

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

PRESS COPY

★ DEC 29 2010 ★

Miriam Zakarin, Esq. (MZ 0265)
TREUHAFT & ZAKARIN LLP
1011 Avenue of the Americas, 4th Floor
New York New York, 10018
Telephone: (212) 725-6418
Facsimile: (646)924-0554
ATTORNEY FOR PUTATIVE PLAINTIFF CLASS

BROOKLYN OFFICE

CV 10 - 3023

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
Eastern District

PHYLLIS CRYSTAL on behalf of herself and others similarly situated.

Index: BLOCK, J.

Plaintiff,

COMPLAINT

REYES, M

- against -

JPMORGAN CHASE BANK, N.A., and JPMORGAN
CHASE & CO.

Defendant.

Phyllis Chrystal ("Ms. Chrystal" or "Plaintiff"), for her complaint, alleges as follows upon information and belief, based upon, inter alia, investigation conducted by her attorneys, except as to those allegations pertaining to Plaintiff and her counsel personally, which are alleged upon personal knowledge:

Introduction

1. This case is about the Defendants' illegal reduction of credit limits on home equity lines of credit ("HELOCs") across the country. JPMorgan Chase Bank, N.A. ("Chase" and "Defendants"), in an attempt to limit their exposure to the risk of collapse in the United States housing market, have broken contractual promises to their HELOC account holders by reducing or freezing these customers' credit limits without first reasonably assessing the value of each

affected property or otherwise having a sound factual basis for reducing or suspending the accounts. As a result, the Defendants have collectively denied their customers access to hundreds of millions of dollars worth of credit at a critical time.

2. Each member of the Class had a HELOC for which Chase reduced the available credit in a manner that was both illegal and unfair. As a result of Defendants' wrongful actions, Plaintiff Chrystal brings this class action on behalf of herself and the putative class and sub class for actual damages and attorney's fees under Regulation Z of the Truth-in-Lending Act (15 U.S.C. § 1640(a); pursuant to New York State General Business Law § 349 (a) and (h), deceptive acts or practices in the conduct of any business; and damages for breach of contract.

Nature of the Claim

3. As of July of 2009, Defendants sent a form letter to Plaintiff and thousands of their other HELOC customers summarily suspending or reducing the credit limits on their lines of credit. The letter stated: With home values continuing to fall in many parts of the country, a recent review of your account identified a decline in the value of the property securing your HELOC since the date you applied for your HELOC or increase. Therefore, the account has been suspended from additional advances effective [insert date].

(See "Notice of HELOC Reduction," a true and accurate copy of which is attached as Exhibit A.)

4. The letter does not disclose the methodology used to compute the decline in home value.

Rather, on a second page for "Frequently Asked Questions" the letter states:

Q: How did you obtain the value for my property?

A: We use a standard method within the industry to obtain an updated value on the property.

(See Ex. A.)

5. Chase lacked a sound factual basis for reducing or freezing their customers' HELOC credit limits. Defendants knowingly and intentionally used faulty and dubious automated formulas, with unreliable and inaccurate analyses, formulas, equations, and processes vulnerable to manipulation, including but not limited to Automated Valuation Models ("AVMs"), to unreasonably undervalue the homes so as to falsely trigger Defendants' rights to freeze or lower the credit limits. As a result, Defendants, in violation of federal law, reduced credit limits on HELOCs to many homeowners, including Plaintiff, whose property values had not declined significantly.

6. Defendants' intentional systematic, mass reduction on the limits on their customers' HELOCs and their intentional systematic concealment of the reasons for their action and their processes, standards and requirements for reducing limits, suspending accounts, and allowing reinstatement was and remains illegal. While federal law permits Defendants to reduce credit limits if an individual property securing a HELOC significantly declines in value, it violates federal law to reduce the credit limits of HELOC accounts without first assessing the value of the collateral that secures each affected HELOC account and having a sound factual basis for reducing or freezing HELOC credit limits.

7. Defendants' post-reduction handling, management and administration of customer complaints, inquiries and attempted appeals are likewise unfair and illegal. Defendants withhold and/or fail to provide accurate necessary and material information, including but not limited to the valuation of the real property securing the HELOC at the time of HELOC origination or increase, the balance of any first mortgage at those times, the purported present value of the property to determine the extent of the purported decline, the value required for reinstatement, and/or the

method used to determine these values. This information is material and needed by the customer in order to determine whether an appraisal should be ordered.

