

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In The Matter of)	
)	
PROGRESSIVE MORTGAGE CORPORATION,)	FILE NO. 932-3143
a corporation, and)	
)	AGREEMENT CONTAINING
SANFORD CRAMER,)	CONSENT ORDER TO
individually and as an officer)	CEASE AND DESIST
of said corporation.)	
)	
)	

The Federal Trade Commission having initiated an investigation of certain acts and practices of Progressive Mortgage Corporation, a corporation, and Sanford Cramer, individually and as an officer of said corporation ("proposed respondents"), and it now appearing that proposed respondents are willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated,

IT IS HEREBY AGREED by and between Progressive Mortgage Corporation, by its duly authorized officer, and Sanford Cramer, individually and as an officer of said corporation, their attorneys, and counsel for the Federal Trade Commission that:

1. Proposed respondent Progressive Mortgage Corporation is a corporation organized, existing and doing business under and by virtue of the laws of the state of Ohio with its principal office and place of business located at 5400 Transportation Boulevard, Cleveland, Ohio 44125.

Proposed respondent Sanford Cramer is President of Progressive Mortgage Corporation. He formulates, directs and controls the policies, acts and practices of the corporate respondent and maintains his office and principal place of business at the same address.

2. Proposed respondents admit all the jurisdictional facts set forth in the draft of complaint here attached.

3. Proposed respondents waive:

- a. Any further procedural steps;
- b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;
- c. All rights to seek judicial review or otherwise to challenge or contest the validity of the Order entered pursuant to this agreement.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of the complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondents that the law has been violated as alleged in the draft of the complaint here attached, or that the facts as alleged in the draft complaint, other than jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to the proposed respondents, (a) issue its complaint corresponding in form and substance with the draft of the complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding and (b) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to proposed respondents' address as stated in this agreement shall constitute service. Proposed respondents waive any right they may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondents have read the proposed complaint and order contemplated hereby. Proposed respondents understand that once the order has been issued, they will be required to

file one or more compliance reports showing that they have fully complied with the order. Proposed respondents further understand that they may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

I.

IT IS ORDERED that respondent, Progressive Mortgage Corporation, a corporation, its successors and assigns, and its officers, agents, representatives, and employees, directly or through any corporation, division, subsidiary or any other device, in connection with any extension of consumer credit in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Failing to include premiums for mortgage insurance, for so long as such insurance is required, in determining the finance charge and annual percentage rate as required by Sections 106 and 107 of the TILA, 15 U.S.C. §§ 1605 and 1606, and Sections 226.4(b)(5) and 226.22 of Regulation Z, 12 C.F.R. §§ 226.4(b)(5) and 226.22.

B. Failing to disclose accurately, where mortgage insurance is required, the finance charge and the annual percentage rate as required by Sections 106, 107 and 128 of the TILA, 15 U.S.C. §§ 1605, 1606, and 1638, and Section 226.4, 226.22, and 226.18(d) and (e) of Regulation Z, 12 C.F.R. §§ 226.4, 226.22, and 226.18(d) and (e).

C. Failing to disclose accurately, where mortgage insurance is required, the number, amount, and timing of payments scheduled to repay the obligation, as required by Section 128 of the TILA, 15 U.S.C. § 1638, and Section 226.18(g) of Regulation Z, 12 C.F.R. § 226.18(g).

D. Failing to disclose accurately, where mortgage insurance is required, the total of payments scheduled to repay the obligation, as required by Section 128 of the TILA, 15 U.S.C. § 1638, and Section 226.18(h) of Regulation Z, 12 C.F.R. § 226.18(h).

E. Failing to make all disclosures determined in accordance with Sections 106 and 107 of the TILA, 15 U.S.C. §§ 1605 and 1606, and Sections 226.4 and 226.22 of Regulation Z, 12 C.F.R. §§ 226.4 and 226.22, in the manner, form and amount

required by Sections 226.17, 226.18, 226.19, and 226.20 of Regulation Z, 12 C.F.R. §§ 226.17, 226.18, 226.19, and 226.20.

F. Misrepresenting any term or condition of financing for any consumer credit transaction.

II.

IT IS FURTHER ORDERED that respondent Sanford Cramer, individually and as an officer of respondent Progressive Mortgage Corporation, and his agents, representatives and employees, directly or through any corporation, division, subsidiary or any other device in connection with any extension of consumer credit in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Misrepresenting the annual percentage rate and the finance charge in written disclosures provided to consumers relating to the TILA.

