Consumer Financial Protection Bureau

CFPB Takes Action Against Top Notch Funding for Lying in Loan Offers to NFL Players, Deepwater Horizon Victims, and 9/11 First Responders

Proposed Order Would Shutter Post-Settlement Funding Business, End Deceptive Business Practices, and Impose Penalties

SEP 19, 2017

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (CFPB) took action today against Top Notch Funding and two individuals associated with the company for lying in loan offerings to consumers who were awaiting payment from settlements in legal cases or from victim-compensation funds. These consumers included former National Football League (NFL) players suffering from neurological disorders, victims of the Deepwater Horizon oil-rig disaster, and 9/11 first responders. In a complaint and proposed consent order filed in federal court, the CFPB is seeking to prevent Top Notch, its owner Rory Donadio, and his business associate John "Gene" Cavalli from offering or providing such products in the future, and to require them to pay $70,000 in civil money penalties to the CFPB's Civil Penalty Fund. The proposed penalties take into account the defendants' inability to pay more.

"It is reprehensible that Top Notch and its owner sought to scam NFL concussion victims, 9/11 heroes, and others to turn a quick profit," said CFPB Director Richard Cordray. "We allege that this company, its owner, and its associate misled vulnerable consumers by lying about the terms of the deals they offered. Our proposed order seeks to knock these parties out of this business altogether, and impose penalties on them."

Top Notch, owned and operated by Donadio, is a company headquartered in Verona, New Jersey that marketed loans to consumers. Cavalli is Donadio's business associate, and is based in New York. Top Notch marketed to consumers who were entitled to payments from legal settlements or victim-compensation funds. These consumers included former NFL players who are entitled to receive money from a settlement with the National Football League for injuries suffered while playing professional football, individuals who were harmed by the Deepwater Horizon oil-rig accident and are entitled to payouts from settlements related to that incident, and first responders injured as a result of the Sept. 11, 2001 World Trade Center attack who were entitled to payments from the Zadroga Fund established by Congress.

The CFPB alleges that the company, through Donadio and Cavalli, offered loans to these settlement-fund and victim-compensation-fund recipients while lying about the cost of the loans in the long run, among other important facts. The CFPB's complaint, filed in federal court in the Southern District of New York, alleges that in marketing the loans, Top Notch, Donadio, and Cavalli engaged in deceptive acts and practices, in violation of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Specifically, the CFPB alleges that Top Notch, Donadio, and Cavalli:

- **Deceived consumers into thinking that Top Notch was a lender:** Top Notch represented to consumers that it was a lender that could provide loans. In fact, Top Notch merely served as a broker for others, taking a commission when a consumer's transaction was completed.
- **Lied about the cost of loans:** Top Notch told consumers that they could obtain loans with a low "2% Annual Percentage Rate" or "1% interest rate." But every loan that Top Notch brokered was significantly more expensive for consumers. A typical loan that Top Notch brokered carried a rate greater than 20 percent.
- **Lied about how quickly they could receive funds:** Top Notch told consumers they could receive funds almost immediately—in many cases in as little as an hour. But when Top Notch did successfully broker a loan, it always took longer—typically weeks—for consumers to receive their funds.
- **Lied about the size and resources of the company:** Top Notch represented to consumers that the company had attorneys and accountants on staff and offices in all 50 states. In fact, the company had no offices and no attorneys or accountants on its staff.

Enforcement action

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB has the authority to take action against institutions and individuals violating consumer financial laws, including engaging in unfair, deceptive, or abusive acts or practices. The CFPB's order, if approved by the court, would require:

- **Top Notch, Donadio, and Cavalli to stop offering these types of loans:** If approved by the court, the consent order would prohibit Top Notch, Donadio, and Cavalli from offering or providing loans or advances to consumers awaiting payments from settlements or victim-compensation funds in the future.
- **Top Notch, Donadio, and Cavalli to pay $70,000:** The consent order would require Top Notch and its owner Rory Donadio to jointly pay a $60,000 civil penalty to the CFPB's Civil Penalty Fund, and Cavalli to pay $10,000 to the CFPB's Civil Penalty Fund. These penalties take into account defendants' inability to pay more.

A copy of the proposed consent order filed in federal district court is available at: http://files.consumerfinance.gov/f/documents/201709_cfpb_top-notch_proposed-consent-order.pdf

A copy of the complaint filed in federal district court is available at: http://files.consumerfinance.gov/f/documents/201709_cfpb_top-notch_complaint.pdf

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