8. Defendants' HELOC reductions are not only illegal; they are patently unconscionable. On October 3, 2008, Congress passed the Emergency Economic Stabilization Act of 2008, Pub. L. No. 110-343. As part of this law, Chase obtained, on information and belief, approximately \$25 billion from an unprecedented \$700 billion bailout funded entirely by American taxpayers. The rationale advanced for the bailout by its proponents was that the banks needed the money to ensure liquidity in the face of the worsening subprime mortgage disaster.

9. Despite Chase's statements to Congress to the contrary^{*1}, Defendants have intentionally failed to meet their obligations to their customers and have intentionally deprived those customers of crucial affordable consumer credit at a critical time.

10. In stark contrast, Defendants' HELOC borrowers, like most American consumers, are struggling in a faltering economy, yet they continue to meet their mortgage obligations. These customers have incurred appraisal fees, an increased price of credit and reduced credit scores, lost interest and other damages.

Parties

11. Plaintiff Phyllis Chrystal: Ms. Chrystal maintains her primary residence in Staten Island, New York (the "subject matter property"). In June 2004, a Chase representative contacted Ms. Chrystal and offered her a HELOC in the amount of \$500,000 to be secured by equity in the subject matter property. Ms. Chrystal accepted and drew on the HELOC to help pay for expenses.

1. See Testimony of Jamie Dimon, Chairman & CEO, JPMorgan Chase & Co., House Financial Services Committee, Feb. 11, 2009, a true and accurate copy of which is attached as Ex. B.

12. Defendant JPMorgan Chase Bank, N.A.: Chase is a national banking association with its main office located at 1111 Polaris Parkway Columbus, OH 43240.

Jurisdiction and Venue

13. This Court has subject matter jurisdiction over this case under 28 U.S.C. § 1332(d)(2). This Complaint alleges claims on behalf of a national class of homeowners who are minimally diverse from the Defendants. On information and belief, the aggregate of these claims exceed the sum or value of \$5,000,000. This Court further has federal question subject matter jurisdiction under 28 U.S.C. § 1331 as this action arises in part under Regulation Z of the Truth in Lending Act, 15 U.S.C. § 1647, 12 C.F.R. § 226.5b. This Court has supplemental subject matter jurisdiction over the pendent state law claims under 28 U.S.C. § 1367.

14. Defendant Chase is a national banking association whose main offices are in Ohio, and is considered a citizen of Ohio for the purposes of diversity jurisdiction under 28 U.S.C. § 1348.

15. Venue is also proper before this Court under 28 U.S.C. § 1391(b)(2) as a substantial part of the events, circumstances, and omissions giving rise to these claims occurred in this New York.

Allegations as to Plaintiff's Individual Claims

Ms. Chrystal's WAMU HELOC Account

16. In June 2004, a Chase representative contacted Ms. Chrystal and offered her a new HELOC in the amount of \$500,000, secured by a mortgage on the subject matter premises. Chrystal accepted the HELOC as offered by Chase. Chase's valuation of the property at the time Chase issued the \$500,000 HELOC in June 2004 is unclear and Chase has refused to disclose such information when requested by Plaintiff.

20. Relying on the availability of her HELOC, Ms. Chrystal closed and turned down alternative lines of credit.

21. On June 17, 2009, Ms. Chrystal first learned her HELOC had been suspended when she received a letter from Chase informing her that her Heloc had been reduced from \$500,000 to \$282,000. Ms. Chrystal contacted customer service and was informed for the first time that Chase had frozen the HELOC due to a purported decrease in the subject matter property' value. The freezing of Ms. Chrystal's HELOC has had a negative impact on her financial stability, has hindered her and her husband's retirement plans, and has caused her to pay more for financing.

22. Members of Chase's customer service department indicated the subject matter property was valued at \$470,000, according to the Defendants' valuation methods. Customer service further informed Ms. Chrystal that she would need an appraisal showing the property's value to be at least \$725,000 to get the HELOC re-opened.

23. Moreover, customer service indicated Ms. Chrystal would have to use Chase's approved appraiser. Despite informing customer service that her property was worth far more than WAMU/Chase's valuation, Customer Service informed Ms. Chrystal that she would need to set up an appointment with a Chase approved appraiser and pay for the appraisal out of her pocket.

