

UNITED STATES OF AMERICA
CONSUMER FINANCIAL PROTECTION BUREAU

ADMINISTRATIVE PROCEEDING

File No. 2015-CFPB-0018

In the Matter of:

LOANCARE, LLC.

CONSENT ORDER

The Consumer Financial Protection Bureau (Bureau) has reviewed certain acts and practices of LoanCare, LLC (Respondent, as defined below), regarding its advertisements for the Equity Accelerator mortgage savings program (the Equity Accelerator Program) and has identified that Respondent misrepresented consumers' loan payment schedules under the Equity Accelerator Program, in violation of 12 U.S.C. § 5536(a).

Under sections 1053 and 1055 of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5563 and 5565, the Bureau issues this Consent Order (Consent Order).

I

Jurisdiction

1. The Bureau has jurisdiction over this matter under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565.

II

Stipulation

2. Respondent has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated July 21, 2015 (Stipulation), which is incorporated by reference and is accepted by the Bureau. By this Stipulation, Respondent has consented to the issuance of this Consent Order by the Bureau under sections 1053 and 1055 of the CFPB, 12 U.S.C. §§ 5563 and 5565. Respondent neither admits nor denies the findings of fact or conclusions of law in this Consent Order, except that Respondent admits the facts necessary to establish the Bureau’s jurisdiction over Respondent and the subject matter of this action.

III

Definitions

3. The following definitions apply to this Consent Order:
 - a. “Effective Date” means the date on which the Consent Order is issued.
 - b. “Regional Director” means the Regional Director for the Southeast Region for the Office of Supervision for the Consumer Financial Protection Bureau, or his/her delegee.
 - c. “Related Consumer Action” means a private action by or on behalf of one or more consumers or an enforcement action by another governmental agency brought against Respondent based on substantially the same facts as described in Section IV of this Consent Order.
 - d. “Relevant Period” includes the period from June 15, 2012, to the Effective Date.
 - e. “Respondent” means LoanCare, LLC, and its successors and assigns.

BUREAU FINDINGS AND CONCLUSIONS

IV

General

4. Respondent is a residential mortgage servicer based in Virginia Beach, VA, that partnered with Paymap Inc. (Paymap), a payment processing company, to market and provide the Equity Accelerator Program to consumers.
5. Respondent is a “covered person” and “service provider” under the CFPA. 12 U.S.C. §§ 5481(6) and 5481(26).
6. During the Relevant Period, Respondent partnered with Paymap to offer and provide the Equity Accelerator Program to Respondent’s customers.
7. The Equity Accelerator Program is an electronic payment system that enables consumers to make automatic mortgage payments to their mortgage servicers through debits from their bank accounts. Respondent does not currently market the Equity Accelerator Program.
8. Consumers who enroll in the Equity Accelerator Program agree to allow Paymap to deduct a portion of their monthly mortgage payment plus a transaction fee from their bank account on a weekly, biweekly, semi-monthly, or monthly basis.
9. Paymap typically charges the consumer an enrollment fee of \$295, and a transaction fee for each debit, typically \$2.50, to participate in the Equity Accelerator Program. By agreement, Respondent receives \$110 of the enrollment fee and \$0.75 of each transaction fee.
10. Although Paymap charges consumers a transaction fee with each withdrawal, Paymap does not transfer a consumer’s payments to Respondent at the time the funds are debited from a consumer’s account. Instead, Paymap holds a

consumer's payment in a custodial account until the beginning of the month in which the consumer's next mortgage payment is due. Paymap then transfers the consumer's payment to Respondent, and Respondent applies the funds to the consumer's loan on the regular monthly due date.

