, 102 basis points higher in 2008, and 73 basis points higher in 2009, than the fees it charged to similarly-situated white borrowers. The fee disparities mean that an African-American borrower securing a home loan amount of \$369,000 paid, on average, approximately \$2,694 to \$3,875 more in fees than a similarly-situated white borrower, depending on the year of the loan.

15. From 2005 through 2009, GFI made a total of approximately 300 home loans to African-American borrowers. In each of these years, there were statistically significant pricing disparities between African-American and white borrowers. African-American borrowers who remain in these loans will continue to pay additional interest in each monthly mortgage payment until the loan is refinanced or paid off, for as many as 30 years from the origination date of the

² One basis point represents one one-hundredth of a percentage point (0.01%).

loan. For example, African-American borrowers who took out home mortgages in 2007 paid an average of \$7,512 more in interest rate and fees than similarly-situated white borrowers over the first four years of their home loan. Over the life of the loans, assuming they are held until maturity, African-American borrowers who took out home loans in 2007 will pay, on average, approximately \$26,535 more than similarly-situated white borrowers, for reasons unrelated to their credit risk and loan characteristics and because of their race.

16. The statistically significant disparities between African-American and similarly-situated white borrowers in the cost of home loans are a result of GFI's home-loan pricing policy. From 2005 through at least 2009, GFI allowed and encouraged its loan officers in New York and New Jersey to make subjective and unguided pricing adjustments that were not based on a borrower's risk in pricing loans, and charging fees, as well as allowed or encouraged loan officers in New York and New Jersey to make subjective and unguided decisions, that were not based on a borrower's risk in selecting loan products. GFI knew that its loan officers were pricing loans in a manner that was unrelated to a borrower's creditworthiness, resulting in thousands of dollars in overcharges for African American borrowers based on their race.

17. GFI's loan officers used Optimal Blue, a web-based mortgage pricing software program customized for GFI's products and pricing strategy, to select loan products, price loans, and set fees. GFI allowed its loan officers to manipulate the search parameters and criteria in order to generate a wide range of pricing options for home loans. GFI also allowed its loan officers to select a loan price and product type within the range generated by Optimal Blue. GFI knew that its loan officers were pricing loans within this range based on factors unrelated to credit risk. GFI allowed its loan officers to mark up interest rates generated by Optimal Blue and to impose additional fees after a loan product and interest rate were chosen.

18. From 2005 through at least 2009, GFI provided strong financial incentives to its loan officers to price their loan products as high as possible, consistently resulting in higher-priced loans for African-American borrowers. GFI compensates each of its loan officers by paying him or her a substantial percentage of the profits he or she generates for GFI on each loan. The percentage of profits for each loan officer depends on, and increases for, those loan officers originating higher-priced loans and greater profits.

19. From 2005 through at least 2009, GFI failed to supervise, train, or monitor adequately its loan officers to ensure that they were pricing loans in a non-discriminatory manner. GFI did not provide written guidance to loan officers or put in place fair lending policies or practices to prevent or assess whether loan officers were pricing loans in a non-discriminatory manner.

20. From at least 2005, GFI knew or had information about an applicant's race prior to setting loan prices or fees. GFI knew or had reason to know that African-American borrowers were paying higher prices than similarly qualified white borrowers.

21. GFI knew in June 2007 that HUD had opened a federal fair lending investigation of GFI's home mortgage pricing practices. Despite this knowledge, GFI continued to allow loan officers to price loans based on factors unrelated to credit risk and loan characteristics, provided strong financial incentives to loan officers to overcharge, and failed to supervise, train or impose any fair lending controls to ensure that loan officers acted in a non-discriminatory manner.

22. GFI's pricing policies and practices, as described herein had a disparate impact on African-American borrowers compared to similarly-situated white borrowers, and are not justified by business necessity or legitimate business interests.

B. GFI Charges Hispanic Borrowers More than Similarly-Situated White Borrowers

23. From 2005 through at least 2009, GFI charged higher interest rates and fees for home mortgage loans to Hispanic borrowers than to similarly-situated white borrowers. The higher interest rates and fees were not based on objective criteria related to credit risk or to loan characteristics, but instead, were based on national origin. The disparities in interest rates and fees between Hispanic borrowers and similarly-situated white borrowers are statistically significant.