24. Plaintiff made numerous calls to Chase and spoke with several customer service representatives regarding the reduction of her HELOC and to try and have it restored to its original limit of \$500,000 to no avail. Plaintiff spoke with many representatives of Chase and based on their handling of the matter Plaintiff decided that she did not have the trust in Chase and Plaintiff did not want to pay for Chase's appraiser for an appraisal, especially since Chase

would not disclose to Plaintiff the method in which they decided that her property had decreased in value.

Class Certification Allegations

25. Plaintiff seeks certification of a class and one subclass under both Rule 23(b)(2) and Rule 23(b)(3).

26. Definition of the Classes: Pursuant to Federal Rule of Civil Procedure 23:

A. Chrystal brings this Complaint against the Defendants on behalf of the “Class,” consisting of:

All persons in the United States who had a home equity line of credit reduced or suspended by Defendant Chase because Chase maintained without a sound factual basis that the reduction was due to a substantial decline in the value of the property securing the Account.

B. Ms. Chrystal also brings this Complaint against Defendants on behalf of a notice sub-class (the “Subclass”) consisting of:

All persons in the United States who received from WAMU or Chase the “Important Notice About Your Home Equity Line of Credit” and FAQ. Excluded from the Class and Subclass are 1) any Judge or Magistrate presiding over this action and members of their families; 2) Defendants, Defendants’ subsidiaries, parents, successors, predecessors, and any entity in which the Defendants or their parents have a controlling interest and their current or former employees, officers and directors; and 3) persons who properly execute and file a timely request for exclusion from the class and 4) the legal representatives, successors or assigns of any such excluded persons. Plaintiff anticipates that amending the Class and Subclass definitions may become necessary following discovery.

27. Numerosity: The exact number of the members of the Class and Subclass is unknown and is not available to Chrystal, but it is clear that individual joinder is impracticable. Defendant sent its generic credit line reduction letters to thousands of mortgagees, and a substantial percentage of the recipients of these letters fall into the definition of the Class and Subclass. Class Members can be easily identified through Defendants' records and public records.

28. Commonality: Common questions of fact and law exist as to all members of the Class and Subclass and predominate over the questions affecting only individual members. These common questions include:

- (a) What were Defendants' criteria for reducing the credit limits on its HELOCs;
- (b) What were Defendants' methods for valuing the homes securing the HELOCs which credit limits it reduced;
- (c) Whether Defendants had a sound factual basis for reducing HELOC limits based on significant declines in home values;
- (d) Whether Defendants' criteria for reducing HELOC credit limits, methods for valuing home values securing HELOCs, and ultimate reduction of HELOC credit limits violated Regulation Z;
- (e) Whether Defendants' reduction of the credit limits breached the terms of its HELOCs;
- (f) Whether Defendants' HELOC agreement terms imposed contractual obligations on the Defendants to have a sound factual basis before lowering HELOC limits due to a supposed significant decline in value;
- (g) Whether Defendants' reduction of the credit limits on its HELOCs was unfair and unlawful;

(h) Whether Defendants gave lawful and fair notice to customers that their HELOCs were being reduced and the specific reasons for such reductions;

(i) Whether Chrystal and the Class are entitled to relief, and the nature of such relief.

29. Typicality: Chrystal's claims are typical of the claims of other members of the Class and the Subclass, as Chrystal and other members sustained damages arising out of the wrongful conduct of Defendant, based upon the same transactions which were made uniformly to Chrystal and the public. The California and federal laws under which Chrystal's claims arise do not conflict with the laws of any other state in any material way.

30. Adequate Representation: Plaintiff will fairly and adequately represent and protect the interests of the members of the Class and Subclass, and has retained counsel competent and experienced in complex class actions. Plaintiff has no interest antagonistic to those of the Class or the Subclass and Defendant has no defenses unique to Plaintiff.

31. Predominance and Superiority: This class action is appropriate for certification because class proceedings are superior to all other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable. The damages suffered by the individual members of the Class and Subclass will likely be relatively small, especially given the burden and expense of individual prosecution of the complex litigation necessitated by the actions of Defendants. It would be virtually impossible for the individual members of the Class to obtain effective relief from the misconduct of Defendants. Even if members of the Class themselves could sustain such individual litigation, it would still not be preferable to a class action, because individual litigation would increase the delay and expense to all parties due to the complex legal and factual controversies presented in this Complaint. By contrast, a class action

presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single Court. Economies of time, effort, and expense will be fostered and uniformity of decisions will be ensured.