11. For consumers who select a biweekly payment schedule, Paymap debits approximately one-half of the consumer's regularly-scheduled mortgage payment, plus a transaction fee of \$2.50, every two weeks. During the two months each year with three biweekly payments, Paymap applies the extra biweekly payment to any remaining balance on the consumer's enrollment fee. After Paymap collects the full enrollment fee, Paymap transfers the consumer's extra biweekly payments to Respondent as an additional payment to the consumer's loan principal with the next scheduled monthly mortgage payment.
12. For consumers who select a weekly payment schedule, Paymap debits approximately one-quarter of the consumer's regularly-scheduled mortgage payment, plus a transaction fee. During the four months each year with five weekly payments, Paymap applies the extra weekly payment to any remaining balance on the consumer's enrollment fee, and Paymap transfers any additional amounts to Respondent as an additional principal payment with the next scheduled monthly mortgage payment.
13. For consumers who select a semi-monthly payment schedule, Paymap debits approximately one-half of the consumer's regularly-scheduled mortgage payment, plus $1/24$ of that payment and a transaction fee, two times per month. After Paymap collects the enrollment fee, Paymap transfers the consumer's

extra payments to Respondent as an additional payment to the consumer's loan principal with the next scheduled monthly mortgage payment.

14. In all cases, Paymap collects a transaction fee with each withdrawal from consumers' accounts, regardless of whether Paymap transfers those funds to Respondent as a payment on consumers' mortgages or holds them in a custodial account.
15. Respondent identified potential customers for the Equity Accelerator Program from the borrowers it services. Respondent provided Paymap with the borrowers' loan information so that Paymap could customize its marketing materials using the borrowers' actual mortgage terms.
16. Paymap and Respondent marketed the Equity Accelerator Program directly to consumers identified by Respondent by mailing them solicitation letters on Respondent's letterhead.
17. Respondent also marketed the Equity Accelerator Program on its website.
18. Consumers who received a solicitation letter could enroll in the Equity Accelerator Program by calling a toll-free number answered by Paymap, or by completing the enrollment card and mailing a voided check in the postage-paid envelope enclosed with the solicitation.

**Findings and Conclusions as to Respondent's Misrepresentations
Regarding a Consumer's New Loan Payoff Schedule
in the Equity Accelerator Program.**

19. Respondent's solicitations for the Equity Accelerator Program falsely claimed that consumers will pay their loan on a new biweekly payment schedule in the Program.
20. Paymap personalized solicitations for the Equity Accelerator Program by using information from Respondent about each borrower's account data. This data includes the consumers' mortgage balance, interest rate, and payment schedule. Paymap used a consumer's loan information, obtained from Respondent, to create a loan payment comparison box that projected a consumer's interest savings by signing up for a biweekly payment schedule in the Equity Accelerator Program.
21. The center column of that loan payment comparison box claimed that the consumer's "New Payoff Schedule" will be "every 2 weeks" in the Equity Accelerator Program.
22. However, a consumer who participates in the Equity Accelerator Program does not pay his or her mortgage on a new payment schedule. For a fee, Paymap makes weekly, biweekly, or semi-monthly withdrawals, but these funds are held in a custodial account controlled by Paymap. Once each month Paymap transfers these funds to Respondent, which then applies those funds to the consumer's mortgage on his or her original monthly payment schedule.
23. If consumers' mortgage payments were actually applied to their mortgages on a biweekly schedule, consumers would have experienced additional interest savings.

24. In June 2012 and October 2012, Respondent participated in mailing solicitations for the Equity Accelerator Program to its customers.
25. Respondent's website solicitation for the Equity Accelerator Program was misleading by stating, "By breaking your regular mortgage payment into weekly, biweekly or semi-monthly transfers instead of a single monthly payment, you are paying down the balance more quickly"
26. In fact, consumers still make "a single monthly payment" on their mortgages in the Equity Accelerator Program. Paymap merely debits consumers' accounts more frequently and then holds the debited funds in custodial accounts until the consumer's regular monthly payment is due.
27. During the Relevant Period, Respondent received at least \$400,000 in consumer fees from its participation in the Equity Accelerator Program.
28. Section 1036(a)(1)(B) of the CFPA prohibits "unfair, deceptive, or abusive" acts or practices. 12 U.S.C. § 5536(a)(1)(B).
29. Respondent's representations, as set forth above, constitute deceptive acts and practices, in violation of sections 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531(a) and 5536(a)(1)(B).