24. In 2006 and 2007, GFI charged Hispanic borrowers interest rates that were, on average, 20 and 23 basis points higher, respectively, than the interest rates GFI charged to similarly-situated white borrowers for home loans, after accounting for all factors related to a borrower's credit risk and loan characteristics. The interest rate disparities mean that a Hispanic borrower securing a home loan of \$369,000 paid, on average, approximately \$738 to \$849 more in interest annually, depending on the year of the loan, than a similarly-situated white borrower during each year that he or she remained in the loan.

25. Furthermore, GFI charged Hispanic borrowers fees on their home loans that were, on average, 42 basis points higher in 2005, 56 basis points higher in 2006, 51 basis points higher in 2007, 24 basis points higher in 2008, and 27 basis points higher in 2009, than the fees it charged to similarly-situated white borrowers. These fee disparities mean that a Hispanic borrower who took out a \$369,000 home loan paid, on average, approximately \$886 to \$2,066 more in fees, depending on the year of the loan, than a similarly-situated white borrower.

26. Between 2005 and 2009, GFI made a total of approximately 440 loans to Hispanic borrowers. In each of these years, there were statistically significant pricing disparities between Hispanic and similarly-situated white borrowers. Hispanic borrowers who remain in these loans

will continue to pay additional interest in each monthly mortgage payment until the loan is refinanced or is paid off, as many as 30 years from the origination date of the loan. For example, Hispanic borrowers who took out home loans in 2007 paid an average of \$5,593 more in interest rate and fees than similarly-situated white borrowers over the first four years of their home loans. Over the life of these loans, assuming they are held until maturity, Hispanic borrowers will pay, on average, approximately \$23,878 more than similarly-situated white borrowers for reasons unrelated to credit risk or loan characteristics and because of their national origin.

27. The statistically significant disparities between Hispanic and similarly-situated white borrowers in the cost of home loans are a result of GFI's home-loan pricing policy. From 2005 through at least 2009, GFI allowed and encouraged its loan officers in New York and New Jersey to make subjective and unguided pricing adjustments that were not based on a borrower's risk in pricing loans, and charging fees, as well as allowed or encouraged loan officers in New York and New Jersey to make subjective and unguided decisions, that were not based on a borrower's risk in selecting loan products. GFI knew that its loan officers were pricing loans in a manner that was unrelated to a borrower's creditworthiness, resulting in thousands of dollars in overcharges for Hispanic borrowers based on their national origin.

28. GFI's loan officers used Optimal Blue, a web-based mortgage pricing software program customized for GFI's products and pricing strategy, to select loan products, price loans, and set fees. GFI allowed its loan officers to manipulate the search parameters and criteria in order to generate a wide range of pricing options for home loans. GFI also allowed loan officers to select a loan price and product type within the range generated by Optimal Blue. GFI knew that its loan officers were pricing loans within this range based on factors unrelated to credit risk. GFI allowed its loan officers to mark up interest rates generated by Optimal Blue and to impose

additional fees after a loan product and interest rate were chosen.

29. From 2005 through at least 2009, GFI provided strong financial incentives to its loan officers to price their loan products as high as possible, consistently resulting in higher-priced loans for Hispanic borrowers. GFI compensates each of its loan officers by paying him or her a substantial percentage of the profits he or she generates for GFI on each loan. The percentage of profits for each loan officer depends on, and increases for, those loan officers originating higher-priced loans and greater profits.

30. From 2005 to at least 2009, GFI failed to supervise, train, or monitor adequately its loan officers to ensure that they were pricing loans in a non-discriminatory manner. GFI did not provide written guidance to loan officers or put in place fair lending policies or practices to prevent or assess whether loan officers were pricing loans in a non-discriminatory manner.

31. From at least 2005, GFI knew and had information about an applicant's national origin prior to pricing loans and setting fees. GFI knew or had reason to know that Hispanic borrowers were paying higher prices than similarly qualified white borrowers.

