4 Class-Action Suits Hit Fleet's Ga. Unit

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ATLANTA--Fleet/Norstar, the largest financial institution in New England, is facing four class-action lawsuits claiming that its lucrative Georgia mortgage subsidiary conspired to deprive borrowers of their homes and commit them to usurious loans.

In the most sweeping of the suits, a Georgia judge last month certified a class of 20,000 plaintiffs to sue Fleet Finance Inc.--the Fleet/Norstar mortgage subsidiary--on grounds it violated the state's usury law by charging unwarranted fees. The judge ruled that the company had misinterpreted the usury statute and may be liable to forgo an estimated $1 billion in interest paid or owed by borrowers across the state.

Fleet has appealed to the Georgia Supreme Court, and the company's lawyer expressed confidence that Fleet will prevail.

But for Fleet, which last year faced and settled accusations of culpability in Massachusetts' second-mortgage scandal, the Georgia suits carry the potential for not only heavy damages but embarrassing revelations about the practices and tactics that helped build its financial empire.

The usury suit is just one of a new wave of legal actions accusing the finance subsidiaries of working with brokers to purposely mislead customers into taking out injurious loans; targeting blacks for the vast majority of its loans; and using collection tactics so crude and forceful as to violate a federal loan-sharking statute.

Meanwhile, the Georgia attorney general and state consumer-protection bureau are conducting inquiries into Fleet's lending practices in what Barry Reid, the state consumer affairs chief, called "potentially the largest fraud case in individuals and dollars that the state has gotten involved in."

In Massachusetts, Attorney General Scott Harshbarger last week said he is assisting his Georgia counterpart in the Fleet probe. Harshbarger extracted a $12 million settlement from Fleet/Norstar last spring in exchange for foregoing legal action in connection with Massachusetts second-mortgage cases. Earlier, Fleet agreed to an $11 million refinancing plan for second-mortgage victims under an agreement with Mayor Flynn.

Fleet has long maintained that its finance subsidiary charges high interest rates and fees because it lends to borrowers with poor credit ratings. Fleet executives have said they were unaware of any deceitful practices or pressure tactics by brokers making mortgages for Fleet.

"We adamantly deny these allegations," said Fleet attorney Terry Franzen, asserting that the company neither targets black homeowners nor tolerates abusive practices by brokers. Franzen notes that five other banking companies have filed legal briefs defending Fleet's interpretation of the usury statute. Fleet's charges, officials said, were in line with industry norms.

But a growing number of Georgia attorneys and political leaders say they believe Fleet's policies and tactics were unusually ruthless and unfair. They said they do not believe Fleet's executives were unaware of the tactics of brokers who attracted business for them.

Last month, several camera crews from CBS television's "60 Minutes," plus anchorman Morley Safer, arrived in Atlanta for an upcoming investigative story on Fleet-adding to what attorneys describe as an almost circus atmosphere surrounding the mortgage company.

AGGRESSIVE PRACTICE DECRIED

"Their interest rate is usurious that's number one," said Roy Barnes, a former Georgia state senator and gubernatorial candidate who is targeting Fleet as a private lawyer. "Number two is they're overly aggressive in collecting the funds, in violation of federal loan-sharking laws."

Barnes represents about 50 plaintiffs in the loan-sharking case against Fleet, one of four legal approaches being taken against the corporation. They are:

* The usury case, filed in state and federal courts. A judge refused to certify the plaintiffs' class in the federal case, prompting an appeal by the plaintiffs.

However, in the state case, the Georgia usury law prohibits companies from charging finance fees amounting to more than 5 percent per month. According to plaintiffs' attorney Harry Revel, a recent study showed Fleet charging an initial, one-time finance fee averaging 17 percent of the loan.

Revel argues that the charge, paid in the first month of the loan, exceeds the 5 percent monthly minimum and violates the statute. Under the law, a usurious lender must surrender all interest from such loans--more than $1 billion in Fleet's case.

Fleet argues that the charge, though applied up front, should be tabulated as being spread over the life of the loan, therefore putting it well within the 5 percent cap.

Each side predicts disastrous repercussions if it loses. Fleet claims that if the plaintiffs prevail, thousands of non-Fleet mortgages throughout the state would be rendered usurious; the plaintiffs claim that if Fleet wins, the statute will have been rendered useless, prompting further mortgage abuses.

