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CFPB and FTC Target Mortgage Advertising

The Consumer Financial Protection Bureau ("CFPB") and the Federal Trade Commission ("FTC") have targeted mortgage advertising and marketing in a joint "sweep."

Just prior to the Thanksgiving holiday, the CFPB and FTC announced they issued warning letters to mortgage lenders and mortgage brokers advising them to "clean up potentially misleading advertisements, particularly those targeted toward veterans and older Americans."

The CFPB and FTC also announced they have ongoing formal investigations of companies. According to the CFPB, "the actions stem from a joint 'sweep,' a review conducted by the CFPB and the FTC of about 800 randomly selected mortgage-related ads across the country, including ads for mortgage loans, refinancing, and reverse mortgages."

The agencies looked at public-facing ads in newspapers, on the Internet, and from mail solicitations; some came to the attention of the CFPB and the FTC from consumers who complained about them.

The CFPB's and FTC's coordinated effort reflects the strong ties between the two agencies, coordination, and their shared jurisdiction in areas related to advertising and marketing of consumer financial products and services.

The CFPB and the FTC share enforcement authority for the 2011 Mortgage Acts and Practices Advertising Rule (Regulation N), which prohibits misleading claims concerning government affiliation, interest rates, fees, costs, payments associated with the loan, and the amount of cash or credit available to the consumer.

Click here to view a copy of the CFPB's press release and sample warning letters. **Click here** to view a copy of the FTC's press release and sample warning letter.

By coincidence, the CFPB, on the eve of its announcement with the FTC, scored a preliminary injunction in its first ever civil enforcement action against a law firm that offered mortgage assistance relief services to consumers, *CFPB v. Gordon Law Firm et al.* This was a garden variety enforcement action of the type that the FTC routinely brings against loan modification providers.

The CFPB alleged that the law firm and various individuals and companies injured consumers by falsely promising loan modifications in exchange for advance fees and, in reality, did little or nothing to help consumers. The CFPB initiated the enforcement action in July, on an ex parte basis (without warning), and since then the defendants have been under an asset freeze, and receivership. The defendant's businesses are now being wound down by the receiver.

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Jonathan L. Pompan is Of Counsel at Venable LLP in the Washington, DC office. He represents nonprofit and for-profit companies in regulated industries, in a wide variety of areas such as before the Consumer Financial Protection Bureau, compliance with applicable federal and state regulations, and in connection with Federal Trade Commission and state investigations and law enforcement actions.

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