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CFPB Orders Amerisave To Pay \$19.3 Million For Bait-And-Switch Mortgage Scheme



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Owner Patrick Markert to Pay Additional \$1.5 Million for Deceiving Consumers

WASHINGTON, D.C. – Today, the Consumer Financial Protection Bureau (CFPB) took action against Amerisave Mortgage Corporation, its affiliate, Novo Appraisal Management Company, and the owner of both companies, Patrick Markert, for engaging in a deceptive bait-and-switch mortgage-lending scheme that harmed tens of thousands of consumers. The Bureau found that Amerisave lured consumers by advertising misleading interest rates, locked them in with costly up-front fees, failed to honor its advertised rates, and then illegally overcharged them for affiliated “third-party” services. Amerisave and Novo will provide \$14.8 million in refunds to harmed consumers and pay a \$4.5 million penalty. Patrick Markert, as an individual, will pay an additional \$1.5 million penalty.

“Amerisave lured consumers in with deceptive advertising, trapped them with costly upfront fees, and then illegally overcharged them for services from an undisclosed affiliate,” said CFPB Director Richard Cordray. “By the time consumers could have discovered the advertised low rates were too good to be true, they had already committed to pay hundreds of dollars to Amerisave. Today’s action puts an end to Amerisave’s unacceptable bait-and-switch scheme and holds Patrick Markert personally responsible for his illegal actions.”

Amerisave Mortgage Corporation, an Atlanta-based online mortgage lender, advertises and lends in all 50 states and the District of Columbia. Between mid-2011 and 2014, Amerisave advertised its interest rates and terms using online banner ads and searchable rate tables on third-party websites. The Bureau found that Amerisave posted inaccurate rates on these banner ads and rate tables, inducing consumers to pursue a mortgage with Amerisave. When consumers were directed to Amerisave’s own website, Amerisave gave consumers quotes based on an 800 FICO score, even where consumers had previously entered a FICO score below 800 on the third-party website that led them to Amerisave. This resulted in Amerisave offering many consumers misleadingly low quotes.

Amerisave required consumers to order and give payment authorization information for an appraisal before it would provide a Good Faith Estimate (GFE) for the mortgage, and did not tell consumers until later that the appraisal orders were being referred to its own affiliated company. At closing, Amerisave also charged consumers for “appraisal validation” reports, without disclosing that the service was provided by its affiliate Novo Appraisal Management Company, and that Novo had marked up the reports by as much as 900 percent. Consumers trusted that Amerisave had bargained in good faith for this third-party service, which Amerisave described as being a “special deal” for Amerisave



Photos and bios



Director Rich Cordray



Deputy Director Steven Antonakes

Press contacts

Jen Howard
Assistant Director of Communications
(202) 435-7170
Jennifer.Howard@cfpb.gov

Walter Suskind
Press Assistant
(202) 435-9469
Walter.Suskind@cfpb.gov

Mallory McLean
Regional Spokesperson

customers.

he Bureau found that Amerisave:

- **Deceptively advertised low interest rates that were not available:** On its own website, its banner ads, and its listings on the website of a third-party rate publisher, Amerisave advertised misleading rates and terms for its mortgage products. For certain types of loans, the advertised rates were simply not available; for others, the rates advertised were appreciably lower than the rates the typical Amerisave customer was actually likely to lock. Through use of these inaccurate rates and terms, Amerisave lured consumers into pursuing a mortgage with the company. In its Consent Order, the CFPB found that this practice was deceptive under the Consumer Financial Protection Act (CFPA) and the Mortgage Acts and Practices (MAP) Rule.
- **Locked consumers in with costly up-front fees:** Amerisave required consumers to schedule and give payment authorization information for costly appraisals before providing consumers with a GFE, in violation of the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA). By leading customers to believe they were already obligated to pay such costly fees, often \$400 or more, Amerisave restricted consumers' ability to shop for alternative products and better prices. Amerisave also marked up the cost of credit reports by as much as 350 percent, prior to giving consumers a GFE.
- **Failed to properly disclose its affiliate relationship:** Amerisave referred virtually all of its customers' appraisal orders to its affiliate, Novo, but, in violation of RESPA, failed to disclose that Novo was an Amerisave affiliate until after consumers had already provided payment authorization information for their appraisals. Amerisave also made numerous deceptive statements that led consumers to believe that Amerisave had no relationship with Novo and that its fees were reasonable third-party fees.
- **Charged unfairly inflated prices for services through its affiliate:** Amerisave's owner and CEO, Patrick Markert, received more than three million dollars in indirect profit distributions as a result of requiring consumers to use Novo for marked up "appraisal validations." Amerisave required consumers to purchase "appraisal validation" reports from Novo, which Novo purchased for an average of \$20. Novo then charged Amerisave customers \$100 for the service, ultimately passing much of the \$80 windfall back to Patrick Markert. Until October 2012, Amerisave failed to make any disclosure that this service was being referred out to Novo, as opposed to being provided by Amerisave itself. The Bureau alleges this conduct was an unfair practice.

Enforcement Action

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB has the authority to take action against institutions engaging in unfair, deceptive, or abusive practices. The CFPB's order requires Amerisave, Novo, and Markert to take the following actions:

- **Pay \$14.8 million in consumer refunds:** Amerisave and Novo must provide \$14.8 million in refunds to the consumers harmed by the false advertising, impermissible fees, and illegal referrals during the period covered by the order. The Bureau will administer the refunds and the amount each eligible consumer will receive will vary based on how much that consumer paid Amerisave. A third-party settlement administrator will be contacting eligible consumers once a restitution process is established.

(202) 435-7955

Mallory.McClean@cfpb.gov

Moira Vahey

Spokesperson

(202) 435-9151

Moira.Vahey@cfpb.gov

Sam Gilford

Spokesperson

(202) 435-7673

Samuel.Gilford@cfpb.gov

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- **Stop advertising unavailable mortgage rates:** The order requires Amerisave to ensure that it will not engage in deceptive mortgage advertising practices. Those practices include, but are not limited to, advertising unavailable rates on third-party searchable rate tables, advertising deceptive rates in its banner ads, and giving consumers mortgage quotes based on an undisclosed 800 credit score. Amerisave will implement a quality control program and retain an independent consultant to review its advertising practices.
- **No longer charge illegal fees:** Amerisave will not charge fees or make referrals to its affiliates before giving consumers the proper disclosure forms.
- **Pay \$6 million in fines:** Amerisave will make a \$4.5 million penalty payment, and Patrick Markert will make an additional \$1.5 million penalty payment, to the Bureau’s Civil Penalty Fund.

The full text of the Bureau’s consent order is available at:

http://files.consumerfinance.gov/f/201408_cfpb_consent-order_amerisave.pdf

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.



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