

# AEQUITAS

## **Forensic Review Report**

Prepared by Aequitas

Borrower: John Smith

Date: 7/9/2009



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7/9/2009

John Smith  
160 Bleecker St  
New York, NY 10012

AEQUITAS

Dear John Smith,

Enclosed with this letter you will find the Forensic Review Report resulting from an automated system consumer protection regulatory compliance review of the following loan file:

Borrower Name:	John Smith	Loan Amount:	\$200,000.00
Lender Name:	ABC Lender	Lien Position:	2
Loan Purpose:	Refinance	Application Date	11/22/2005
Property Address:	160 Bleecker St New York, NY 10012		

The review includes an examination of relevant data in the loan documents to assess compliance with certain aspects of consumer protection laws relating to mortgage lending, including Truth-In-Lending, anti-predatory lending and other applicable federal and state consumer protection laws and regulations.

The review required that Aequitas make reasonable assumptions respecting certain loan terms that, if erroneous, may result in material differences between the System findings and the loan's actual compliance with applicable regulatory requirements. While Aequitas believes that its assumptions provide a reasonable basis for the System review results. No representations or warranties are made respecting the appropriateness of Aequitas's assumptions, the completeness of the information considered or the accuracy of the System findings.

Our responsibility is to provide a report on the data in the mortgage loan documents provided based on the System review and to provide the report to you and for no other purpose. This report has been prepared for and only for John Smith in accordance with the terms of our engagement and for no other purpose. We do not, in providing this report, accept or assume responsibility for any other purpose or to any other person to whom this report is shown or into whose hands it may come save where expressly agreed by our prior consent in writing.

Sincerely,

A stylized, cursive signature of the word "Aequitas" in black ink.

AEQUITAS

## FORENSIC REVIEW SUMMARY

### LOAN ATTRIBUTES

Refinance	What is the loan's purpose?
Owner-Occupied	What is the property occupancy?
NY	What state is the property located in?

### DOCUMENT INVENTORY

#### TILA

<i>Results</i>	<i>Test</i>	<i>Materiality</i>	<i>Comments</i>
No	Does the disclosed APR exceed the threshold?		
Yes	Does the disclosed finance charge exceed the \$100 tolerance?	Serious	See report detail item 1
Yes	Does the disclosed finance charge exceed the \$35 tolerance?	Serious	See report detail item 2
Yes	Does the disclosed finance charge exceed the 1/2 of 1% tolerance?	Serious	See report detail item 3
Yes	Are the rescission dates non-compliant?	Serious	See report detail item 4,5

#### HOEPA (SECTION 32)

<i>Results</i>	<i>Test</i>	<i>Materiality</i>	<i>Comments</i>
No	Does the loan exceed the APR threshold?		
No	Does the loan exceed the points and fees threshold?		
Not Applicable	If this is a HOEPA loan, were the Section 32 disclosures given?		
No	Are there any predatory practices identified from the information provided?		

#### STATE HIGH COST / PREDATORY LENDING

<i>Results</i>	<i>Test</i>	<i>Materiality</i>	<i>Comments</i>
No	Does the loan exceed a state high cost APR threshold?		
Yes	Does the loan exceed a state high cost points and fees threshold?	Serious	See report detail item 6
Yes	Are there any predatory practices identified from the information provided?	Very Serious	See report detail item 7,8,9

**COUNTY / MUNICIPALITY HIGH COST / PREDATORY LENDING**

<i>Results</i>	<i>Test</i>	<i>Materiality</i>	<i>Comments</i>
Not Applicable	Does the loan exceed a county/city high cost APR threshold?		
Not Applicable	Does the loan exceed a county/city high cost points and fees threshold?		
Not Applicable	Are there any predatory practices identified from the information provided?		

**OTHER STATE LAWS**

<i>Results</i>	<i>Test</i>	<i>Materiality</i>	<i>Comments</i>
Yes	Were there any loan fees or charges that are prohibited or restricted?	Serious	See detail item 10,11,12
No	Is the loan usurious?		
No	Are the prepayment penalty terms unenforceable?		
No	Does the loan trigger any rate threshold or subprime laws?		
Yes	Are there any other identified state law violations based on information provided?	Serious	See report detail item 13,14

## FORENSIC REVIEW DETAILS

- 1** The disclosed finance charge (\$203,007.89) is (\$149,915.17) below the actual finance charge (\$352,923.06). The Truth in Lending Act considers the disclosed finance charge inaccurate if it is more than \$100 below the actual finance charge. (12 CFR Sec. 226.18(d)(1)).

12 CFR § 226.18(d) requires the disclosure of the finance charge amount. For purposes of “mortgage loans” 12 CFR § 226.18(d)(1) provides the following tolerance “In a transaction secured by real property or a dwelling, the disclosed finance charge and other disclosures affected by the disclosed finance charge (including the amount financed and the annual percentage rate) shall be treated as accurate if the amount disclosed as the finance charge: (i) is understated by no more than \$100; or (ii) is greater than the amount required to be disclosed.”