32. Policies Generally Applicable to the Class: This class action is also appropriate for certification because Defendant has acted or refused to act on grounds generally applicable to the Class and Subclass, thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to either Class as a whole. The policies of the Defendant challenged herein apply and affect members of both Classes uniformly, and Plaintiff's challenge of these policies hinges on Defendants' conduct, not on facts or law applicable only to Plaintiff.

Count I: Declaratory Relief Under TILA and Regulation Z (on behalf of Chrystal and the Class against Chase)

33. Plaintiff incorporates the above allegations by reference.

34. The Truth-in-Lending Act ("TILA") and its implementing regulation (Regulation Z) prohibit Defendant from changing any of the terms of a mortgage or HELOC – including the credit limit. 15 U.S.C. § 1647(c)(1); 12 C.F.R. § 226.5b(f)(3). There is an exception under TILA and Regulation Z for "any period in which the value of the consumer's principal dwelling which secures any outstanding balance is significantly less than the original appraisal value of the dwelling" which permits Defendant to reduce the credit limits on its HELOCs. 15 U.S.C. § 1647(c)(2)(B); 12 C.F.R. § 226.5b(f)(3)(vi)(A).

35. TILA and Regulation Z prohibit Defendant from suspending accounts or reducing the credit limits on its HELOCs unless the value of the home securing the credit line has actually declined significantly. "Significant decline" for purposes of § 226.5b(f)(3)(vi)(A) has been interpreted as

a decline in home value so that “the initial difference between the credit limit and the available equity (based on the property’s appraised value . . .) is reduced by fifty percent.” The Official Staff Commentary further states that Regulation Z “does not require a creditor to obtain an appraisal before suspending credit privileges [but] a significant decline must occur before suspension can occur.” On August 26, 2008, the Office of Thrift Supervision issued official guidance that warned it would violate Regulation Z to “reduce the credit limits of all HELOC accounts in a geographic area in which real estate values are generally declining without assessing the value of the collateral that secures each affected HELOC account.” (Emphasis in original).

36. Before reducing the limits of its HELOCs, Defendants had an obligation to have a sound factual basis for concluding that the value of the homes had actually declined significantly. Plaintiff alleges on information and belief that, instead, Defendants knowingly and intentionally used a variety of dubious formulas and unreliable data to undervalue their HELOC account holders’ homes in order to justify the blanket account freezings and reductions on HELOC credit limits. On information and belief, Defendants’ methodology was flawed in that Defendants failed to, among other acts or omissions: (1) validate the models on a periodic basis to mitigate the potential valuation uncertainty; (2) properly document the validation’s analysis, assumptions, and conclusions; (3) appropriately back-test representative samples of the valuations against market data on actual sales; (4) account fairly for improvements, property type or geographic comparables; (5) take other necessary steps to reasonably verify the accuracy of the valuations.

37. Plaintiff and the other members of the Class have additionally been harmed because Defendants have knowingly failed to disclose information that would permit Plaintiff and the

Class members to fairly determine whether to obtain an appraisal or otherwise challenge the Defendants' action, including but not limited to:

- a. how the Defendants determine or define "decline in value;"
- b. how the Defendants compute the value of the properties;
- c. the threshold value Defendants require a customer to have an appraisal state the property is worth, and the Defendants' methods for computing that value, so that WAMU and/or Chase will reinstate or unfreeze the HELOCs;
- d. the Defendants' actual and specific reasons for the reduction of the HELOCs;
- e. The process, procedures, and guidelines pursuant to which defendants implemented their reduction/cancellation of the HELOCs;
- f. other necessary information.

38. The Class and Defendants have adverse legal interests, and there is a substantial controversy between the Class and Defendants of sufficient immediacy and reality to warrant the issuance of a declaratory judgment as to whether Defendants' mass reduction of credit limits violates TILA and Regulation Z.

39. Chrystal, on her own behalf and behalf of the other Class members, seeks a declaratory judgment under 27 U.S.C. § 2201 that Defendants' mass reduction of HELOC credit limits in connection with its letter violates TILA and Regulation Z.

