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Florida Attorney General's Office News Release

$550M Secured in Borrower Relief from Subprime Finance Company

TALLAHASSEE, Fla.—Attorney General Ashley Moody, along with a coalition of 34 attorneys general, today secured an agreement with Santander Consumer USA Inc. that includes approximately $550 million in relief nationally for auto loan borrowers, with even more relief expected in the form of additional deficiency waivers. Floridians are eligible for more than $7.7 million in consumer restitution and more than $35 million in waivers for balances owed on certain car loans owned by Santander. The proposed consent judgment, accompanying a complaint filed in circuit court in Hillsborough County today, resolves allegations that Santander violated consumer protection laws by exposing subprime consumers to unnecessarily high levels of risk and knowingly placing these consumers into auto loans with a high probability of default.

Attorney General Ashley Moody said, “My office is committed to holding irresponsible lenders and servicers accountable when they take advantage of economically challenged Floridians. I urge affected Floridians to pursue their claims through the process made possible by this multistate settlement.”

The agreement stems from a multistate investigation of Santander’s subprime lending practices. After initiating its own investigation into Santander’s business practices, in March 2015, Florida joined its efforts with other states to investigate the largest subprime auto financing company in the country.

Based on the multistate investigation, the filed complaint alleges that Santander, through its use of sophisticated credit scoring models to forecast default risk, knew that certain segments of its population were predicted to have a high likelihood of default. Santander exposed these borrowers to unnecessarily high levels of risk through high loan-to-value ratios, significant backend fees, and high payment-to-income ratios. The complaint further alleges that Santander overlooked dealer abuse in lending applications and failed to meaningfully monitor the risk of falsified information on loan applications, including the amounts specified for consumers’ incomes and expenses. Santander also allegedly engaged in deceptive servicing practices and actively misled consumers about their rights and risks of partial payments and loan extensions.

Under the agreement, Santander is required to provide relief to eligible borrowers and, moving forward, is required to factor a consumer’s ability to pay the loan into its underwriting. Santander will pay $65 million to the participating states for restitution for certain subprime borrowers who defaulted on loans between Jan. 1, 2010 and Dec. 31, 2019. For borrowers with the lowest quality loans who defaulted as of Dec. 31, 2019 and have not had their cars repossessed, Santander is required to allow them to keep their cars and waive any loan balances, up to a total value of $45 million in loan forgiveness. Santander will also pay up to $2 million for settlement administration for costs and an additional $5 million to the states for multistate investigative

costs.

The settlement also includes significant consumer relief by way of loan forgiveness. In all, Santander has agreed to waive the deficiency balances for certain defaulted borrowers, with approximately $433 million in immediate forgiveness of loans still owned by Santander and additional deficiency waivers of loans that Santander no longer owns but is required to attempt to buy back.

Under the proposed consent judgment, going forward, Santander is required to adjust its practices before extending financing for car loans, for example, taking into consideration whether a consumer has a negative residual income after evaluating each potential borrower's actual monthly debt obligations and testing all loans that default in the future to see if the consumer, at the time of origination, had a negative income. Santander is barred from requiring car dealers to sell ancillary products, such as vehicle service contracts, and is required to implement steps to monitor car dealers who engage in income inflation, expense inflation, or power booking.

Joining Attorney General Moody in the resolution are the attorneys general of California, Illinois, Maryland, New Jersey, Oregon and Washington, who comprise the executive committee; as well as the attorneys general of Arizona, Arkansas, Connecticut, the District of Columbia, Georgia, Hawaii, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Minnesota, Nebraska, New Hampshire, New Mexico, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Virginia, West Virginia and Wyoming.

To view the complaint, click here.

To view the consent judgment, click here.