* The racial discrimination case. Plaintiffs' attorney Jack Long notes that 17 percent of Georgia homeowners are black; an estimated 60 percent to 70 percent of Fleet's mortgages go to black homeowners. And Long argues that brokers, working in low-income, predominantly black areas, charge grossly unfair fees and rates for Fleet mortgages.

In one of what Long claims are hundreds of documented cases, a black woman named Louise Wimberly of Augusta was charged a 33 percent finance fee and a 19 percent interest rate for a Fleet mortgage. Wimberly had a good credit rating.

Fleet attorney Franzen disputes Long's statistics, saying they are based on a fraction of Fleet's total mortgage portfolio. "At the time Fleet makes a decision to purchase a loan, Fleet does not know the race of the customer," she said.

A state judge last week certified a class of black homeowners to sue Fleet under the Georgia Fair Housing Act.

* The loan-sharking case. Plaintiffs' attorneys Jeffrey Sakas and Howard Rothbloom claim that the combination of usurious loans and harassing collection procedures puts Fleet in violation of federal and state loan-sharking statute.

One Fleet borrower, Jerry Wilkie, said Fleet would "call before the payment was due--to see if you'd be able to make it. They were so rude. If we were behind five or 10 days, they'd call my wife and say, 'We're ready to begin foreclosing.'"

Franzen said Fleet is firm but not rude when borrowers fail to pay their debts. "Fleet's policy is not to harass customers," she said. "Fleet's policy is to act in a businesslike manner to collect payments which are past due."

* The fraud cases. These accuse the company of working in concert with seven so-called "bird dog" mortgage companies--each of which sold the vast majority of its loans to Fleet--to use illegal tactics to sell mortgages for Fleet, thereby defrauding borrowers of their property. Bird-dog companies seek to find mortgage business for a larger financial institution.

A judge declined to certify one fraud case as a class action, on the grounds that Georgia law calls for fraud cases to be tried individually, but plaintiffs' attorney William Brennan is preparing to refile the case.

Franzen said Fleet "adamantly disagrees" with the charge that it was aware of any illegal activity by companies making mortgages that Fleet later bought. Fleet officials, including corporate chairman Terry Murray, have long vowed to cut off any company found to be using deceptive lending tactics.

"That's what I call Fleet's 'see-no-evil, hear-no-evil' defense, and it's incredulous to me," said Barnes, the former lawmaker. "In the first place, they're pre-approving these loans. It's not like they go to the mortgage companies and say 'Got a loan for me?'--these companies have no money. They depend totally on Fleet."

Mark Siegel, president of Georgia Mortgage Center, which sold most of its mortgages to Fleet, said Fleet officials would pre-approve all loans. Brokers were obliged to use only appraisers and closing attorneys from Fleet's approved list.

ACCUSER CUT LINKS TO FLEET

"When they claim they don't know what brokers were doing, I can't believe that," said Siegel, who stopped doing business with Fleet last year after a dispute over some mortgages. "I've got memos going out from them saying 'We don't want to do this anymore, we don't want to do that anymore.'

"These people aren't stupid. They've been working this area for years. I'm not going to say brokers didn't lie to their customers--of course they did--but did Fleet know their loans were coming from brokers? Sure they did. And how do you know when a broker's lying--when his lips move. I first heard that from a Fleet official."

Craig Soaries, a former broker who sold Fleet mortgages before breaking off with the company after his own Fleet loan fell into default, said street brokers employed a roster of tricks to make high-interest mortgages.

In many cases, he said, brokers lured homeowners into taking out privately financed mortgages with "balloon" payments at the end of a year, on the promise that in a year they would receive a multi-year Fleet mortgage to cover the balloon payment. Later, he said, just before the balloon payment was due, when the borrowers were desperate for money, the broker would extort the highest possible interest rate; Fleet paid brokers a rebate for loans with very high interest rates, Soaries said.

"The saying was, 'If you can't get it done anywhere, get Fleet,'" Soaries said. "Everyone knew they took A to triple-Z credit. If there was equity in the home, they made the deal."

Abstract (Document Summary)

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