Banking and Finance Law Daily Wrap Up, ENFORCEMENT ACTIONS—FTC secures order halting student loan repayment scheme, (Dec. 10, 2024)

Banking and Finance Law Daily Wrap Up

By Peter Reap, J.D., LL.M.

The company pretended to be affiliated with the U.S. Department of Education.

The federal district court in Las Vegas, Nevada has granted a preliminary injunction against Superior Servicing, LLC, at the request of the FTC, finding good cause to believe that, in numerous instances, in connection with the marketing, telemarketing, and sale of student loan debt relief services, the company has made false representations to consumers of its services. The agency's complaint against the company and its managing member, Denise Merdjanian, alleged that the defendants bilked millions of dollars out of consumers burdened with student loan debt by pretending to be affiliated with the U.S. Department of Education in violation of the FTC's Impersonation Rule, collecting illegal advance fees, and making other deceptive claims (*FTC v. Superior Servicing LLC*, No. 2:24-cv-02163-GMN-MDC (D. Nev. Dec. 6, 2024)).

FTC complaint. Since at least January 2023, Nevada-based Superior Servicing and its operator Dennise Merdjanian made telemarketing calls and sent personalized mailers to borrowers falsely claiming that consumers enrolled in defendants' program could obtain benefits such as loan consolidation, reduced interest rates on their student loans, reduced monthly student loan payments, or loan forgiveness. The operators collected illegal advance fees of up to $899 as an initial payment followed by monthly payments that defendants falsely represented were going towards consumers' student loan debt.

To convince borrowers that their claims were legitimate, the operators allegedly pretended to "work with" or be affiliated with the Department of Education or its approved loan servicers and, in some instances, even advised consumers to stop making payments to their existing loan servicers. The operators then falsely claimed that they would take over responsibility for servicing consumers' loans, collect monthly student loan payments for a term of up to 20 years, and said that upon completion of those monthly payments, the consumers' federal student loan debt would be forgiven.

Contrary to Superior Servicing's false promises, borrowers have reported that they never received loan consolidation, lowered payments, or loan forgiveness, according to the complaint. The FTC noted that at most, and if anything at all, the defendants filled out simple applications for debt relief that are available for free from the Department of Education.

The FTC charged that the scheme's operators violated the Impersonation Rule by claiming to be affiliated with the Department of Education, as well as the FTC Act's prohibition on deceptive practices, the Telemarketing Sales Rule (TSR), and the Gramm-Leach-Bliley (GLB) Act.

TRO and Preliminary injunction. After the filing of the complaint, the Nevada federal district court entered a temporary restraining order (TRO) against both Superior Servicing and Merdjanian on November 22, 2024. In the TRO, the court found that there was good cause to believe the defendants had taken over $10 million as a result of their unlawful practices in violation of the FTC and GLB acts, and the agency's TSR and Impersonation Rule. The court agreed with the FTC and issued a temporary restraining order with an asset freeze, appointed a temporary receiver with immediate access to business premises, granted expedited discovery, and other equitable relief.

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In both the TRO and injunction, the court entered a prohibition against misrepresenting or assisting others in misrepresenting:

1. That consumers who purchase any debt relief service will have their monthly loan payment amounts reduced;
2. That consumers who purchase any debt relief service will receive loan forgiveness;
3. That consumers' monthly payments to defendants will be applied towards consumer's student loans;
4. That Defendants are affiliated with the U.S. Department of Education or its approved loan servicers;
5. That Defendants will assume responsibility for servicing the repayment of consumers' loans; and
6. Any other fact material to consumers concerning any good or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

In addition, the court orders enjoined the charging or receiving any money or other valuable consideration for the performance of any debt relief service before such service is fully performed. The preliminary injunction also continued the asset freeze and appointment of the receiver made with the TRO, with full powers of an equity receiver.

Levine comments. "The defendants promised consumers student debt relief and forgiveness but gave them virtually nothing, keeping over $10 million for themselves and leaving consumers deeper in debt," said Samuel Levine, Director of the FTC's Bureau of Consumer Protection, in announcing the developments. "The FTC will continue taking decisive action against those who prey on Americans with student debt."

Attorneys: Luis H. Gallegos for the FTC.

Companies: Superior Servicing LLC

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