ORDER

V

Conduct Provisions

IT IS ORDERED, under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565, that:

30. Respondent and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, must not violate, including by taking reasonable measures to ensure that its service providers and other agents do not violate, sections 1031(a) and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531(a) and 5536(a)(1)(B), by misrepresenting, or assisting others in misrepresenting, expressly or impliedly, the following:

- a. that consumers experience savings of any amount, a reduction in payments, or any other financial benefit from using the Equity Accelerator Program, unless the representation is corroborated by substantial, competent, and reliable evidence;
- b. the nature and function of the Equity Accelerator Program, including by creating the impression that Respondent applies consumer payments to a consumer's mortgage more frequently, or creating the impression that consumers achieve savings through an accelerated mortgage payment schedule, rather than through making increased payments resulting in a higher annual mortgage payment; or
- c. any other fact material to consumers concerning the Equity Accelerator Program, such as: the total costs; any material restrictions, limitations, or

conditions; or any material aspect of its performance, efficacy, nature, or central characteristics.

31. Respondent will not market or advertise any accelerated residential real estate mortgage payment services without disclosing truthful and accurate details to consumers, prior to enrollment, about the manner, purpose, and timing of account withdrawals and payments. Such disclosures must be prominent and in close proximity to material statements regarding account withdrawals and payments. In particular, Respondent will not advertise any payment schedule without prominently disclosing when those payments will be applied to the loan, and disclosing that the source of projected interest savings is the higher annual mortgage payment a consumer will make in such a program.
32. Within 60 days of the Effective Date, Respondent must submit to the Regional Director for review and determination of non-objection a comprehensive compliance plan designed to ensure that Respondent's marketing for the Equity Accelerator Program, or any other accelerated residential real estate mortgage payment service, complies with all applicable Federal consumer financial laws and the terms of this Consent Order (Compliance Plan). The Compliance Plan must include, at a minimum:
 - a. Detailed steps for addressing each action required by this Section; and
 - b. Specific timeframes and deadlines for implementation of the steps described in Paragraphs 30 and 31.
33. The Regional Director will have the discretion to make a determination of non-objection to the Compliance Plan or direct the Respondent to revise it. If the Regional Director directs the Respondent to revise the Compliance Plan, the

Respondent must make the revisions and resubmit the Compliance Plan to the Regional Director within 30 days.

34. After receiving notification that the Regional Director has made a determination of non-objection to the Compliance Plan, the Respondent must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Compliance Plan.

MONETARY PROVISIONS

VI

Order to Pay Civil Money Penalties

IT IS FURTHER ORDERED that:

35. Under section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law described in Section IV of this Consent Order, and taking into account the factors in 12 U.S.C. § 5565(c)(3), Respondent must pay a civil money penalty of \$100,000 to the Bureau.
36. Within 10 days of the Effective Date, Respondent must pay the civil money penalty by wire transfer to the Bureau or to the Bureau's agent in compliance with the Bureau's wiring instructions.
37. The civil money penalty paid under this Consent Order will be deposited in the Civil Penalty Fund of the Bureau as required by section 1017(d) of the CFPA, 12 U.S.C. § 5497(d).
38. Respondent must treat the civil money penalty paid under this Consent Order as a penalty paid to the government for all purposes. Regardless of how the Bureau ultimately uses those funds, Respondent may not:

- a. Claim, assert, or apply for a tax deduction, tax credit, or any other tax benefit for any civil money penalty paid under this Consent Order; or
 - b. Seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made under any insurance policy, with regard to any civil money penalty paid under this Consent Order.
39. To preserve the deterrent effect of the civil money penalty in any Related Consumer Action, Respondent may not argue that Respondent is entitled to, nor may Respondent benefit by, any offset or reduction of any monetary remedies imposed in the Related Consumer Action because of the civil money penalty paid in this action (Penalty Offset). If the court in any Related Consumer Action grants such a Penalty Offset, Respondent must, within 30 days after entry of a final order granting the Penalty Offset, notify the Bureau, and pay the amount of the Penalty Offset to the U.S. Treasury. Such a payment will not be considered an additional civil money penalty and will not change the amount of the civil money penalty imposed in this action.