32. GFI knew in June 2007 that HUD had opened a federal fair lending investigation of GFI's home mortgage pricing practices. Despite this knowledge, GFI continued to allow loan officers to price loans based on factors unrelated to credit risk and loan characteristics, provided strong financial incentives to loan officers to overcharge, and failed to supervise, train or impose any fair lending controls to ensure that loan officers acted in a non-discriminatory manner.

33. GFI's pricing policies and practices as described herein had a disparate impact on Hispanic borrowers compared to similarly-situated white borrowers, and are not justified by business necessity or legitimate business interests.

CLAIMS FOR RELIEF

34. The United States respectfully re-alleges and incorporates paragraphs 1 through 33 of the Complaint by reference.

35. GFI's actions, policies and practices, as alleged herein, constitute:

- a. Discrimination on the basis of race or national origin in the terms, conditions, or privileges of the provision of services in connection with sale of a dwelling, in violation of the Fair Housing Act, 42 U.S.C. § 3604(b);
- b. Discrimination on the basis of race or national origin in making available, or in the terms or conditions of, residential real estate-related transactions, in violation of the Fair Housing Act, 42 U.S.C. § 3605(a); and
- c. Discrimination against applicants with respect to credit transactions on the basis of race or national origin in violation of the Equal Credit Opportunity Act, 15 U.S.C. § 1691(a)(1).

36. GFI's actions, policies and practices, as alleged herein, constitute:

- a. A pattern or practice of resistance to the full enjoyment of rights secured by the Fair Housing Act, 42 U.S.C. §§ 3601-3619, and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f; and
- b. A denial of rights granted by the Fair Housing Act to a group of persons that raises an issue of general public importance.

37. Persons who have been victims of GFI's discriminatory actions, policies and practices are aggrieved persons as defined in the Fair Housing Act, 42 U.S.C. § 3602(i), and aggrieved applicants as defined in the Equal Credit Opportunity Act, 15 U.S.C. § 1691e, and have suffered injury and damages as a result of GFI's violation of both the Fair Housing Act and the

Equal Credit Opportunity Act.

38. GFI's pattern or practice of discrimination has been intentional and willful, and has been implemented with reckless disregard for the rights of African-American and Hispanic borrowers.

REQUEST FOR RELIEF

WHEREFORE, the United States requests that the Court enter a JUDGMENT that:

39. Declares that the policies and practices of GFI constitute violations of the Fair Housing Act, 42 U.S.C. §§ 3601-3619, and the Equal Credit Opportunity Act, 15 U.S.C. §§ 1691-1691f;

40. Enjoins GFI, its agents, employees, and successors, and all other persons in active concert or participation with it, from:

- a. Discriminating on the basis of race or national origin against any person in making available, or in the terms or conditions of, a residential real estate-related transaction;
- b. Discriminating on the basis of race or national origin in the terms, conditions, or privileges of the provision of services in connection with the sale of dwellings;
- c. Discriminating on the basis of race or national origin against any person with respect to any aspect of a credit transaction;
- d. Failing or refusing to take such affirmative steps as may be necessary to restore, as nearly as practicable, the victims of GFI's unlawful conduct to the position they would have been in but for the discriminatory conduct; and
- e. Failing or refusing to take such actions as may be necessary to prevent the

recurrence of any such discriminatory conduct in the future.

41. Awards monetary damages to all the victims of GFI's discriminatory policies and practices for the injuries caused by GFI, pursuant to 42 U.S.C. § 3614(d)(1)(B) and 15 U.S.C. § 1691e(h); and

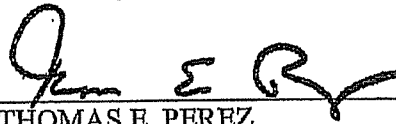
42. Assesses a civil penalty against GFI in an amount authorized by 42 U.S.C. § 3614(d)(1)(C), in order to vindicate the public interest.

43. The United States further requests such additional relief as the interests of justice may require.

The United States respectfully demands trial by jury.

Dated: Washington, D.C.
March 30, 2012

ERIC H. HOLDER, Jr.
Attorney General

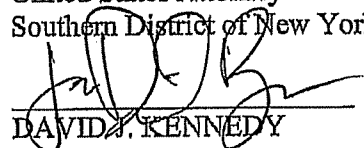


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