- 2** The disclosed finance charge (\$203,007.89) is (\$149,915.17) below the actual finance charge (\$352,923.06). For rescission after initiation of foreclosure, the Truth in Lending Act considers the disclosed finance charge inaccurate if it is more than \$35 below the actual finance charge. (15 USC Sec. 1635(i)(2)).

15 U.S.C. §1635(a) provides “Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction or the delivery of the information and rescission forms required under this section together with a statement containing the material disclosures required under this title, whichever is later, by notifying the creditor, in accordance with regulations of the Board, of his intention to do so. The creditor shall clearly and conspicuously disclose, in accordance with regulations of the Board, to any obligor in a transaction subject to this section the rights of the obligor under this section. The creditor shall also provide, in accordance with regulations of the Board, appropriate forms for the obligor to exercise his right to rescind any transaction subject to this section.”

15 U.S.C. §1635(e) states that “This section does not apply to-- (1) a residential mortgage transaction as defined in section 103(w); (2) a transaction which constitutes a refinancing or consolidation (with no new advances) of the principal balance then due and any accrued and unpaid finance charges of an existing extension of credit by the same creditor secured by an interest in the same property; (3) a transaction in which an agency of a State is the creditor; . . . .”

15 U.S.C. §1635(i) provides “RESCISSION RIGHTS IN FORECLOSURE.--(2) TOLERANCE FOR DISCLOSURES.--Notwithstanding section 106(f), and subject to the time period provided in subsection (f), for the purposes of exercising any rescission rights after the initiation of any judicial or nonjudicial foreclosure process on the principal dwelling of the obligor securing an extension of credit, the disclosure of the finance charge and other disclosures affected by any finance charge shall be treated as being accurate for purposes of this section if the amount disclosed as the finance charge does not vary from the actual finance charge by more than \$35 or is greater than the amount required to be disclosed under this title.”

**3** The disclosed finance charge (\$203,007.89) is less than the actual finance charge (\$352,923.06) by (\$149,915.17). For rescission purposes, the Truth in Lending Act considers the finance charge inaccurate if it is understated by more than half of 1% of the note amount (\$1,000.00) or \$100, whichever is greater. (12 CFR Sec. 226.23(g)).

12 CFR § 226.23(g) provides “Tolerances for accuracy.--(1) One-half of 1 percent tolerance. Except as provided in paragraphs (g)(2) and (h)(2) of this section, the finance charge and other disclosures affected by the finance charge (such as the amount financed and the annual percentage rate) shall be considered accurate for purposes of this section if the disclosed finance charge: (i) is understated by no more than 1/2 of 1 percent of the face amount of the note or \$100, whichever is greater; or (ii) is greater than the amount required to be disclosed. (2) One percent tolerance. In a refinancing of a residential mortgage transaction with a new creditor (other than a transaction covered by § 226.32), if there is no new advance and no consolidation of existing loans, the finance charge and other disclosures affected by the finance charge (such as the amount financed and the annual percentage rate) shall be considered accurate for purposes of this section if the disclosed finance charge: (i) is understated by no more than 1 percent of the face amount of the note or \$100, whichever is greater; or (ii) is greater than the amount required to be disclosed.”

**4** The lender's disclosed "Right to Cancel Expire Date" is earlier than the calculated "Right to Cancel Expire Date." Under Regulation Z, funds may not be disbursed to the borrower until the expiration of the rescission period. (Regulation Z, 12 CFR Sections 226.15(c) and 226.23(c) and the Official Staff Commentary to Regulation Z for those same sections).

According to Regulation Z, 12 CFR § 226.23(a)(3), for closed-end loans, the consumer may exercise the right to rescind until midnight of the third business day of whichever of the following events occurs last:

1. Consummation. Consummation "means the time that a consumer becomes contractually obligated on a credit transaction." 12 CFR § 226.2(a)(13). "When a contractual obligation on the consumer's part is created is a matter to be determined under applicable law; Regulation Z does not make this determination. A contractual commitment agreement, for example, that under applicable law binds the consumer to the credit terms would be consummation. Consummation, however, does not occur merely because the consumer has made some financial investment in the transaction (for example, by paying a nonrefundable fee) unless, of course, applicable law holds otherwise." Official Staff Commentary to Regulation Z, 12 CFR § 226.2(a)(13), Comment 1.

2. Delivery of the Notice of Right to Cancel. 12 CFR § 226.23(b)(1).

3. Delivery of all material disclosures. The term "material disclosures" means the required disclosures of the APR, the finance charge, the amount financed, the total payments, and the payment schedule. Footnote 48 to 12 CFR § 226.23(a)(3). Failure to provide information regarding the APR also includes failure to inform the Borrower of the existence of a variable rate feature. Official Staff Commentary to Regulation Z, 12 CFR § 226.23(b)(1), Comment 2.

4. Date the Borrower(s) acknowledge receipt of their Section 32 high cost mortgage disclosures (if it is a HOEPA loan). Footnote 48 to 12 CFR § 226.23(a)(3).

