United States v. Countrywide Financial Corp. et al.
Summary of Complaint

Introduction

The lawsuit, filed in the U.S. District Court for the Central District of California is the biggest fair lending lawsuit ever filed by the Department. The complaint alleges that, between 2004 and 2008, Countrywide discriminated by charging more than 200,000 Hispanic and African-American borrowers in more than 180 geographic markets in 41 states and the District of Columbia higher fees and rates than non-Hispanic White borrowers because of their race or national origin rather than the borrowers' creditworthiness or other objective criteria related to borrower risk. Countrywide also discriminated by steering more than 10,000 Hispanic and African-American borrowers into subprime mortgages when non-Hispanic White borrowers with similar credit profiles received prime loans. More than two-thirds of the victims of Countrywide's pricing and steering discrimination are Hispanic. The complaint also alleges that Countrywide discriminated on the basis of marital status.

The United States brings this action under the Equal Credit Opportunity Act (ECOA) and the Fair Housing Act (FHA) to hold Countrywide accountable for serious violations of law and to remedy the substantial and widespread harmful consequences of Countrywide's discriminatory lending policies and practices. The lawsuit is the culmination of a thorough investigation by the department of Countrywide's lending policies, practices, and procedures, which included a review of internal company documents and non-public loan-level data on more than 2.5 million Countrywide loans originated between 2004 and 2008. The department commenced its investigation based on referrals by both the Board of Governors of the Federal Reserve and the former federal Office of Thrift Supervision.

Between 2004 and 2008, Countrywide was one of the largest single-family mortgage lenders in the United States. During that period, Countrywide originated over 4.4 million residential mortgage loans. Between 2004 and 2007, Countrywide reported total net earnings of approximately $6.7 billion.

Allegations

The lawsuit alleges that Countrywide engaged in a pattern or practice of discriminatory home mortgage lending in four ways:

1. Countrywide charged higher prices to Hispanic and African-American borrowers than non-Hispanic White borrowers because of their race or national origin, not based on their credit characteristics, for loans it originated through Countrywide loan officers ("retail loan pricing").

2. Countrywide charged higher fees to Hispanic and African-American borrowers than non-Hispanic White borrowers because of their race or national origin, not based on their credit characteristics, for loans it originated through mortgage brokers ("wholesale loan pricing").

3. Countrywide steered Hispanic and African-American borrowers into subprime loans when similarly-qualified non-Hispanic White borrowers who also applied through mortgage brokers received prime loans ("wholesale product steering").

4. Countrywide encouraged the non-applicant spouse to sign away his or her rights and interests in jointly-held property when the applicant spouse was taking out a loan in his or her own name.

Retail Loan Pricing Claim

Between 2004 and 2008, Countrywide's business practice allowed its employees who generated loan applications through its retail channel to vary a loan's interest rate and other fees from the price it set based on a borrower's objective credit-related factors. As a result of this subjective and unguided pricing discretion, Countrywide charged more than 100,000 Hispanic and African-American borrowers higher fees and costs for their loans than non-Hispanic White borrowers, not based on borrower risk but because of their race or national origin. Hispanic and African-American borrowers were charged, on average, hundreds of dollars more for a loan.

For example, in 2007 a retail customer in Los Angeles borrowing $200,000 paid an average of about $545 more in non-risk-based pricing adjustments if he were Hispanic, and an average of about $415 more if he were African-American, compared to the average amount charged to a non-Hispanic White borrower. In 2007, Countrywide charged a retail customer in Chicago borrowing $200,000 on average about $795 more in non-risk-based pricing adjustments if he were Hispanic, and an average of about $460 more if he were African-American, than the average amount charged to a non-Hispanic White borrower.

Wholesale Loan Pricing Claim

Between 2004 and 2008, Countrywide's business practice allowed its mortgage brokers who generated loan applications through its wholesale channel to vary a loan's interest rate and other fees from the price set based on a borrower's objective credit-related factors. As a result of this subjective and unguided pricing discretion, Countrywide charged more than 100,000 Hispanic and African-American borrowers more in fees and costs than non-Hispanic White borrowers not based on borrower risk or creditworthiness but because of their race or national origin. Hispanic and African-American borrowers were charged, on average, hundreds of dollars more for a loan.

For example, in 2007 a non-subprime wholesale customer in Chicago borrowing $200,000 paid an average of about $1,100 more in non-risk-based total broker fees if she were Hispanic, and an average of about $1,235 more if she were African-American, than the average amount charged to a non-Hispanic White non-subprime wholesale customer. In 2007, a non-subprime wholesale customer in Los Angeles borrowing $200,000 paid an average of about $970 more in non-risk-based total broker fees if she were Hispanic, and an average of about $1,195 more if she were African-American, than the average amount charged to a non-Hispanic White non-subprime wholesale customer.

Wholesale Product Steering Claim

Between 2004 and 2007, Countrywide's business practice allowed its mortgage brokers and employees to place a wholesale channel loan applicant in a subprime loan even when the applicant qualified for a prime loan according to Countrywide's underwriting practices. Countrywide also gave mortgage brokers and employees discretion to deviate from its underwriting guidelines. As a result of these policies and practices, the odds of a Hispanic or African-American borrower receiving a subprime loan instead of a prime loan were more than twice as high as those for similarly-situated non-Hispanic White borrowers.

More than 10,000 Hispanic and African-American borrowers were placed into subprime loans even though non-Hispanic White borrowers who had similar credit qualifications were placed into prime loans. The steered Hispanic and African-American borrowers paid, on average, thousands of dollars more for their loans and were subject to possible prepayment penalties, increased risk of credit problems, default, and foreclosure.

For example, in 2006 Countrywide placed more than 400 Hispanic and African-American wholesale borrowers in the Los Angeles market into subprime loans when non-Hispanic White borrowers in Los Angeles with similar credit risk characteristics received prime loans.

Marital Status Claim

The Equal Credit Opportunity Act allows a married individual to apply in his or her own name for a loan that is secured by property owned jointly with his or her spouse. Between 2004 and 2008, Countrywide encouraged non-applicant spouses to execute documents that transferred to the spouse who was applying for a loan all rights and interests of the non-applicant spouse in the property that was securing the loan, in violation of the ECOA. A non-applicant spouse who executed a document transferring all their rights and interests in the property to the applicant spouse, unless on a voluntary and fully-informed basis, risked substantial financial loss and uncertainty.