CFPB Takes Action Against Fay Servicing for Illegal Foreclosure Actions and Violating Law Enforcement Order

Order requires the mortgage servicer to pay $5 million in redress and penalties, and sets compensation limits on CEO Edward Fay

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WASHINGTON, D.C. – The Consumer Financial Protection Bureau (CFPB) today ordered Fay Servicing to pay a $2 million penalty for violations of mortgage servicing laws, as well as for violations of a 2017 agency order that addressed its illegal foreclosure practices. The company failed to implement the order's requirements and continued to break the law. Fay Servicing took prohibited foreclosure actions against borrowers requesting mortgage assistance, failed to offer borrowers mortgage assistance options available to them, and overcharged for private mortgage insurance. In addition to the civil money penalty, the CFPB's order requires Fay Servicing to pay consumer redress of $3 million and to invest $2 million to update its servicing technology and compliance management systems. The order also puts compensation limits on Edward Fay, the company's Chairman of the Board and Chief Executive Officer (CEO), if Mr. Fay does not take actions necessary to ensure compliance with the order.

"Fay Servicing ignored a law enforcement order by taking steps to foreclose on homeowners who are shielded by housing protection laws," said CFPB Director Rohit Chopra. "The CFPB's order will put the CEO's pay at risk if Fay continues to break the law."

Fay Servicing is a nonbank mortgage servicer. It is a Delaware limited liability corporation with its principal place of business in Tampa, Florida. It has branch offices in Chicago and Oakbrook Terrace, Illinois; Farmers Branch, Texas; and Lusaka, Zambia. It is a wholly-owned subsidiary of Fay Financial, LLC. Edward Fay is the founder, CEO, and Chairman of the Board of Fay Servicing and its parent company, Fay Financial.

Fay Servicing services mortgage loans of borrowers across the country. Mortgage servicers are responsible for, among other things, administering foreclosure relief programs to help struggling borrowers. These programs – sometimes referred to as loss mitigation – help homeowners to avoid foreclosure, and can help investors, as well as homeowners, avoid the costs of foreclosure. Mortgage servicers are responsible for soliciting borrowers for these programs, responding timely to their applications, determining eligibility, and implementing relief for qualified borrowers.

In 2017, the CFPB took action against Fay Servicing for failing to provide mortgage borrowers with the protections against foreclosure that are required by consumer financial protection law. The CFPB found that the company kept borrowers in the dark about critical information about the process of applying for foreclosure relief. The CFPB also found instances where the servicer illegally launched or moved forward with the foreclosure process when borrowers were actively seeking help to save their homes. The CFPB ordered Fay Servicing to stop its illegal practices and to pay $1.15 million to harmed borrowers.

In today's action, the CFPB found that Fay Servicing violated the 2017 order, the Real Estate Settlement Procedures Act, the Truth in Lending Act, the Homeowners Protection Act, and the Consumer Financial Protection Act. Fay Servicing took prohibited foreclosure actions against borrowers seeking mortgage assistance and prevented borrowers from taking advantage of the foreclosure relief options available to them. Specifically, Fay Servicing harmed borrowers by:

- **Flouting a law enforcement order and violating rules that protect borrowers from prohibited foreclosure activities**: The 2017 order required Fay Servicing to change its practices, policies, and procedures to ensure it provided mortgage borrowers with protections against prohibited foreclosure activities. However, Fay Servicing continued to engage prohibited foreclosure activities, failed to timely place holds on foreclosures, and failed to develop written policies and procedures to ensure compliance.
- **Failing to provide full information to borrowers about their loss mitigation options:** When borrowers apply for loss mitigation, the company's application asks for their loss mitigation preference. Fay Servicing failed to inform borrowers how the preference they indicated could end up limiting the options for which Fay Servicing would evaluate the borrowers.
- **Overcharging for private mortgage insurance and late fees:** Fay Servicing did not stop collecting private mortgage insurance on time, which meant homeowners were forced to overpay for private mortgage insurance that was not required. The company also charged late fees higher than allowed by homeowners' mortgage contracts.

Enforcement Action

Under the Consumer Financial Protection Act, the CFPB has the authority to take action against nonbank financial institutions violating consumer financial protection laws, including the Real Estate Settlement Procedures Act, the Truth in Lending Act, and the Homeowners Protection Act, and for engaging in unfair, deceptive, or abusive acts or practices. The CFPB's order requires Fay Servicing to:

- **Pay redress for harmed consumers:** The order requires Fay Servicing to pay $3 million in consumer redress for consumers against whom the company took illegal foreclosure actions and from whom Fay Servicing collected private mortgage insurance overpayments.
- **Limit CEO compensation if Edward Fay fails to meet the order's requirements:** The order puts limitations on compensation to Edward Fay if he does not take actions necessary to ensure compliance with today's order.
- **Update its servicing technology and compliance systems:** Fay Servicing must invest at least $2 million to update its servicing technology and compliance management systems.
- **Pay a $2 million fine:** Fay Servicing must pay a $2 million penalty, which will be deposited into the CFPB's victims relief fund.

Read today's order.

Learn more about home mortgages and mortgage servicing.

Read consumer complaints about mortgage servicing.

Consumers can submit complaints about financial products and services by visiting the CFPB's website or by calling (855) 411-CFPB (2372).

Employees who believe their company has violated federal consumer financial protection laws are encouraged to send information about what they know to whistleblower@cfpb.gov. To learn more about reporting potential industry misconduct, visit the CFPB's website.

The Consumer Financial Protection Bureau is a 21st century agency that implements and enforces Federal consumer financial law and ensures that markets for consumer financial products are fair, transparent, and competitive. For more information, visit www.consumerfinance.gov.

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