Banking and Finance Law Daily Wrap Up, ENFORCEMENT ACTIONS—CFPB says online provider collected on debts not legally owed, (Nov. 16, 2017)

Banking and Finance Law Daily Wrap Up

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By Katalina M. Bianco, J.D.

The Consumer Financial Protection Bureau has filed a lawsuit in Montana federal district court against Think Finance, LLC, for allegedly deceiving consumers into repaying loans that were void under state laws governing interest rate caps or the licensing of lenders. Think Finance, an online provider of software technology, analytics, loan servicing, and marketing services based in Texas, made deceptive demands and illegally took money from consumers’ bank accounts for debts that were not legally owed, the Bureau said. The CFPB is seeking monetary relief for consumers, civil money penalties, and injunctive relief, including a prohibition on Think Finance’s collecting on void loans.

Service provider. Think Finance, LLC, formerly known as Think Finance, Inc., offered and serviced lines of credit and installment loans over the Internet to consumers throughout the United States, according to the Bureau. From 2011 through at least 2015, Think Finance provided critical functions with three separate lending businesses owned by Native American Tribes, making the company a service provider under the Dodd-Frank Act.

To date, Think Finance continues to provide material services and substantial assistance to two of those businesses, Great Plains, LLC, and MobiLoans, LLC, in collecting on the extension of credit in the form of online installment loans and online lines of credit to consumers. According to the Bureau, Think Finance "controlled the tribal lenders and ran the business."

UDAAP violations. In its complaint, the CFPB alleges that Think Finance violated the Consumer Financial Protection Act’s prohibitions against unfair, deceptive or abusive acts or practices (12 U.S.C. § 5536(a)(1)(B)) by pursuing consumers for payments even though the loans in question were void in whole or in part under the laws of 17 states in which they did business because the rates the lenders charged were high enough to violate the states’ usury laws.

Lack of licenses. The complaint also alleges that the lenders did not obtain licenses to lend or collect in certain states, rendering those particular loans void. Despite the lack of licenses, Think Finance misrepresented that consumers, in fact, owed money on the loans.

Illegal withdrawals. Finally, Think Finance made electronic withdrawals from consumers’ bank accounts or called or sent letters to consumers demanding payment for debts that they were under no legal obligation to pay, according to the Bureau.

Companies: Great Plains, LLC; MobiLoans, LLC; Think Finance, Inc.; Think Finance, LLC

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