VII

Additional Monetary Provisions

IT IS FURTHER ORDERED that:

40. In the event of any default on Respondent's obligations to make payment under this Consent Order, interest, computed under 28 U.S.C. § 1961, as amended, will accrue on any outstanding amounts not paid from the date of default to the date of payment, and will immediately become due and payable.

41. Respondent must relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law and no part of the funds may be returned to Respondent.
42. Under 31 U.S.C. § 7701, Respondent, unless it already has done so, must furnish to the Bureau its taxpayer identifying numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of this Consent Order.
43. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action, Respondent must notify the Regional Director of the final judgment, consent order, or settlement in writing. That notification must indicate the amount of redress, if any, that Respondent paid or is required to pay to consumers and describe the consumers or classes of consumers to whom that redress has been or will be paid.

Compliance Provisions

VIII

Reporting Requirements

IT IS FURTHER ORDERED that:

44. Respondent must notify the Bureau of any development that may affect compliance obligations arising under this Consent Order, including but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Consent Order; the filing of any bankruptcy or insolvency proceeding by or

against Respondent; or a change in Respondent's name or address. Respondent must provide this notice at least 30 days before the development or as soon as practicable after the learning about the development, whichever is sooner.

45. Within 90 days of the Bureau's non-objection to the Compliance Plan, and again one year after the Effective Date, Respondent must submit to the Regional Director an accurate written compliance progress report (Compliance Report), which, at a minimum:
 - a. Describes in detail the manner and form in which the Respondent has complied with this Order; and
 - b. Attaches a copy of each Order Acknowledgment obtained under Section IX, unless previously submitted to the Bureau.

IX

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that:

46. Within 30 days of the Effective Date, Respondent must deliver a copy of this Consent Order to each of its board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who have responsibilities related to the subject matter of the Consent Order.
47. For 5 years from the Effective Date, Respondent must deliver a copy of this Consent Order to any business entity resulting from any change in structure referred to in Section VIII, any future board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who will have responsibilities related to the subject matter of the Consent Order before they assume their responsibilities.

48. Respondent must secure a signed and dated statement acknowledging receipt of a copy of this Consent Order (Order Acknowledgment), ensuring that any electronic signatures comply with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.*, within 30 days of delivery, from all persons receiving a copy of this Consent Order under this Section.

X

Recordkeeping

IT IS FURTHER ORDERED that:

49. Respondent must create or preserve, for at least 5 years from the Effective Date, the following business records:
- a. All documents and records necessary to demonstrate full compliance with each provision of this Consent Order, including all submissions to the Bureau;
 - b. Copies of all sales scripts; training materials; advertisements; websites; and other marketing materials; and including any such materials used by a third party on behalf of Respondent;
 - c. All consumer complaints and refund requests related to the subject matter or this Consent Order (whether received directly or indirectly, such as through a third party), and any responses to those complaints or requests; and
 - d. For the Equity Accelerator Program, accounting records showing the gross and net revenues received by Respondent.
50. Respondent must retain the documents identified in Paragraph 49 for at least 5 years.
51. Respondent must make the documents identified in Paragraph 49 available to

the Bureau upon the Bureau's request.

XI

Notices

IT IS FURTHER ORDERED that:

52. Unless otherwise directed in writing by the Bureau, Respondent must provide all submissions, requests, communications, or other documents relating to this Consent Order in writing, with the subject line, "*In re* LoanCare, LLC, File No. 2015-CFPB-0018," and send them either:

- a. By overnight courier (not the U.S. Postal Service), as follows:

Assistant Director for Enforcement
Consumer Financial Protection Bureau
ATTENTION: Office of Enforcement
1625 I Street, N.W.
Washington D.C. 20006; or

- b. By first-class mail to the below address and contemporaneously by email

to Enforcement Compliance@cfpb.gov:

Assistant Director for Enforcement
Consumer Financial Protection Bureau
ATTENTION: Office of Enforcement
1700 G Street, N.W.
Washington D.C. 20552

XII

Cooperation with the Bureau

IT IS FURTHER ORDERED that:

53. Respondent must cooperate fully with the Bureau in this matter and in any investigation related to or associated with the conduct described in Section IV. Respondent must provide truthful and complete information, evidence, and testimony. Respondent must cause Respondent's officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that the Bureau may reasonably request upon 10 days written notice, or other reasonable notice, at such places and times as the Bureau may designate, without the service of compulsory process.

