CFPB Bites of the Month - 2022 Annual Review - Biggest Fines and Penalties

January 19, 2023 | Eric L. Johnson and Justin B. Hosie

In this article, we share a list of the biggest fines and penalties from our monthly "bites" for 2022.

So, what happened in 2022?

1. The CFPB sanctioned a student loan servicer, requiring payment of a $1 million civil penalty

On March 30, 2022, the CFPB announced that it sanctioned a student loan servicer for allegedly misrepresenting loan forgiveness and repayment options. The servicer allegedly deceived borrowers with Federal Family Education Loan Program loans about their eligibility for public service loan forgiveness. The CFPB claims that the company violated the CFPA by:

- Misrepresenting that borrowers could not receive public service loan forgiveness,
- Misrepresenting that borrowers were making payments towards public service loan forgiveness before loan consolidation,
- Misrepresenting to borrowers that certain jobs were not eligible for public service loan forgiveness, and
- Describing forgiveness programs to borrowers without mentioning public service loan forgiveness.

The CFPB ordered the company to contact all affected borrowers, provide them with accurate information, and pay a $1 million civil money penalty.

2. The CFPB required a savings app to pay $2.7 million

On August 10, 2022, the CFPB issued a consent order against a financial technology company that the CFPB alleges used a faulty algorithm resulting in overdrafts and overdraft penalties for consumers. The company offered an application that was promoted as a way to save people money. But, according to the CFPB, the company falsely guaranteed no overdraft charges, broke its promises to correct its mistakes, and pocketed a portion of the interest that should have gone to consumers. The order requires the company to pay redress to consumers and pay a civil money penalty of $2.7 million to the CFPB.

3. The CFPB and New York AG shut down a debt collection organization, requiring payments of $4 million

On May 23, 2022, the CFPB announced that in partnership with the New York Attorney General, it had filed a proposed stipulated judgment in federal court to settle a case against a debt collection enterprise along with its owners and managers. Together, the enterprise purchased defaulted consumer debt from personal loans, payday loans, credit cards, and other sources. The CFPB and the New York Attorney General alleged that the enterprise deceived and harassed consumers, violating the Fair Debt Collection Practices Act and the Consumer Financial Protection Act. The complaint alleged that the owners, managers, and companies used the following illegal tactics to collect debts:

- Falsely threatening arrest and imprisonment,
- Lying about legal action,
- Inflating and misrepresenting amounts owed,
- Creating "smear campaigns,"
- Harassing people with repeated phone calls, and
- Failing to provide legally mandated disclosures.

The judgment required that the companies, as well as their owners and senior managers, exit the debt collection market. The defendants also must pay a $2 million penalty to the CFPB, which will be deposited into the CFPB's victim relief fund, and a $2 million penalty to the New York Attorney General. If the defendants do not make timely payments, then each penalty amount will increase to $2.5 million.

4. CFPB Enters into Consent Order with Non-Bank Mortgage Servicer, requires payment of $5.25 million in fines

On November 17,2022, the CFPB announced that it had entered into a consent order with a non-bank mortgage servicer for alleged deceptive acts or practices in connection with mortgage forbearances. The CFPB claimed that the servicer failed to implement protections such as forbearances during the COVID-19 health emergency. The CFPB also claimed that the servicer misled certain homeowners seeking a forbearance under the CARES Act into paying improper late fees, deceived consumers about forbearance and repayment options, and inaccurately reported forbearance status to credit reporting companies. The consent order required the servicer to conduct an audit and refund improperly charged late fees to consumers, address compliance management deficiencies, and pay $5.25 million in fines.

5. The CFPB ordered one of the largest US based banks to pay a $10 million penalty for alleged illegal garnishments

On May 4, 2022, the CFPB announced that it had completed an enforcement action against a large bank for allegedly processing illegal, out-of-state garnishment orders against its customers' bank accounts. According to the CFPB's allegations, the bank unlawfully froze customer accounts, charged garnishment fees, garnished funds, and sent payments to creditors. The CFPB claims those payments were based on out-of-state court orders that should have been processed under the laws of the states where the consumers lived. The bank also allegedly inserted unfair and unenforceable terms into consumer contracts limiting consumers' rights to challenge garnishments. The CFPB's order required the bank to refund at least $592,000 in garnishment-related fees, change its garnishment process, eliminate certain clauses from its contracts, and pay a $10 million fine.

6. The CFPB ordered student loan debt-relief payment processors to pay more than $11 million

On May 11, 2022, the CFPB announced an $11 million resolution of claims under the Telemarketing Sales Rule and Consumer Financial Protection Act. The CFPB claimed that debt-relief payment processors and two individuals collected improper fees, mislead consumers about fee payment, sent advance fees prematurely, and failed to return funds to consumers who cancelled debt relief agreements. The respondents neither admitted nor denied the allegations, but consented to injunctions and remedial measures for certain individuals, payment of $8 million in restitution, and payment of a $3 million penalty.