Count II: Violation of the TILA and Regulation Z (on behalf of Chrystal and the Class against Chase)

40. Plaintiff incorporates the above allegations by reference.

41. Defendants knowingly lacked a sufficient factual basis for reducing Plaintiff and the Class's credit limits or prohibiting additional extensions of credit. Defendants lacked a sound factual basis for concluding the homes securing the HELOCs for Chrystal and other Class members had declined in value so as to support reducing the credit limits or prohibiting additional extensions of credit.

42. Defendants' reduction of the credit limit for Chrystal and other Class members' HELOCs violated the Truth-in-Lending Act and Regulation Z.

43. Defendants' violations of the Truth-in-Lending Act and Regulation Z damaged Chrystal and the other Class members. These damages occurred in the form of the increased price of credit, appraisal fees, adverse effects on credit scores, loss of interest, and other damages.

44. Chrystal, on her own behalf and behalf of the other Class members, seeks actual damages under 15 U.S.C. § 1640(a)(1), statutory damages under 15 U.S.C. § 1640(a)(2) (B), and costs of the action, together with a reasonable attorney's fees under 15 U.S.C. § 1640(a)(3).

Count III: Violation of the TILA and Regulation Z(on behalf of Chrystal and the Subclass and Chase)

45. Plaintiff incorporates the above allegations by reference.

1. Where a creditor prohibits additional extensions of credit or reduces the credit limit, "the creditor shall mail or deliver written notice of the action to each consumer who will be affected. The notice must be provided not later than three business days after the action is taken and shall contain specific reasons for the action." Regulation Z, 12 C.F.R. § 226.9(c)(3).

2. On information and belief, Defendants provided Plaintiff and the members of the Class notices of its HELOC reductions were untimely and/or that did not contain specific reasons for the action in violation of 12 C.F.R. § 226.9(c)(3).

3. The Notices fail to provide HELOC customers with enough information to determine whether they should spend the time and resources to get an appraisal. Despite the Notice's own recognition that the customers' HELOC agreements and federal law requires a "significant decline in collateral value" prior to prohibiting additional extensions of credit or reducing the credit limit, the Notices are devoid of any specific reasoning beyond there being a general "decline in value" based on a "proven" and "standard method within the industry." The Notices do not reveal how the Defendants determine or define "decline in value," how the Defendants compute the value of the subject matter homes, the threshold value a customer needs to have an appraisal state the property is worth (and the Defendants' methods for computing that value) so that Chase will reinstate or unfreeze the HELOCs. Customer service is likewise unable and unwilling to provide this information to customers upon request, rendering any appeals process illusory.

4. Chrystal, on her own behalf and behalf of the other Notice Subclass members, seeks actual damages under 15 U.S.C. § 1640(a)(1), statutory damages under 15 U.S.C. § 1640(a)(2), (B), and costs of the action, together with a reasonable attorney's fee under 15 U.S.C. § 1640(a)(3).

Count IV: Breach of Contract (on behalf of Chrystal and the Class against Chase)

46. Plaintiff incorporates the above allegations by reference.

1. Chrystal and the other Class members obtained HELOCs from Defendants. The terms of these HELOCs constitute a contract between the Class members and Defendants.

2. The HELOCs contain a term that allows Defendants to reduce the credit limit if the value of the home securing the HELOC “declines significantly.” Defendants drafted the HELOCs, and the phrase "declines significantly" should be construed against Defendants.

3. Chrystal and the other Class members made all payments due to Defendants and otherwise fully performed under their HELOCs with Defendants.

4. The credit limit under the Class members’ HELOCs was a material term of the contract between Class members and Defendants.

5. Defendants materially breached the terms of the HELOCs by reducing the credit limit for Chrystal and other Class members’ HELOCs where no significant decline in value had first occurred.

6. As a result, Chrystal and the other Class members have suffered damages in the form of the appraisal fees, the increased price of credit, lost interest, attorneys' fees, adverse effects on Plaintiff’s credit score, and other damages.

7. Chrystal, on her own behalf and behalf of the other Class members, seeks damages for Defendants’ breach of contract, as well as interest and attorney’s fees and costs pursuant to New York State General Business Law § 349 (A) And §349 (H).

Count V: Breach of Implied Covenants (on behalf of Chrystal and the Class and Subclass against Chase)

47. Plaintiff incorporates the above allegations by reference.

1. Chrystal and the other Class members obtained HELOCs from Defendant. The terms of these HELOCs constitute a contract between the Class members and Defendant.