B. Misrepresenting the number, amount, and timing of payments scheduled to repay the obligation in written disclosures provided to consumers relating to the TILA.

C. Misrepresenting the total of payments scheduled to repay the obligation in written disclosures provided to consumers relating to the TILA.

D. Misrepresenting any term or condition of financing for any consumer credit transaction.

III.

IT IS FURTHER ORDERED that for six (6) years after the date of service of this Order, respondent Progressive Mortgage Corporation, its successors or assigns, and respondent Sanford Cramer, individually and as an officer of Progressive Mortgage Corporation, shall maintain and upon request make available to the Commission and its employees all records that will demonstrate compliance with the requirements of this Order.

IV.

IT IS FURTHER ORDERED that respondent Progressive Mortgage Corporation, and its successors and assigns, and respondent Sanford Cramer, shall deliver a copy of this Order to all current and future principals, officers, directors and managers, and to all current and future employees, agents and representatives having responsibilities with respect to the subject matter of

this Order, and shall secure from each such person a signed and dated statement acknowledging receipt of the Order. Respondents shall deliver this Order to current personnel within thirty (30) days after the date of service of this Order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

V.

IT IS FURTHER ORDERED that respondent Progressive Mortgage Corporation and its successors and assigns shall notify the Commission at least thirty (30) days prior to any change in the Corporation that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent or affiliate that engages in any acts or practices subject to this Order; the proposed filing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the Corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this paragraph shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

VI.

IT IS FURTHER ORDERED that respondent Sanford Cramer shall promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. In addition, for a period of five (5) years from the date of service of this Order, he shall promptly notify the Commission of each affiliation with a new business or employment. Each such notice shall include his business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of his duties and responsibilities in connection with the business or employment.

VII.

IT IS FURTHER ORDERED that respondent Progressive Mortgage Corporation, its successors and assigns, and respondent Sanford Cramer shall, within sixty (60) days of the date of service of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this Order. The report shall be forwarded to the Federal Trade Commission, Enforcement Division, Washington, D.C. 20580.

VIII.

IT IS FURTHER ORDERED that this Order shall terminate twenty (20) years from the date of its issuance, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the Order, whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any paragraph in this Order that terminates in less than twenty (20) years;
- B. This Order's application to any respondent that is not named as a defendant in such complaint; and
- C. This Order if such complaint is filed after the Order has terminated pursuant to this paragraph.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this paragraph as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

Signed this _____ day of _____, 1996.

PROGRESSIVE MORTGAGE CORPORATION,
a corporation

by:

Sanford Cramer, President

SANFORD CRAMER, individually and as an
officer of Progressive Mortgage Corporation

Leonard A. Wolkov, Counsel
Progressive Mortgage Corporation and Sanford Cramer

FEDERAL TRADE COMMISSION

Brenda W. Doubrava, Attorney

Willie L. Greene, Investigator
Counsel for Federal Trade Commission

Approved:

John M. Mendenhall, Acting Regional Director
Cleveland Regional Office
Federal Trade Commission

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

In The Matter of)	
)	
PROGRESSIVE MORTGAGE CORPORATION,)	
a corporation, and)	
)	DOCKET NO.
SANFORD CRAMER,)	
individually and as an officer)	
of said corporation.)	
)	
)	

COMPLAINT

The Federal Trade Commission, having reason to believe that Progressive Mortgage Corporation, a corporation, has violated the provisions of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C §§ 45-58, as amended, and the Truth in Lending Act ("TILA"), 15 U.S.C. §§ 1601-1667, as amended, and its implementing Regulation Z, 12 C.F.R. Part 226, and that Sanford Cramer, individually and as an officer of Progressive Mortgage Corporation, has violated the FTC Act, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, issues this complaint and alleges as follows:

PARAGRAPH ONE: Respondent Progressive Mortgage Corporation is a corporation organized, existing, and doing business under and by virtue of the laws of the State of Ohio, with its principal place of business at 5400 Transportation Boulevard, Cleveland, Ohio 44125.

Respondent Sanford Cramer is the President of Progressive Mortgage Corporation. He formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint. His principal place of business is the same as that of the corporate respondent.

PARAGRAPH TWO: Respondent Progressive Mortgage Corporation has been and is now engaged in the business of offering "consumer

credit" to the public and is a "creditor," as those terms are defined in the TILA and Regulation Z.

PARAGRAPH THREE: The acts and practices of respondents alleged in this complaint have been and are in or affecting commerce, as "commerce" is defined in the FTC Act, 15 U.S.C. § 44.