7. CFPB settles with company and founder for $19 million for allegedly offering fake high-yield bank accounts

On December 1, 2022, the CFPB announced that it settled with a company and its founder for allegedly offering fake high yield bank accounts. The CFPB alleged that the company and its founder made several false, misleading, and inaccurate marketing representations in advertising its health savings CD accounts. Specifically, the CFPB claims that the company took millions of dollars from at least 400 individuals who opened and deposited money into the company's advertised savings product. The CFPB claimed that the company and its founder falsely represented that: customer deposits would originate loans for healthcare professionals, customer deposits would be secure, the company was a commercial bank, and the CD accounts had a record of paying high interest rates. The proposed settlement required the Company and its founder to refund $19 million to approximately 400 depositors, to stop engaging in deposit taking activities, and pay a $391,530 civil money penalty.

8. Mortgage originator paid more than $22 million

On July 27, 2022, the CFPB and DOJ filed a complaint and proposed settlement order to resolve allegations against a mortgage originator. The CFPB and DOJ alleged that the company engaged in unlawful discrimination on the basis of race, color, or national origin against applicants and prospective applicants, including by (i) redlining majority-minority neighborhoods in the Philadelphia Metropolitan Statistical Area and (ii) discouraging prospective applicants from applying for credit in violation of the Equal Credit Opportunity Act, Regulation B, and the Consumer Financial Protection Act. The DOJ also alleged that the mortgage originator violated the Fair Housing Act. According to the CFPB's complaint, loan officers sent and received emails containing racial slurs and racist content. The mortgage originator also allegedly avoided sending loan officers to market in majority-minority neighborhoods, and developed marketing that discouraged and ignored minority mortgage loan applicants.

The mortgage originator was also required to pay a civil money penalty of $4 million and to invest $18.4 million in a loan subsidy program under which the mortgage company will contract with a lender to increase the credit extended in majority-minority neighborhoods in the Philadelphia MSA and make loans under the loan subsidy fund. That lender must also maintain at least four licensed branch locations in majority-minority neighborhoods in the Philadelphia MSA. The mortgage originator was required to fund targeted advertising to generate applications for credit from qualified consumers in majority-minority neighborhoods in the Philadelphia MSA and take other remedial steps to serve the credit needs of majority-minority neighborhoods in the Philadelphia MSA.

9. The CFPB fined a national bank $37.5 million for alleged sham accounts

On July 28, 2022, the CFPB issued a consent order against a large national bank for allegedly accessing credit reports and opening various accounts without permission in violation of the Fair Credit Reporting Act, Truth in Lending Act, and the Truth in Savings Act. The CFPB claims that the bank incentivized its employees to meet sales goals, thereby pressuring them to misuse customer information. As a result, the bank will be required to forfeit and return related fees and costs to customers, plus pay a $37.5 million penalty to the CFPB.

10. CFPB orders a National Bank to Pay $191 million for Claims Related to Overdraft Fees

On September 29, 2022, the CFPB ordered a national bank to refund $141 million and $50 million in penalties for allegedly charging improper overdraft fees. The CFPB claims the bank had "unintelligible and manipulative processes" that prevented consumers from avoiding surprise overdraft fees called "authorized-positive fees." The CFPB also indicated that the bank was warned about the practices but waited to discontinue the practice.

11. Consent order requires an auto company to pay $192 million

On July 26, 2022, the CFPB issued a consent order and fined an automotive company's financing arm $19.2 million to resolve the CFPB's claims that the company submitted inaccurate credit information about consumers. The CFPB claims that the company provided credit bureaus with "inaccurate account information" about consumer payment history. The consent order requires the auto company to take steps to prevent future violations, pay $13,200,000 in redress to consumers, and a $6,000,000 civil money penalty.

12. The CFPB and the OCC fined a large bank $225 million

On July 14, 2022, the CFPB fined a large national bank $100 million related to alleged problems disbursing state unemployment benefits at the height of the pandemic. The bank allegedly froze accounts with a faulty fraud detection program. The CFPB claims that the bank engaged in unfair and abusive acts and practices when it replaced reasonable investigation practices with a faulty fraud filter, left distressed consumers in the lurch, and sent consumers back to a state unemployment department for verification in order to gain access to their benefits. The order requires the bank to undertake a process that may result in hundreds of millions of dollars in redress to consumers. The bank was also required to provide redress to consumers and pay a $100 million fine to the CFPB and $125 million to the OCC.

13. CFPB Orders National Bank to Pay $3.7 billion for Alleged Mismanagement of Auto Loans, Mortgages, and Deposit Accounts

On December 20, 2022, the CFPB announced that it had ordered a national bank to pay $3.7 billion for claims related to auto, mortgage, and deposit transactions. The CFPB claims the bank: unlawfully repossessed vehicles and bungled borrower accounts, improperly denied mortgage modifications, illegally charged surprise overdraft fees, unlawfully froze consumer accounts, and mispresented fee waivers. The CFPB is requiring the bank to provide more than $2 billion in redress to consumers, stop charging surprise overdraft fees, provide refunds to automotive consumers for certain add-on fees, and pay $1.7 billion in penalties.

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