



## *Unintentional Discrimination*

From <http://www.ftc.gov/opa/2008/12/gateway.shtm>

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### **Mortgage Lender Agrees to Settle FTC Charges That It Charged African-Americans and Hispanics Higher Prices for Loans**

A home mortgage lender has agreed to settle Federal Trade Commission allegations that it violated federal law by charging African-American and Hispanic consumers higher prices for mortgage loans than non-Hispanic white consumers – price disparities that cannot be explained by the applicants' credit characteristics or underwriting risk.

According to the FTC's complaint, Gateway Funding Diversified Mortgage Services, L.P., and its general partner, Gateway Funding Inc., based in Horsham Pennsylvania, violated the Equal Credit Opportunity Act (ECOA) in pricing both prime and subprime mortgage loans. The defendants gave loan officers nearly complete discretion to charge, in addition to the risk-based price, "overages" that included higher interest rates and higher up-front charges. The Commission alleges that Gateway paid loan officers a percentage of these overages and failed to monitor whether African-American and Hispanic consumers were paying higher overages than non-Hispanic white borrowers.

As stated in the complaint, Gateway's policy and practice of allowing loan officers to charge discretionary overages resulted in African-Americans and Hispanics being charged higher prices because of their race or ethnicity – price disparities that are "substantial, statistically significant, and cannot be explained by factors related to underwriting risk or credit characteristics of the applicants."

"Unlawful discrimination in the pricing of mortgages is intolerable," FTC Chairman William E. Kovacic said. "Discretionary pricing policies must be crafted and monitored carefully so that all applicants are treated fairly."

The ECOA and its implementing Regulation B bar creditors from discriminating against applicants for credit on the basis of race, color, religion, national origin, sex, marital status, age, or the fact that an applicant's income is derived from public assistance.

The proposed settlement bars the defendants from discriminatory lending practices and requires them to implement a fair lending training program, a comprehensive data integrity lending program designed to ensure accuracy and completeness of loan data, and a fair lending monitoring program that includes a system for performing periodic analyses to monitor for disparities in loan prices. The settlement imposes a judgment of \$2.9 million, all but \$200,000 of which is suspended based on the defendants' inability to pay. The full judgment will be imposed if they are found to have misrepresented their financial condition. The Commission did not seek civil penalties because of the defendants' financial condition.

More information about consumers' rights under the ECOA is available at <http://www.ftc.gov/bcp/edu/pubs/consumer/homes/rea08.shtm>.

The Commission vote to authorize staff to file the complaint and proposed stipulated final order was 4-0. The documents were filed in the U.S. District Court for the Eastern District of Pennsylvania.

NOTE: The Commission files a complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. The complaint is not a finding or ruling that the defendants have actually violated the law. Stipulated final orders are for settlement purposes only and do not constitute an admission by the defendants of a law violation. A stipulated final order requires approval by the court and has the force of law when signed by the judge.

The Federal Trade Commission works for consumers to prevent fraudulent, deceptive, and unfair business practices and to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC's online Complaint Assistant or call 1-877-FTC-HELP (1-877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 1,500 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's Web site provides free information on a variety of consumer topics.

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