2. Implicit in the HELOC agreements were contract provisions that prevented the Defendants from engaging in conduct which frustrates the Class members' rights to the benefits of the contract or which would injure the right of the Class members' to receive the benefits of their HELOCs.
3. The credit limit was a material term of the Class members' HELOCs. Defendant breached the implied covenant of good faith and fair dealing in the HELOCs by reducing the credit limit for Chrystal and other Class members' HELOCs without first having a sound factual basis for claiming there was a decline in value.
4. Defendant further breached the implied covenant of good faith and fair dealing to the Subclass by failing to provide sufficiently specific notice and by failing to provide customers with material information regarding the calculations and values used to justify the reductions or freezes.
5. If not explicitly stated, implicit in the HELOC agreements were contract terms that required Defendant to follow Regulation Z.
6. Defendants' breach of Regulation Z and the HELOC covenants caused Chrystal and other Class members to incur damages in the form of appraisal fees, the increased price of credit, adverse effects on Plaintiff's credit score and other damages.
7. Chrystal, on her own behalf and behalf of the other Class and Subclass members, seeks damages for Defendants' breach of the implied covenant of good faith and fair dealing, as well as interest and attorney's fees and costs pursuant to New York State General Business Law § 349 (A) And §349 (H).

Good Faith and Fair Dealing

Count VI: Unjust Enrichment/Restitution(on behalf of Chrystal and the Class and Subclass)

48. Plaintiff incorporates the above allegations by reference.

49. In the alternative, and in the event the Court finds no contract provision expressly governs the issues raised herein, Defendants have knowingly received and retained benefits from Plaintiff and the Class members under circumstances that would render it unjust to allow Defendants to retain such benefits.

50. By using inaccurate and unsubstantiated valuation models to reduce the HELOCs while then requiring Plaintiff and members of the Class to obtain appraisals to reinstate the HELOCs, Defendants knowingly received and appreciated the benefits of current appraisals on homes in which they have security interests under circumstances where it would be unjust for Defendants not to bear the cost of the appraisals.

1. Furthermore, by illegally freezing and reducing the HELOCs, Defendants gained the time value of the money it would otherwise be potentially liable for lending out to its HELOC customers.

2. As an actual and proximate result of Defendants' conduct, Plaintiff and the Class members have incurred damages in the form of the increased price of credit, adverse effects on Plaintiff's credit score and other damages.

3. Chrystal, on her own behalf and behalf of the other Class and Subclass members, seeks damages for Defendants' breach of the implied covenant of good faith and fair dealing, disgorgement of all revenue and profits gained through its breach of the implied covenant of

good faith and fair dealing, as well as interest and attorney's fees and costs pursuant to New York State General Business Law § 349 (A) And §349 (H).

Count VII: Violation of New York State General Business Law § 349 (A) And §349 (H)
(on behalf of Chrystal and the Class)

51. Plaintiff incorporates the above allegations by reference.

1 Defendants' reduction of the credit limit for Chrystal and other Class members' HELOCs violated TILA and Regulation Z. With respect to the Class, Defendants' conduct was deceptive and untrue as the AVM models used to determine the values of the properties securing such HELOCs were, on information and belief and as alleged above, without a sound factual basis, and inaccurate and unsubstantiated so as to make their use unfair, deceptive and readily subject to manipulation. Given all of the other allegations in this Complaint, Defendants' acts alleged herein were unfair. These unlawful, deceptive, and unfair acts and practices constitute unfair competition in violation of the UCL.

2 Defendants have engaged in unfair, unlawful and fraudulent business acts and practices as set forth above.

3 Defendants have violated the "unfair" prong of the UCL in that Defendants' actions caused substantial injury to consumers; the injury caused by Defendants' conduct is not outweighed by any countervailing benefits to consumers or competition; and the injury is one that consumers themselves could not reasonably have avoided.

4 Defendants have violated the "fraudulent" prong of the UCL in that Defendants' statements regarding the availability of credit through the HELOCs were false and were likely to deceive a reasonable consumer. Further, Defendants' statements regarding any potential future

reduction of credit through the HELOCs would only occur through a substantial decline in value were false and were likely to deceive a reasonable consumer.

5 Defendants have violated the “unlawful” prong of the UCL in that Defendants’ conduct was undertaken in violation of TILA and Regulation Z.

