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3-21-2002

### Home Mortgage Lender Settles "Predatory Lending" Charges

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#### Recommended Citation

United States: Federal Trade Commission (FTC), "Home Mortgage Lender Settles "Predatory Lending" Charges" (2002). *YPFS Documents*. 4871.

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# Federal Trade Commission

## Protecting America's Consumers

**Embargoed for 2 p.m. Release:** March 21, 2002

### **Home Mortgage Lender Settles "Predatory Lending" Charges Settlement Could Mean As Much As \$60 Million in Consumer Redress**

Nearly 18,000 borrowers could receive as much as \$60 million dollars in compensation under the terms of a settlement of a lawsuit involving a California-based home mortgage lender and its chief executive officer.

The settlement with First Alliance Mortgage Company (First Alliance) was announced today by the Federal Trade Commission; the states of Arizona, California, Florida, Illinois, Massachusetts, and New York; AARP; and private attorneys for class action plaintiffs and for individual plaintiffs with unfair lending claims. The settlement must be approved by a federal district court in Santa Ana, California.

The agreement settles charges that First Alliance and its chief executive officer violated federal and state laws in making home mortgage loans to customers. The settlement was obtained through a joint effort of the governmental agencies and private plaintiffs' counsel.

The settlement creates a consumer redress fund that will include all of the remaining assets of First Alliance and its affiliates, now being liquidated in bankruptcy court, as well as a payment of \$20 million from Brian Chisick and his wife, Sarah Chisick. The settlement amount is one of the largest consumer protection recoveries in FTC history.

First Alliance, headquartered in Irvine, California, offered home loans, usually secured by first mortgages. The company targeted its loans to the "subprime" market, which includes homeowners with poor credit ratings who may not be able to qualify for conventional loans. Brian Chisick founded First Alliance and served as its chairman of the board, CEO and president. Sarah Chisick, served on First Alliance's board of directors.

The FTC sued First Alliance, Brian Chisick, and Sarah Chisick in October 2000. In May 2001, the federal district court consolidated the FTC's October 2000 complaint with complaints that were previously filed by the states, AARP, and the private parties against First Alliance, Brian and Sarah Chisick, and certain First Alliance employees. The complaints were filed as part of the FTC's, states', and AARP's continuing effort to combat unlawful practices in the lending industry.

These complaints allege that First Alliance marketed its loans through a sophisticated campaign of telemarketing and direct mail solicitations. Consumers who visited First Alliance's loan offices in response to the solicitation were subjected to a lengthy sales presentation known as the "Track."

According to these complaints, First Alliance's solicitations and the "Track" presentation misled consumers about the existence and amount of loan origination fees (commonly known as "points") and other fees that First Alliance charged - which typically amounted to 10 percent to 25 percent of the loan. Consumers also were allegedly misled about increases in the interest rate and the amount of monthly payments on adjustable rate mortgage (ARM) loans that the company offered. Additionally, the complaints allege that First Alliance violated the federal Truth-in-Lending Act by failing to provide consumers obtaining ARM loans with a required booklet explaining how these loans worked.

The proposed settlement, if approved by the court, consists of; 1) a Stipulation of Settlement, entered into by First Alliance, Brian and Sarah Chisick, and certain employees of First Alliance, as well as the FTC, the states, AARP, and the private plaintiffs; 2) an Order Preliminarily Approving Stipulated Final Judgment, Permanent Injunction, and Monetary Settlement, entered into by the FTC, First Alliance, and Brian and Sarah Chisick; and 3) a consent order between the states and First Alliance, Brian and Sarah Chisick, and certain employees of First Alliance. The settlement documents include the following relief:

- An injunction preventing First Alliance and Brian Chisick from making misrepresentations regarding offers of credit;
- The establishment of a redress fund to be distributed to borrowers who obtained First Alliance loans from 1992 through March 23, 2000, and who have not previously settled with First Alliance. The fund will include all of the assets in First Alliance's bankruptcy estate (after payments to certain creditors), \$20 million from the Chisicks, \$1 million from the insurers of the trusts that currently hold the loans, and at least \$3 million from certain insurance policies;
- The preservation of lawsuits currently pending against Lehman Brothers and other financiers of First Alliance that have been brought by certain private plaintiffs;
- A 10-year ban preventing Brian and Sarah Chisick from engaging in the residential mortgage loan origination business in Arizona, Massachusetts, and New York; and
- A permanent ban preventing Brian and Sarah Chisick from engaging in the residential mortgage loan origination business in California, Florida, and Illinois.

Several conditions must be met before the settlement becomes effective and money can be distributed to consumers. These conditions include the court's approving both the settlement and the bankruptcy liquidation plan that First Alliance will be filing. Once the conditions are met and the settlement is approved, the FTC will administer the redress fund and will notify consumers of any actions they must take to receive redress. Pursuant to the settlement of the class action lawsuit, consumers will be receiving a notice explaining the settlement agreement in more detail and what actions consumers should take to ensure receipt of their redress.

The Commission vote authorizing staff to file the Stipulation of Settlement and the Order Preliminarily Approving Stipulated Final Judgment, Permanent Injunction, and Monetary Settlement was 5-0, on March 15, 2002. The Stipulation and Order will be filed for court approval in the U.S. District Court for the Southern District of California, Central Division, Santa Ana, California.

This settlement represents the latest law enforcement action in the FTC's efforts to combat fraud and deception in the subprime home mortgage lending business. In the last three years, the Commission has brought 15 enforcement actions against subprime lenders allegedly engaged in unlawful practices.

**NOTE:** The Stipulation of Settlement and the Order Preliminarily Approving Stipulated Final Judgment, Permanent Injunction, and Monetary Settlement are for settlement purposes only and do not constitute an admission by the defendants of a law violation. The Stipulation of Settlement and the Order Preliminarily Approving Stipulated Final Judgment, Permanent Injunction, and Monetary Settlement have the force of law when signed by the judge and when all of the pre-conditions required to the effective date have occurred.

**Consumers** who may have been victims of the financial fraud do not need to take any action now. For more information about the settlement, consumers may call the FTC's First Alliance Consumer Hotline, toll free, at 877-862-0886.

**Copies** of the Stipulation of Settlement and Order Preliminarily Approving Stipulated Final Judgment, Permanent Injunction, and Monetary Settlement are available from the FTC's Web site at <http://www.ftc.gov> and also from the FTC's Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

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**(Civil Action No.: SACV 00-964 DOC (MLGx))  
(FTC File No.: X010029)**