"When more than one consumer in a transaction has the right to rescind, the exercise of the right by one consumer shall be effective as to all consumers." 12 CFR § 226.23(a)(4). THE SYSTEM does not receive sufficient information from the user to determine the delivery of multiple rescission notices to the consumer(s) who have the right to rescind. Thus, THE SYSTEM assumes that the dates provided by the user for consummation, delivery of the notice of right to cancel, delivery of all material disclosures, and delivery of the Section 32 high cost mortgage disclosures (if a high cost loan) reflects the latest date(s) for each if there are multiple consumers who have the right to rescind.

According to Regulation Z, 12 CFR § 226.15(a)(3), for open-end loans, the consumer may exercise the right to rescind until midnight of the third business day of whichever of the following events occurs last:

1. Occurrence described in 12 CFR § 226.15(a)(1) that gives rise to the right of rescission.

a. Each credit extension made under the plan. If the extension is made in accordance with a previously established credit limit for the plan, however, it is not an occurrence under this definition. 12 CFR § 226.15(a)(1).

b. The plan when the plan is opened.

c. A security interest added or increased to secure an existing plan.

d. The increase when a credit limit on the plan is increased.

THE SYSTEM is designed to check compliance up to and through the time of closing and does not receive any post closing information with which to validate rules dependent upon post-closing information, thus, THE SYSTEM does not apply different rules to the various open-end credit extensions, but instead applies the right of rescission rules upon the initial extension of credit only.

2. Delivery of the Notice of Right to Cancel. 12 CFR § 226.15(b).

3. Delivery of all material disclosures. Material disclosures means "the information that must be provided to satisfy the requirements in § 226.6 with regard to the method of determining the finance charge and the

balance upon which a finance charge will be imposed, the annual percentage rate, the amount or method of determining the amount of any membership or participation fee that may be imposed as part of the plan, and the payment information described in § 226.5b(d)(5)(i) and (ii) that is required under § 226.6(e)(2).” Footnote 36 to 12 CFR § 226.15(a)(3).

“When more than one consumer has the right to rescind, the exercise of the right by one consumer shall be effective as to all consumers.” 12 CFR § 226.15(a)(4). THE SYSTEM does not receive sufficient information from the user to determine the delivery of multiple rescission notices to the consumer(s) who have the right to rescind. Thus, THE SYSTEM assumes that the dates provided by the user for consummation, delivery of the notice of right to cancel, and delivery of all material disclosures reflects the latest date(s) for each if there are multiple consumers who have the right to rescind.

Midnight of the Third Business Day. “For purposes of rescission under 12 CFR §§ 226.15 and 226.23, the term ‘business day’ means all calendar days except Sundays and the legal public holidays specified in 5 U.S.C. 6103(a), such as New Year’s Day, the birthday of Martin Luther King, Jr., Washington’s Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.” 12 CFR § 226.2(a)(6). “Four federal legal holidays are identified in 5 U.S.C. 6103(a) by a specific date: New Year’s Day, January 1; Independence Day, July 4; Veterans Day, November 11; and Christmas Day, December 25. When one of these holidays (July 4, for example) falls on a Saturday, federal offices and other entities might observe the holiday on the preceding Friday (July 3). The observed holiday (in the example, July 3) is a business day for purposes of rescission. . . .” Official Staff Commentary to Regulation Z, 12 CFR § 226.2(a)(6), Comment 2. In other words, for the four federal holidays identified by a specific date that might fall on a ‘non-workday’ – Saturday or Sunday – the holiday is usually observed on Monday (if the holiday falls on Sunday) or Friday (if the holiday falls on Saturday). For purposes of rescission, the “observed” holiday is still a “business” day.

“For example, if a transaction is consummated on Friday, June 1, and the disclosures and notice of the right to rescind were given on Thursday, May 31, the rescission period will expire at midnight of the third business day after June 1--that is, Tuesday, June 5. In another example, if the disclosures are given and the transaction consummated (account is opened) on Friday, June 1, and the rescission notice is given on Monday, June 4, the rescission period expires at midnight of the third business day after June 4--that is, Thursday, June 7. The consumer must place the rescission notice in the mail, file it for telegraphic transmission, or deliver it to the creditor’s place of business within that period in order to exercise the right. Official Staff Commentary to Regulation Z, 12 CFR § 226.15(a)(3), Comment 1; Official Staff Commentary to Regulation Z, 12 CFR § 226.23(a)(3), Comment 1.

Under the requirements set forth above, THE SYSTEM calculates the expiration date of the Borrower’s right to cancel as midnight of the 3 business day (calendar days excluding federal holidays and Sundays) from the latest date of the following three (four if a high cost loan under HOEPA) elements provided to THE SYSTEM by the user: (1) the date the Borrower(s) signed the loan documents, (2) the date the Borrower(s) received/ acknowledged/signed all “material disclosures,” (3) the date the Borrower(s) received/acknowledged/signed the Notice of Right to Cancel, and (4) if the loan is a HOEPA high cost loan, the date the Borrower(s) received/acknowledged/signed the Section 32 disclosures.