6 Defendants’ violations of the UCL caused actual damage and loss to Chrystal and the other Class members in the form of appraisal fees, lost interest, and other damages.

7 Plaintiff and the class have suffered adverse effects their credit scores, attorneys’ fees and other damages.

8 Chrystal, on her own behalf and behalf of the other Class members, seeks an order enjoining Defendants’ unfair competition alleged herein, and individual restitution of property gained by such unfair competition under the UCL (Cal. Bus. & Prof. Code § 17203), as well as interest and attorney’s fees.

Count VIII: Violation of New York State General Business Law § 349 (A) And §349 (H) (on behalf of Chrystal and the Subclass)

52. Plaintiff incorporates the above allegations by reference.

1. Defendants’ form letter and customer service experience lacks necessary details and information, including the specific reasoning for suspending or reducing the HELOC credit limits and sufficient information to allow customers to determine whether an appraisal should be ordered.

2. Defendants have engaged in unfair, unlawful and fraudulent business acts and practices as set forth above.

3. Defendants have violated the “unfair” prong of the UCL in that Defendants’ actions caused substantial injury to consumers; the injury caused by Defendants’ conduct is not outweighed by any countervailing benefits to consumers or competition; and the injury is one that consumers themselves could not reasonably have avoided.

4. Defendants have violated the “fraudulent” prong of the UCL in that Defendants’ statements regarding the availability of credit through the HELOCs were false and were likely to deceive a reasonable consumer. Further, Defendants’ statements regarding the notice of any potential future reduction of credit through the HELOCs would only occur in a timely manner (within three business days) were false and were likely to deceive a reasonable consumer.

5. Defendants have violated the “unlawful” prong of the UCL in that Defendants’ conduct was undertaken in violation of TILA and Regulation Z.

6. Chrystal, on her own behalf and behalf of the other Subclass members, seeks an order enjoining Defendants’ unfair competition alleged herein, and individual restitution of property gained by such unfair competition as well as interest and attorney’s fees and costs pursuant to New York State General Business Law § 349 (A) and §349 (H).

WHEREFORE, Plaintiff prays that the Court enter judgment and orders in their favor and against Defendant as follows:

(a) Certifying the action as a class action and designating Plaintiff and her counsel as representatives of the Class and Subclass;

(b) Declaratory judgment under 27 U.S.C. § 2201 on Count I that the Defendants’ HELOCs reductions violate federal law;

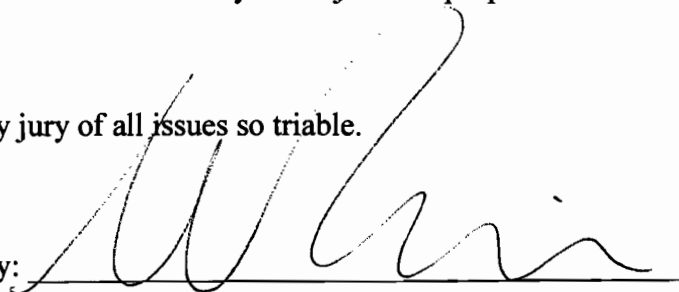
- (c) Statutory damages under 15 U.S.C. § 1640(a)(2)(B) for Count II;
- (d) Actual damages for the Subclass on Counts III, V, and VI, including but not limited to appraisal fees, the increased price of credit, NSF fees, attorney's fees, interest and other damages in an amount to be proved at trial;
- (e) Actual damages on Counts II, IV, V, and VI for the Class including but not limited to appraisal fees, the increased price of credit, NSF fees, attorney's fees, interest and other damages in an amount to be proved at trial;
- (f) Equitable and injunctive relief for the Class, including restitution of property gained by the unfair competition alleged herein, and an order for accounting of such property;
- (g) Equitable and injunctive relief for the Subclass, including restitution of property gained by the unfair competition alleged herein, and an order for accounting of such property;
- (h) Awarding pre- and post-judgment interest; and
- (i) Granting such other and further relief as the Court may deem just and proper

JURY TRIAL DEMAND

The Plaintiff hereby demands a trial by jury of all issues so triable.

Dated: December 21, 2010

By:



Miriam Zakarin, Esq. (MZ 0265)
TREUHAF & ZAKARIN LLP
1011 Avenue of the Americas, 4th Floor
New York New York, 10018
Telephone: (212) 725-6418
Facsimile: (646)924-0554