



State AGs and Regulators Step Up UDAAP Enforcement

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BY: J.P. MCGUIRE BOYD, JR. & CAMDEN R. WEBB

Dodd-Frank created the Consumer Financial Protection Bureau (CFPB) and granted that federal agency significant powers to regulate financial institutions. But Dodd-Frank also empowers state regulators to enforce the new law, and many states are taking full advantage of this new power.

Section 1042(a) of Dodd-Frank empowers state Attorneys General (AGs) and regulators to bring civil actions to enforce federal consumer law, including laws prohibiting unfair, deceptive, or abusive acts or practices (UDAAP), against any company offering consumer financial products or services, defined as covered persons under 12 U.S.C. § 5481(6), as well as depository institutions whose assets fall below the Consumer Financial Protection Bureau's (CFPB's) \$10 billion direct supervision threshold.

On December 18, 2014, the Virginia and North Carolina AGs joined with the CFPB to file an enforcement action against Freedom Stores, Inc., Freedom Acceptance Corporation, and Military Credit Services LLC. The complaint alleged illegal debt collection activity against service members. On the same date, the parties filed a consent order, in which the defendants neither admitted nor denied the complaint's allegations but agreed to pay approximately \$2.5 million in monetary relief to consumers, as well as a \$100,000 civil penalty. Copies of the complaint and consent order are available [here](#) and [here](#).

The next day, the New York Department of Financial Services (DFS) became the first state regulator to settle an enforcement action using the powers granted under Section 1042(a). DFS alleged that Condor Capital Corporation violated both federal and state UDAAP laws by overcharging customers. Under a consent order, the defendants will pay restitution to injured customers nationwide (estimated at \$ 8-9 million) plus a \$3 million civil penalty. Condor Capital is further required to admit violations of New York and federal law and to surrender all of its state lending licenses. A copy of the consent judgment is available [here](#).

On February 10, 2015, the North Carolina Department of Justice, along with U.S. Department of Justice, Civil Rights Division, and the U.S. Attorney's Office for the Western District of North Carolina,

announced a settlement against two automobile dealerships, Auto Fare, Inc. and Southeastern Auto Corp. The complaint alleged that the defendants had intentionally targeted African American customers for auto financing deals that involved unfair and predatory terms in violation of the federal Equal Credit Opportunity Act (ECOA) and North Carolina's Unfair and Deceptive Trade Practices Act. Copies of the complaint and consent order are available [here](#) and [here](#).

These recent actions demonstrate the tremendous power that state AGs and regulators began to wield over financial institutions of any size in 2014. We should only expect more state enforcement in 2015.

Related People

- J.P. McGuire Boyd, Jr. ? 804.420.6927 ? mboyd@williamsmullen.com
- Camden R. Webb ? 919.981.4021 ? crwebb@williamsmullen.com

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