- 5** The loan disbursement date is earlier than, or the same day as, the calculated "Right to Cancel Expire Date." Under Regulation Z, funds may not be disbursed to the borrower until after the expiration of the rescission period. (Regulation Z, 12 CFR Sections 226.15(c) and 226.23(c) and the Official Staff Commentary to Regulation Z for those same sections).

**6** The loan fees (\$15,737.53) exceed the (NYPart41New) High Cost fee limit, which is (\$9,740.37), the difference is (\$5,997.16).

The New York High Cost Home Loan Act and Part 41 of the General Regulations of the Banking Board establish restrictions and prohibitions for loans made on or after October 14, 2007\* for which the principal amount of the loan does not exceed the FNMA conforming loan size limit for a comparable dwelling and which exceeds either an APR or a “points and fees” threshold (“high cost home loans”).

The APR threshold is triggered:

(i) for a first lien home loan if the APR at consummation of the transaction exceeds 8 percent over the yield on U.S. treasury securities having comparable periods of maturity to the loan maturity, measured as of the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the lender.

(ii) for a subordinate lien home loan if the APR at consummation of the transaction equals or exceeds 9 percent over the yield on U.S. treasury securities having comparable periods of maturity to the loan maturity, measured as of the 15th day of the month immediately preceding the month in which the application for the extension of credit is received by the lender.

The points and fees threshold is triggered:

(i) when the total points and fees on the loan exceed 5 percent of the total loan amount on loans of \$50,000 or greater;

(ii) when the total points and fees on the loan exceed the greater of 6 percent of the total loan amount or \$1,500 on loans of less than \$50,000; or

(iii) when the total points and fees on the loan exceed 6 percent of the total loan amount on purchase money loans of \$50,000 or more that are guaranteed by the FHA or VA.

Bona Fide Discount Points: Although the New York High Cost Home Loan Act permits the exclusion of certain bona fide discount points from the calculation of points and fees, because the Mavent Expert System is not provided with sufficient information to verify the bona fide nature of these discount points, the System does not exclude discount points from the points and fees calculation.

NY Bank 6-I

\*For loans with an Application Date between April 1, 2003 and October 13, 2007, THE SYSTEM applies the New York High Cost Home Loan Act as detailed above, except that it will only apply to loans in which the principal amount of the loan does not exceed the lesser of the FNMA conforming loan size limit for a comparable dwelling or \$300,000.

**7** The New York High Cost Home Loan Act prohibits a debt ratio greater than 50% on a high cost loan. (NY Bank 6-I(2)(k); 3 NY ADC 41.3(b))

**8** New York High Cost Home Loans Act prohibits negative amortization. (NY Bank 6-I(2)(c); 3 NY ADC 41.2(c))

**9** The New York High Cost Home Loans Act prohibits charging any points and fees when a lender refinances its own, or its affiliate's, existing high cost loan with a new high cost loan. In all other instances, a lender may not charge points and fees in connection with a high cost loan, if the proceeds of the high cost loan are used to refinance an existing high cost loan and the last financing was within 2 years. (NY Bank 6-I; 3 NY ADC 41.3(d))

The New York High Cost Home Loans Act prohibits charging any points and fees when a lender refinances its own, or its affiliate's, existing high cost loan with a new high cost loan. In all other instances, a lender may not charge points and fees in connection with a high cost loan, if the proceeds of the high cost loan are used to refinance an existing high cost loan and the last financing was within 2 years. (NY Bank 6-I; 3 NY ADC 41.3(d))

**10** The New York Banking Board Regulation - Part 80 (3 NY ADC 80.8) does not allow Tax Related Service Fee (2comply Fee ID: 107) to be charged to the Borrower in NY.

**11** Part 80 of the New York Gen. Regs. prohibits an Application Fee or Processing Fee to be figured as a percentage of the loan or credit line amount. (3 NY ADC 80.8(r))

**12** New York Part 38 only allows one application fee per transaction. (3 NY ADC 38.7(b)(1))

**13** A New York Mortgage Banker or Mortgage Broker license is needed for loans secured by 1-4 unit residential real property. (NY Bank 590-2; 3 NY ADC 39.4(e); 3 NY ADC 39.5)

**14** This is a New York "non-traditional home loan" consummated between 01/01/2003 - 09/01/2008. The New York Real Property Actions and Proceedings Law requires a lender or mortgage loan servicer to provide a special 14-point type statutory notice to the borrower at least 90 days prior to commencing any legal action, including foreclosure, against the borrower on a "non-traditional home loan." (NY RPAPL 1304(5)(E))

## APPENDIX A: DESCRIPTION OF FORENSIC REVIEW SCOPE

The Forensic Review contains the following:

Review	Description
<b>Document Review</b>	This review confirms that the loan file reviewed contained the following documents:
<b>TILA Tolerance</b>	<p>This review includes comparisons, tests, functions and calculations under the Truth In Lending Act. The Mavent System recalculates the following amounts and schedules based on the loan data submitted to the System to determine if the loan is within the permissible APR Tolerance (1/8 of 1% for regular transactions and 1/4 of 1% for irregular transactions) and Finance Charge Tolerances (\$35 and \$100).</p> <ul style="list-style-type: none"> <li>• Annual Percentage Rate (APR)</li> <li>• Finance Charge Amount</li> <li>• Payment Schedule</li> <li>• Amount Financed</li> <li>• Total of Payments</li> <li>• Amortization Schedule</li> </ul>
<b>TILA Right of Rescission</b>	<p>This review validates that the rescission period for the non-purchase money loan secured by a 1-4 unit primary dwelling is in compliance with Truth In Lending timing requirements by comparing the Loan Disbursement Date to the latest of the following dates provided in the loan data submitted to the Mavent System:</p> <ul style="list-style-type: none"> <li>• Document Sign Date</li> <li>• Last Disclosure Date</li> <li>• Right of Rescission Expiration Date</li> <li>• HOEPA Disclosure Date (if applicable)</li> </ul>
<b>HOEPA (Section 32)</b>	<p>This review identifies loans that trigger high cost thresholds as defined in Federal HOEPA to determine if the closed-end non-purchase money loan secured by the borrower's 1-4 unit primary dwelling is considered a high cost loan. The Mavent System federal points and fees threshold calculations ensure proper classification of fees by ascertaining to whom the fee is paid (e.g. lender, affiliate, originator, or provider) and by whom the fee is paid. For loans identified as HOEPA loans, the Mavent System will further compare the applicable loan data to certain requirements to determine whether the loan violates predatory provisions. Historical rules, indices and information are utilized to ensure accurate determination in a retrospective forensic audit.</p>
<b>State High Cost / Predatory</b>	<p>This review identifies loans that trigger high cost thresholds as defined by applicable state and local jurisdictions to determine if a loan is considered a high cost loan. The Mavent System state points and fees threshold calculations ensure proper classification of fees by ascertaining to whom the fee is paid (e.g. lender, affiliate, originator, or provider) and by whom the fee is paid. For loans identified as high-cost, the Mavent System will further compare the applicable loan data to certain requirements of jurisdiction-specific, anti-predatory lending rules. Historical rules, indices and information are utilized to ensure accurate determination in a retrospective forensic audit.</p>

**County/City High Cost /  
Predatory**

This review identifies high cost and predatory violations defined by applicable county and municipal jurisdictions. The Mavent System local points and fees threshold calculations ensure proper classification of fees by ascertaining to whom the fee is paid (e.g. lender, affiliate, originator, or provider) and by whom the fee is paid. For loans identified as high-cost, the Mavent System will further compare the applicable loan data to certain requirements of jurisdiction-specific, anti-predatory lending rules. Historical rules, indices and information are utilized to ensure accurate determination in a retrospective forensic audit. Because zip codes and city names do not precisely identify whether a specific property is subject to a local ordinance, the Mavent System determines the proper local jurisdiction of the property by utilizing geocoding to identify the standard address.

**State Consumer Credit**

This review evaluates the loan for compliance with important aspects of over 330 consumer protection laws related to mortgage lending. The Mavent System areas covered include restrictions, limitations or requirements related to: loan fees, loan term, loan amounts, usury, interest rate accrual, payment calculations, balloons, negative amortization, late charges and grace periods, escrows and credits. Aspects of this review may require assumptions about the originating lender's charter or license authority and permissible regulatory elections.

### I. Truth In Lending

The federal Truth in Lending Act requires lenders to provide detailed information about credit transactions to borrowers. TILA also imposes liability on lenders when they fail to provide this information accurately or in the form required. Furthermore, the liability for a lender's mistake can pass through to an assignee, thus making the purchaser of the mortgage loan liable for mistakes made by others.

Statutory liability under TILA usually arises when a lender fails to provide accurate TILA disclosures to a borrower. In an individual action under Section 130, the measure of damages can include (i) actual damages; (ii) statutory damages; and (iii) attorneys' fees.

For certain transactions, a mistake in disclosures may also extend the rescission period for three years beyond the initial three-day rescission period. This means that the borrower has the loan funds, but may decide to reject the loan at any time during the rescission period. In a foreclosure action against the borrower's home, a relatively small mistake (causing a \$35 underdisclosure) in failing to classify a fee as a finance charge may permit a borrower to file a successful rescission claim.

The Mavent System review includes comparisons, tests, functions and calculations under the TILA to make sure that the disclosures are within permissible tolerances and timely. The Mavent System has recalculated the following amounts and schedules based on the loan data submitted to the system to determine if the loan is within the permissible Finance Charge tolerances (\$35 and \$100) and APR Tolerance (1/8 of 1%)

- Finance Charge Amount
- Annual Percentage Rate (APR)
- Payment Schedule
- Amount Financed
- Total of Payments
- Amortization Schedule

## **II. HOEPA / State High Cost / Predatory Loans**

The federal Home Ownership Equity Protection Act (HOEPA) and various state and local high cost acts set APR and fee thresholds above which certain predatory lending practices are prohibited. These thresholds are calculated amounts unique to each loan transactions. Triggering a high cost threshold is not in itself a violation of law; however, most investors will not purchase these loans (or purchase them at a deep discount). In fact, most loan purchase agreements between loan sellers and loan buyers contain a mechanism whereby the buyer can force the seller to “put back” (or buy back) the loan if it is ever found to be high cost. This makes high cost loans undesirable to a lender, making it more willing to negotiate with the borrower.

Predatory loans are loans that trigger high cost thresholds and contain terms, such as a prepayment penalty. Predatory loans are subject to civil, and in some cases criminal, liability that can far exceed the value of a loan. In some cases, the liability for engaging in these prohibited practices can pass through to an assignee, thus making the purchaser of the mortgage loan liable for mistakes made by others.

The Mavent System review identifies loans that trigger high cost thresholds as defined by HOEPA, State and local law to determine if a loan is considered a high cost loan. The points and fees threshold calculations ensure proper classification of fees by ascertaining to whom the fee is paid (e.g. lender, affiliate, originator, or provider) and by whom the fee is paid. For loans identified as HOEPA or High Cost loans, the Mavent System will further compare the applicable loan data to certain requirements to determine whether the loan violates predatory provisions. Historical rules, indices and information are utilized to ensure accurate determination in a retrospective forensic review.

## **III. State Consumer Credit Laws**

There are many state consumer credit laws that govern the features and terms of a loan. These laws vary widely. Different laws apply based on how the lender is chartered or licensed. Further, different laws apply according to a loan’s features (such as occupancy type, purpose, lien position, APR and principal amount). While not all state consumer credit laws impose severe penalties, certain restrictions (such as usury) may invoke criminal liability. Others may prevent a lender from foreclosing or impose statutory damages.

The Mavent System reviews law evaluates loans for compliance with important aspects of over 330 state consumer protection laws related to mortgage lending. Areas covered include restrictions, limitations or requirements related to: loan fees, loan term, loan amounts, usury, interest rate accrual, payment calculations, balloons, negative amortization, late charges and grace periods, escrows and credits. Aspects of this review may require assumptions about the originating lender’s charter or license authority and permissible regulatory elections.

## APPENDIX C: Comments

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Unable to locate application date. Used first day of month prior to date on documents.

Interest To Date: No specific dates listed on Final Disbursement Statement. Calculated based off # of days of interest collected.

Below are the definitions of the fees entered into the System:

<b>Application Fee</b>	Fee paid in advance for taking a loan application.
<b>Appraisal Fee</b>	Fee paid to an appraiser for appraising and preparing an appraisal report for the property securing the loan.
<b>Attorney's Fees</b>	General uncategorized fees paid to an attorney for services rendered in connection with closing the loan. It is assumed that attorney's fees for specific services will be entered under the specific category for which the services are performed (i.e. serv
<b>Commitment (Rate Lock) Fee</b>	Fee charged for locking in a rate for the loan.
<b>County Property Taxes – Impound</b>	Amount collected and held in an escrow, impound, or trust account for the future payment of county property tax.
<b>Courier Fee</b>	Fee paid for courier, messenger, or expedited delivery services.
<b>Credit Report Fee</b>	Fee paid to a provider of a credit report for the cost of the report.
<b>Doc Tax Stamps/Transfer Taxes - City/County</b>	Fee or tax imposed by certain local governments upon recording a document to either transfer title to the property or to obtain a security interest in the property. This may be either a documentary tax stamp or a transfer tax.
<b>Flood Certification Fee</b>	Fee charged to perform and provide flood certification for the property securing the loan. Flood Certification includes both the original flood hazard determination and the ongoing monitoring of the property for flood hazard designations.
<b>Insurance Impound – Hazard</b>	Amount collected and held in an escrow, impound, or trust account for the future payment of hazard insurance premiums.
<b>Loan Discount</b>	Fee charged to reduce (buy down) the market rate of the note for the life of the loan.
<b>Mortgage Insurance – Impound</b>	Amount collected and held in an escrow, impound, or trust account for the future payment of mortgage insurance premiums.
<b>Office Expense Fee</b>	Fee charged for general expenses such as fax fees, copy fees, and postage.
<b>Prepaid Interest</b>	Amount of interest collected at settlement for the period between settlement and the date from which interest will be collected with the first regular monthly payment.
<b>Recording Fees – Mortgage/Deed of Trust</b>	Fees paid to a public official for recording a mortgage or deed of trust.
<b>Survey Fee</b>	Fee paid for a survey of the property securing the loan.
<b>Tax Related Service Fee</b>	Fee charged to research and monitor property tax payments. The fee includes both upfront payment research and life-of-loan monitoring.
<b>Title Insurance</b>	Fee for the cost of a title insurance policy.
<b>Village Property Tax/County Property Tax</b>	Taxes on the property due at closing that are not put into an escrow account for future payment.
<b>Wire Transfer Fee</b>	Fee for wiring funds in connection with the loan.
<b>Yield Spread Premium/Rebate</b>	Premium, usually paid by the lender to the broker, for obtaining a higher rate for the loan.

## APPENDIX D: LOAN REPORT

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**Customer:** Aequitas Compliance Solutions  
 (0187060809)  
**Loan ID:** Demo-NY-08170856  
**Review ID:** 0187060809Demo-NY-0817085651488416  
**Location:** Main  
**Borrower:** John Smith

**Review Status:** **FAIL**  
**Review Date:** 2009-06-25  
**State:** NY

Loan Status: **FAIL**

High Cost	Higher Priced	TILA Tolerance	TILA ROR	State Rules	License	OFAC	HMDA	GSE	Enterprise Rules	Other
<b>FAIL</b>	Not Requested	<b>FAIL</b>	<b>FAIL</b>	<b>FAIL</b>	<b>FAIL</b>	Not Requested	Not Requested	Not Requested	<b>WARNING</b>	<b>PASS</b>

**Request Summary**

Result: **FAIL**

**Borrower:** John Smith  
**Reviewed by:** jennifer.mathwig  
**Location:** Main  
**Loan ID:** Demo-NY-08170856

**Seller:**  
**Originator:**  
**First Group:**  
**Second Group:**  
**Third Group:**

**Address 1:** 160 Bleecker St  
**Address 2:**  
**City:** New York  
**County:** Kings County  
**State:** NY  
**Zip Code:** 10012

**Lien Position:** 2  
**Occupancy Type:** Primary  
**Property Type:** SFR Detached  
**Mortgage Type:** Conventional  
**Transaction Type:** Rate and Term Refinance  
**Origination Type:** Wholesale  
**Documentation Type:**  
**Appraised Price:** \$ 380,000.00  
**Sales Price:** \$ 359,000.00  
**Loan Amount:** \$ 200,000.00

**TILA-Tolerance**

Result: **FAIL**

Message: The disclosed finance charge (\$203,007.89) is (\$149,915.17) below the actual finance charge (\$352,923.06). For rescission after initiation of foreclosure, the Truth in Lending Act considers the disclosed finance charge inaccurate if it is more than \$35 below the actual finance charge. (15 USC Sec. 1635(i)(2)).

Message: The disclosed finance charge (\$203,007.89) is (\$149,915.17) below the actual finance charge (\$352,923.06). The Truth in Lending Act considers the disclosed finance charge inaccurate if it is more than \$100 below the actual finance charge. (12 CFR Sec. 226.18(d)(1)).

Message: The disclosed finance charge (\$203,007.89) is less than the actual finance charge (\$352,923.06) by (\$149,915.17). For rescission purposes, the Truth in Lending Act considers the finance charge inaccurate if it is understated by more than half of 1% of the note amount (\$1,000.00) or \$100, whichever is greater. (12 CFR Sec. 226.23(g)).

**APR**

<b>Review:</b>	PASS
<b>Disclosed APR:</b>	7.868000%
<b>Calculated APR:</b>	7.1777%
<b>Difference:</b>	0.6903%

**Finance Charges**

<b>Review:</b>	<b>FAIL</b>
<b>Disclosed Finance Charges:</b>	\$ 203,007.89
<b>Calculated Finance Charges:</b>	\$ 352,923.06
<b>Difference:</b>	(\$ 149,915.17)

Calculation data

Jurisdiction	Finance Charge Amount	Financed Amount	APR	Days of Prepaid Interest	Daily Prepaid Interest Amount
FED	\$ 352,923.06	\$ 194,224.54	7.1777%	18	\$ 11.11

Fees Included	Paid By	Paid To	Amount
Loan Discount:	Borrower	Originator	\$ 2,410.53
Application Fee:	Borrower	Originator	\$ 395.00
Flood Certification Fee:	Borrower	Affiliate	\$ 26.00
Tax Related Service Fee:	Borrower	Affiliate	\$ 173.00
Application Fee:	Borrower	Originator	\$ 795.00
Commitment (Rate Lock) Fee:	Borrower	Lender	\$ 550.00
Prepaid Interest:	Borrower	Lender	\$ 336.30
Mortgage Insurance-Impound:	Borrower	Lender	\$ 239.63
Attorney's Fees:	Borrower	Provider	\$ 850.00
<b>Total Fees:</b>			<b>\$ 5,775.46</b>

Fees Excluded	Paid By	Paid To	Amount
Title Insurance:	Borrower	Provider	\$ 2,176.00
Appraisal Fee:	Borrower	Originator	\$ 450.00
Credit Report Fee:	Borrower	Originator	\$ 38.00
Yield Spread Premium/Rebate:	Lender	Originator	\$ 9,693.00
Insurance Impound - Hazard:	Borrower	Lender	\$ 158.01
County Property Taxes-Impound:	Borrower	Lender	\$ 1,038.22
Recording Fees-Mortgage/Deed of Trust:	Borrower	Provider	\$ 500.00
Survey Fee:	Borrower	Provider	\$ 575.00
Courier Fee:	Seller	Provider	\$ 257.00
Office Expense Fee:	Seller	Provider	\$ 50.00
Recording Fees-Mortgage/Deed of Trust:	Seller	Provider	\$ 75.00
Doc Tax Stamps/Transfer Taxes - City/County:	Borrower	Provider	\$ 724.20
Doc Tax Stamps/Transfer Taxes - City/County:	Seller	Provider	\$ 2,097.20
Wire Transfer Fee:	Seller	Provider	\$ 50.00
Village Property Tax/County Property Tax:	Borrower	Provider	\$ 1,557.34
<b>Total Fees:</b>			<b>\$ 19,438.97</b>