PARAGRAPH FOUR: Respondent Progressive Mortgage Corporation, in the course and conduct of its business, on certain occasions, has failed to include the premiums for mortgage insurance, for so long as such insurance is required, in determining the finance charge and annual percentage rate for consumer credit transactions, and, thus, has understated the annual percentage rate and finance charge in its TILA disclosures.

PARAGRAPH FIVE: The aforesaid practice of respondent Progressive Mortgage Corporation violates Sections 106, 107 and 128 of the TILA, 15 U.S.C. §§ 1605, 1606 and 1638, respectively, and Sections 226.4(b)(5); 226.22; and 226.18(d) and (e) of Regulation Z, 12 C.F.R. §§ 226.4(b)(5); 226.22; and 226.18(d) and (e), respectively, and constitutes an unfair and deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

PARAGRAPH SIX: Respondent Progressive Mortgage Corporation, in the course and conduct of its business, on certain occasions, has failed to disclose accurately the number, amount, and timing of payments scheduled to repay the obligation in its TILA disclosures.

PARAGRAPH SEVEN: The aforesaid practice of respondent Progressive Mortgage Corporation violates Section 128 of the TILA, 15 U.S.C. § 1638, and Section 226.18(g) of Regulation Z, 12 C.F.R. § 226.18(g), and constitutes an unfair and deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

PARAGRAPH EIGHT: Respondent Progressive Mortgage Corporation, in the course and conduct of its business, on certain occasions, has failed to disclose accurately the total of payments scheduled to repay the obligation in its TILA disclosures.

PARAGRAPH NINE: The aforesaid practice of respondent Progressive Mortgage Corporation violates Section 128 of the TILA, 15 U.S.C. § 1638, and Section 226.18(h) of Regulation Z, 12 C.F.R. § 226.18(h), and constitutes an unfair and deceptive act or practice in violation of Section 5(a) of the FTC Act,

15 U.S.C. § 45(a).

PARAGRAPH TEN: Respondent Sanford Cramer, in the course and conduct of his business, has provided written disclosures to customers and potential customers of Progressive Mortgage Corporation relating to the TILA that state, for mortgage loans, the annual percentage rate, the finance charge, the monthly payment amount, and the total of payments scheduled to repay the obligation.

PARAGRAPH ELEVEN: Through the use of these written disclosures, respondent Sanford Cramer has represented, directly or by implication, that the figures and amounts stated therein truthfully represent the annual percentage rate, the finance charge, the monthly payment amount, and the total of payments scheduled to repay the obligation.

PARAGRAPH TWELVE: In truth and fact, on certain occasions, the figures and amounts contained in these written disclosures were less than the actual annual percentage rate, finance charge, monthly payment amount, and total of payments scheduled to repay the obligation. Therefore, the representations set forth in PARAGRAPH ELEVEN were, and are, false and misleading.

PARAGRAPH THIRTEEN: The aforesaid acts and practices of respondent Sanford Cramer constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

For these reasons, the Federal Trade Commission this _____
day of _____, 1996, has issued this complaint against
respondents.

By the Commission.

SEAL

Donald S. Clark
Secretary

ANALYSIS OF PROPOSED CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission has accepted an agreement to a proposed consent order from Progressive Mortgage Corporation, a mortgage banker and its president Sanford Cramer.

The proposed consent order has been placed on the public record for sixty (60) days for the reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Commission's complaint charges that proposed respondents failed to include premiums for mortgage insurance in calculating the finance charge and the annual percentage rate for mortgage loans. Respondents failed to accurately disclose to consumers the payment schedule and total of payments scheduled to repay the obligation in its Truth in Lending Act disclosures.

The Complaint also alleges that Sanford Cramer President provided false and misleading written disclosures relating to the Truth in Lending Act about consumer credit transactions.

The proposed Consent order contains provisions designed to remedy the violations charged and to prevent the proposed respondents from engaging in similar acts and practices in the future. Part I of the order prohibits Progressive from engaging in the alleged practices in the future. Part I also requires Progressive to calculate and make all disclosures required by the Truth in Lending Act and cease from misrepresenting any term or condition of financing for any consumer credit transaction.

Paragraph II of the Order addresses the specific practices at issue by prohibiting Cramer from misrepresenting the annual percentage rate, the finance charge, the monthly payment amount or the total of payments in any written disclosure. He is also prohibited from misrepresenting any term or condition of financing for any consumer credit transaction.

The remainder of the proposed order consists of a six year recordkeeping provision and other standard compliance provisions.

The purpose of this analysis is to facilitate public comment on the proposed order, and is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms.