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10 UNITED STATES DISTRICT COURT  
 11 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
 12 WESTERN DIVISION

14 UNITED STATES OF AMERICA

15 Plaintiff,

16 v.

17 UNICOR FUNDING, INC.,  
 a California corporation

18 Defendant.

CIVIL NO. SAC 99-1228 CLT (HMX)

COMPLAINT

20 Plaintiff, the United States of America, acting upon notification and authorization to the Attorney  
 21 General by the Federal Trade Commission ("Commission"), by its undersigned attorneys, for its  
 22 complaint alleges as follows:

23 JURISDICTION AND VENUE

24 1. This is an action arising under § 5(a), 9, 13(b), and 16(a) of the Federal Trade Commission Act  
 25 ("FTC Act"), 15 U.S.C. § 45(a), 49, 53(b), and 56(a), and the Fair Credit Reporting Act ("FCRA"),  
 26 15 U.S.C. § 1681-1681u, to secure permanent injunctive and other relief for violations of the FTC Act  
 27 and the FCRA, and to obtain monetary civil penalties for violations of the FCRA.  
 28

cc: Hargis 10-14-99

1 2. This Court has jurisdiction over this matter under 28 U.S.C. § § 1331, 1337, 1345, and 1355, and  
2 under 15 U.S.C. § § 45(a), 45(m)(1)(A), 53(b), 57b, and 1681s. This action arises under 15 U.S.C.  
3 § 45(a)(1) and 15 U.S.C. § 1681m.

4 3. Venue is proper in the United States District Court for the Central District of California under  
5 28 U.S.C. § § 1391(b-c) and 1395(a), and 15 U.S.C. 53(b).

6 THE PARTIES

7 4. This action is brought by the United States on behalf of the Federal Trade Commission. The  
8 Commission is an independent agency of the United States Government given statutory authority and  
9 responsibility by the FTC Act, as amended, 15 U.S.C. § § 41-58. The Commission is charged, *inter alia*,  
10 with enforcing § 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or  
11 practices in or affecting commerce, and the FCRA, 15 U.S.C. § 1681-1681u, which imposes duties upon  
12 consumer reporting agencies and those who furnish information to a consumer reporting agency or use  
13 information obtained from a consumer reporting agency.

14 5. Defendant Unicor Funding, Inc. ("Unicor Funding") is a for-profit corporation organized,  
15 existing, and doing business under the laws of the State of California. Its principal place of business is  
16 at 26391 Crown Valley Parkway, Mission Viejo, California 82691.

17 DEFINITIONS

18 As used in this Complaint:

- 19 1. the Fair Credit Reporting Act or FCRA refers to 15 U.S.C. §§ 1681-1681u, as amended;
- 20 2. the term "consumer report" is defined as provided in Sections 603(d) of the FCRA, 15  
21 U.S.C. §§ 1681a(d);
- 22 3. the term "defendant" means Unicor Funding, Inc.;
- 23 4. the term "prescreen" means the process by which consumers are selected to receive offers  
24 of credit or insurance by using consumer reports to screen individuals to identify those  
25 who meet criteria set by a creditor or insurer. The prescreen process is covered by  
26 Sections 603(l), 604(c), 604(e), and 615(d) of the FCRA, 15 U.S.C. § § 1681a(l),  
27 1681b(c), 1681b(e), and 1681m(d).

1  
2 DEFENDANT'S BUSINESS

3 6. Defendant maintains a course of trade in commerce, as "commerce" is defined in Section 4 of the  
4 FTC Act, 15 U.S.C. § 44, offering and extending credit to consumers and others, including, but not  
5 limited to consumer credit transactions that are covered by Title I of the National Housing Act, 12 U.S.C.  
6 § 1701. These are, inter alia, loans for home improvements that are insured by the Federal Housing  
7 Administration of the Department of Housing and Urban Development.

8 7. Defendant solicits consumers for Title I loans by, among other means, mailing postcards to them.  
9 In some instances, consumers are selected to receive postcards through the process of "prescreening."

10 8. Postcard solicitations sent by the defendant state that consumers are "pre-approved" for Title I  
11 loans or that their property is "pre-approved." (Representative postcards for the period January 1, 1996,  
12 through July 1, 1998, are appended as Appendix A.) In fact, when consumers respond to these  
13 postcards and apply for credit, defendant evaluates them by, among other things, reviewing the  
14 consumers' credit reports to determine the consumers' credit status. Only where consumers meet the  
15 standards used in this evaluation are they provided credit.

16 VIOLATION OF SECTION 5 THE FTC ACT

17 FIRST COUNT

18 9. In numerous instances, in the course and conduct of offering and extending credit, defendant has  
19 represented, expressly or by implication, that recipients of its solicitations are "pre-approved" to receive  
20 credit from the defendant.

21 10. In truth and in fact, all recipients of the defendant's solicitations are not "pre-approved" to receive  
22 credit from the defendant. In numerous instances, consumers who respond to the defendant's  
23 solicitations do not receive credit. Therefore, the representation set forth in Paragraph 9 above was, and  
24 is, false and misleading.

25 11. The acts and practices alleged in Paragraph 9 constitute deceptive acts or practices in violation  
26 of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

1 VIOLATIONS OF THE FCRA

2 SECOND COUNT

3 12. Section 615(a) of the FCRA, 15 U.S.C. § 1681m(a), requires anyone who uses a consumer report  
4 (such as a credit report) in whole or in part as a basis for an adverse decision (such as denying credit or  
5 increasing the rate of interest charged) to provide specific information to the consumer, including notice  
6 that the consumer may obtain a free copy of his or her report and may dispute the accuracy or  
7 completeness of any information in the report with the consumer reporting agency.

8 13. In numerous instances, the defendant has denied credit to consumers because of information  
9 contained in credit reports, but has failed to provide consumers with a statement of their rights, inter alia,  
10 to obtain a free copy of their consumer report and to dispute the accuracy or completeness of information  
11 in the reports as required by Section 615(a) of the FCRA, 15 U.S.C. § 1681m(a).

12 14. The acts and practices alleged in Paragraph 13 constitute violations of Section 615(a) of the  
13 FCRA, 15 U.S.C. § 1681m(a).

14 15. Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the acts and practices  
15 alleged in Paragraph 13 also constitute unfair or deceptive acts or practices in violation of Section 5(a)  
16 of the FTC Act, 15 U.S.C. § 45(a).

17 THIRD COUNT

18 16. Section 615(d) of the FCRA, 15 U.S.C. § 1681m(d), requires any person who uses a consumer  
19 report for "prescreening" to include specific information on solicitations, including a clear and  
20 conspicuous statement describing the prescreening process and the consumer's right to prevent the future  
21 use of his or her consumer report for prescreening.

22 17. From October 1, 1997, through December 31, 1997, defendant solicited customers by sending  
23 postcards to consumers who were selected by "prescreening" using consumer reports but have failed to  
24 provide with each written solicitation clear and conspicuous statements describing the prescreening  
25 process and the consumer's right to prevent the future use of his or her consumer report for prescreening  
26 as required by Section 615(d) of the FCRA, 15 U.S.C. § 1681m(d).

27 18. The acts and practices alleged in Paragraph 17 constitute violations of Section 615(d) of the  
28

1 FCRA, 15 U.S.C. § 1681m(d).

2 19. Pursuant to Section 621(a) of the FCRA, 15 U.S.C. § 1681s(a)(1), the acts and practices alleged  
3 in Paragraph 17 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the  
4 FTC Act, 15 U.S.C. § 45(a).

5 CIVIL PENALTIES AND INJUNCTION

6 20. Each instance in which the defendant violated the FCRA since September 30, 1997, the date that  
7 the amended FCRA went into effect providing for civil penalties for violations of the law, constitutes a  
8 separate violation of the FCRA for which plaintiff seeks monetary civil penalties under Section 621 of  
9 the FCRA, 15 U.S.C. § 1681s.

10 21. Section 621 authorizes the Court to award monetary civil penalties of not more than \$2,500 per  
11 violation for violations occurring after September 30, 1997.

12 22. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue a  
13 permanent injunction prohibiting the defendant from violating the FTC Act and the FCRA.

14 PRAYER FOR RELIEF

15 WHEREFORE, plaintiff requests that this Court, pursuant to 15 U.S.C. §§ 45(a), 45(m)(1)(A),  
16 49, and 53(b), and 15 U.S.C. § 1681s, and pursuant to this Court's own equity powers:

17 1. Enter judgment against the defendant and in favor of plaintiff for each violation alleged  
18 in this complaint;

19 2. Award plaintiff monetary civil penalties for each violation of the FCRA as alleged in this  
20 complaint;

21 3. Enjoin defendant from violating the FCRA and the FTC Act; and

22 4. Award plaintiff such additional relief as the Court may deem just and proper.

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Respectfully submitted,

DATED:

FOR THE UNITED STATES OF AMERICA:

Of Counsel:

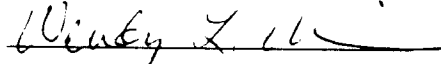
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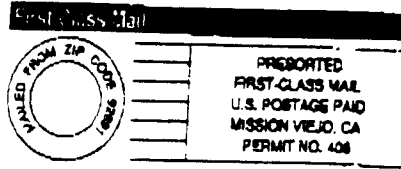
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UNICOR FUNDING, INC.®  
Important Update to  
Owner Occupied Residences



PROPRIETARY INFORMATION  
NOT TO BE TAKEN  
OUT OF THE OFFICE

**NEW CREDIT APPROVAL!!**

IMPORTANT: Your credit has been reviewed, pre-approval is based on current credit & ability to repay.\*

**YOU ARE PRE-APPROVED UP TO:**

INCREASED AMOUNT	AUTHORIZED LENDER PHONE #	PRE-APPROVED CONFIRMATION #

- PAY OFF BILLS-LOWER PAYMENTS / HOME IMPROVEMENTS
- APPLY BY PHONE - NO EQUITY OR APPRAISAL NEEDED

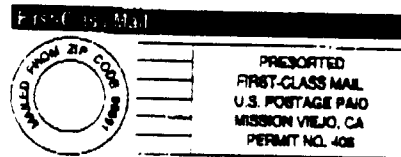
PROPERTY OWNER'S NAME & ADDRESS



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UNICOR FUNDING, INC.®  
Important Update to  
Owner Occupied Residences



**NEW CREDIT APPROVAL!!**

IMPORTANT: Your credit has been reviewed, pre-approval is based on current credit & ability to repay.\*

**YOU ARE PRE-APPROVED UP TO:**

INCREASED AMOUNT	AUTHORIZED LENDER PHONE #	PRE-APPROVED CONFIRMATION #

- HOME IMPROVEMENTS - NO APPRAISAL REQUIRED
- APPLY BY PHONE - 15 TO 20 YEAR FIXED RATES

PROPERTY OWNER'S NAME & ADDRESS



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PAY OFF 1 (BLACK) 10/97

HOME 1 (BLACK) 10/97

Important Update to  
Owner Occupied Residences

U.S. Postage Paid  
Mission Viejo, CA  
Permit No. 406

**PROPRIETARY INFORMATION  
NOT TO BE TAKEN  
OUT OF THE OFFICE**

**EFFECTIVE IMMEDIATELY!**


IMPORTANT: Your SFR property has been reviewed, please read this document carefully.

**YOUR PROPERTY IS PRE-APPROVED UP TO THE AMOUNT BELOW**

- \* PAYOFF BILLS / HOME IMPROVEMENTS - NO EQUITY REQUIRED
- \* SAME DAY APPROVAL BY PHONE - SOME CREDIT PROBLEMS O.K.

2-96

INCREASED AMOUNT	AUTHORIZED DIRECT LENDER	TELEPHONE
PROPERTY OWNER'S NAME & ADDRESS		



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UNICOR FUNDING, INC.  
Important Update to  
Owner Occupied Residences

Bulk Rate  
U.S. Postage Paid  
Mission Viejo, CA  
Permit No. 406

**EFFECTIVE IMMEDIATELY!**

IMPORTANT: Your SFR property has been reviewed, please read this document carefully.

**YOUR PROPERTY IS PRE-APPROVED FOR THE AMOUNT BELOW**

- \* HOME IMPROVEMENTS - NO APPRAISAL OR EQUITY REQUIRED
- \* SAME DAY APPROVAL BY PHONE - 15 TO 20 YEAR FIXED RATES

2-96

INCREASED AMOUNT	AUTHORIZED DIRECT LENDER	TELEPHONE
PROPERTY OWNER'S NAME & ADDRESS		

