

Nevada Fair Housing Center, Inc

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CLASS ACTION LAWSUIT ALLEGES PREDATORY LENDING

Throughout the country, lenders have come under fire for various predatory lending practices. Congressional legislation has been introduced. The Nevada Assembly has introduced AB 284. Today, advocates said enough.

In the first of its kind in the State, Nevada Fair Housing Center filed federal a class action lawsuit against FairBanks Capital Corporation and Manufacturers and Traders Trust Company, a New York Banking Corporation, as Trustee. The suit alleges that the defendants engaged in racketeering activity and mail fraud in violation of federal law, in the furtherance of an elaborate scheme to defraud consumers out of millions of dollars. The suite also alleges violation of the Federal Fair Debt Collection Practices Act and RICO.

Nevada Fair Housing Center, Inc (NFHC) a local nonprofit agency advocating for equal housing and access to credit and capital, was contacted by Manuel Serrano for assistance with his mortgage. He was referred by a private attorney appalled at the situation.

Mr. Serrano a first time buyer, originally obtained an adjustable rate mortgage loan from Firstplus Financial, Inc. On, between or about 1999, that loan was securitized and made part of a pool of scrutinized loans owned by Manufacturers and Traders Trust Company. The loan was serviced by ContiMortgage until the company filed bankruptcy in June 2000. In an Assumption Agreement dated July 14, 2000, FairBanks Capital Corporation assumed all interest and rights in the mortgages.

After the assignment to FairBanks, the games began. Mr. Serrano experienced repeated consistent problems with his mortgage. Initially, the company failed to send monthly statements. When customer service was contacted, Mr. Serrano was told that a large lump payment was required in order to bring the loan out of default. Each time, Mr. Serrano would make the alleged lump sum payment, only to find that the loan never became current. Despite receiving the payment, FairBanks would cause a notice of default to be issued and post the payment fourteen days later.

At one point, Mr. Serrano attempted to use Fairbanks' "EZ Pay system", by which customers authorize Fairbanks to debit their checking accounts over the telephone. Fairbanks advised customers that the EZ Pay pay-by-phone was a way to "get your payment to us on the SAME DAY". In an elaborate scheme, the company would debit Serrano's bank account using an erroneous account number (missing one number). Fairbanks would then claim that the debit did not clear and charge additional fees to the consumer.

"It's a homeowner's worse nightmare", said David Olshan, Managing Attorney. "Even after using your best efforts to find a lender, the loan is sold. Consumers have no control over this process. Post sale, the nightmare begins. The scheme is so elaborate that most consumers can't figure out the intricacies of the scheme".

Despite repeated payments and attempts to get a correct accounting, Fairbanks failed to provide Mr. Serrano with accurate information. Other fees charged by Fairbanks included property preservation fees, property preservation repayment and force placed retroactive insurance. Overall, Fairbanks filed more than three notices of foreclosure against Mr. Serrano.

"Mortgage companies and servicers are out of control. What we have in this hot market are too many bad companies seeking to take advantage. We want to put the industry on notice that enough is enough. Theft is theft, whether with a gun or fountain pen".

Since 1993, Nevada Fair Housing Center, Inc (NFHC) has worked to ensure equal access to housing and credit for residents of Nevada. NFHC promotes it mission by providing education and legal assistance on housing and consumer related issues. .