XIII

Compliance Monitoring

IT IS FURTHER ORDERED that, to monitor Respondent's compliance with this Consent Order:

54. Within 30 days of receipt of a written request from the Bureau, Respondent must submit additional compliance reports or other requested information, which must be made under penalty of perjury; provide sworn testimony; or produce documents.
55. Respondent must permit Bureau representatives to interview any employee or other person affiliated with Respondent who has agreed to such an interview. The person interviewed may have counsel present.

56. Nothing in this Consent Order will limit the Bureau's lawful use of compulsory process, under 12 C.F.R. § 1080.6.

XIV

Modifications to Non-Material Requirements

IT IS FURTHER ORDERED that:

57. Respondent may seek a modification to non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) by submitting a written request to the Regional Director.
58. The Regional Director may, in his discretion, modify any non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) if he determines good cause justifies the modification. Any such modification by the Regional Director must be in writing.

XV

Administrative Provisions

59. The provisions of this Consent Order do not bar, estop, or otherwise prevent the Bureau, or any other governmental agency, from taking any other action against Respondent, except as described in Paragraph 60.
60. The Bureau releases and discharges Respondent from all potential liability for law violations that the Bureau has or might have asserted based on the practices described in Section IV of this Consent Order, to the extent such practices occurred before the Effective Date and the Bureau knows about them as of the Effective Date. The Bureau may use the practices described in this Consent Order in future enforcement actions against Respondent and its affiliates,

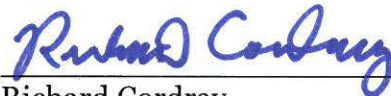
including, without limitation, to establish a pattern or practice of violations or the continuation of a pattern or practice of violations or to calculate the amount of any penalty. This release does not preclude or affect any right of the Bureau to determine and ensure compliance with the Consent Order, or to seek penalties for any violations of the Consent Order.

61. This Consent Order is intended to be, and will be construed as, a final Consent Order issued under section 1053 of the CFPA, 12 U.S.C. § 5563, and expressly does not form, and may not be construed to form, a contract binding the Bureau or the United States.
62. This Consent Order will terminate 5 years from the Effective Date or 5 years from the most recent date that the Bureau initiates an action alleging any violation of the Consent Order by Respondent. If such action is dismissed or the relevant adjudicative body rules that Respondent did not violate any provision of the Consent Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Consent Order will terminate as though the action had never been filed. The Consent Order will remain effective and enforceable until such time, except to the extent that any provisions of this Consent Order have been amended, suspended, waived, or terminated in writing by the Bureau or its designated agent.
63. Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted.
64. The provisions of this Consent Order will be enforceable by the Bureau. For any violation of this Consent Order, the Bureau may impose the maximum amount of civil money penalties allowed under section 1055(c) of the CFPA, 12 U.S.C. §

5565(c). In connection with any attempt by the Bureau to enforce this Consent Order in federal district court, the Bureau may serve Respondent wherever Respondent may be found and Respondent may not contest that court's personal jurisdiction over Respondent.

65. This Consent Order and the accompanying Stipulation contain the complete agreement between the parties. The parties have made no promises, representations, or warranties other than what is contained in this Consent Order and the accompanying Stipulation. This Consent Order and the accompanying Stipulation supersede any prior oral or written communications, discussions, or understandings.
66. Nothing in this Consent Order or the accompanying Stipulation may be construed as allowing the Respondent, its Board, officers, or employees to violate any law, rule, or regulation.

IT IS SO ORDERED, this 23^d day of July, 2015.



Richard Cordray
Director
Consumer Financial Protection Bureau