**TILA-Right of Rescission** Result: **FAIL**

Message:The lender's disclosed "Right to Cancel Expire Date" is earlier than the calculated "Right to Cancel Expire Date." Under Regulation Z, funds may not be disbursed to the borrower until the expiration of the rescission period. (Regulation Z, 12 CFR Sections 226.15(c) and 226.23(c) and the Official Staff Commentary to Regulation Z for those same sections).

Message:The loan disbursement date is earlier than, or the same day as, the calculated "Right to Cancel Expire Date." Under Regulation Z, funds may not be disbursed to the borrower until after the expiration of the rescission period. (Regulation Z, 12 CFR Sections 226.15(c) and 226.23(c) and the Official Staff Commentary to Regulation Z for those same sections).

Loan Disbursement Date:	2006-01-13
Right To Cancel Expire Date:	2006-01-13
Right to Cancel Signed Date:	2006-01-13

TILA-Payment

Payment Date

LTV Drop Date: 2006-03-01

Sum of Payments: \$ 547,147.60

Payment Stream Worksheet

Disclosed Data			Calculated Data		
Number of Payments	Date	Payment Amount	Number of Payments	Date	Payment Amount
1	2004-02-01	\$215.07	12	2006-03-01	\$739.24
178	2004-03-01	\$176.91	12	2007-03-01	\$794.68
1	2019-01-01	\$174.10	12	2008-03-01	\$854.28
			12	2009-03-01	\$918.35
			12	2010-03-01	\$987.23
			12	2011-03-01	\$1,061.27
			12	2012-03-01	\$1,140.87
			12	2013-03-01	\$1,226.43
			12	2014-03-01	\$1,318.42
			12	2015-03-01	\$1,417.30
			239	2016-03-01	\$1,756.88
			1	2036-02-01	\$1,756.74

High Cost ( FED ) Second Pass

Result: **PASS**

APR Result

Limit Rate:	14.7600%
Loan Rate:	7.8680%
Difference:	6.892%

Fee Result

Fee Limit:	\$ 15,537.96
Loan Fees:	\$ 5,927.16
Difference:	\$ 9,610.80

Fees Included	Paid By	Paid To	Amount
Loan Discount :	Borrower	Originator	\$ 2,410.53
Application Fee :	Borrower	Originator	\$ 395.00
Appraisal Fee :	Borrower	Originator	\$ 450.00
Credit Report Fee :	Borrower	Originator	\$ 38.00
Flood Certification Fee :	Borrower	Affiliate	\$ 26.00
Tax Related Service Fee :	Borrower	Affiliate	\$ 173.00
Application Fee :	Borrower	Originator	\$ 795.00
Commitment (Rate Lock) Fee :	Borrower	Lender	\$ 550.00
Mortgage Insurance-Impound :	Borrower	Lender	\$ 239.63
Attorney's Fees :	Borrower	Provider	\$ 850.00

**Total Fees:**

**\$ 5,927.16**

Fees Excluded	Paid By	Paid To	Amount
Title Insurance :	Borrower	Provider	\$ 2,176.00
Yield Spread Premium/Rebate :	Lender	Originator	\$ 9,693.00
Prepaid Interest :	Borrower	Lender	\$ 336.30
Insurance Impound - Hazard :	Borrower	Lender	\$ 158.01
County Property Taxes-Impound :	Borrower	Lender	\$ 1,038.22
Recording Fees-Mortgage/Deed of Trust :	Borrower	Provider	\$ 500.00
Survey Fee :	Borrower	Provider	\$ 575.00

Courier Fee :	Seller	Provider	\$ 257.00
Office Expense Fee :	Seller	Provider	\$ 50.00
Recording Fees-Mortgage/Deed of Trust :	Seller	Provider	\$ 75.00
Doc Tax Stamps/Transfer Taxes - City/County :	Borrower	Provider	\$ 724.20
Doc Tax Stamps/Transfer Taxes - City/County :	Seller	Provider	\$ 2,097.20
Wire Transfer Fee :	Seller	Provider	\$ 50.00
Village Property Tax/County Property Tax :	Borrower	Provider	\$ 1,557.34

**Total Fees:** **\$ 19,287.27**

**High Cost ( NYPart41New )** **Result: FAIL**  
**Second Pass**

Message:The loan fees (\$15,737.53) exceed the (NYPart41New) High Cost fee limit, which is (\$9,740.37), the difference is (\$5,997.16).

APR Result		Fee Result	
Limit Rate:	13.7599%	Fee Limit:	\$ 9,740.37
Loan Rate:	7.8680%	Loan Fees:	\$ 15,737.53
Difference:	5.8919%	Difference:	(\$ 5,997.16 )

Fees Included	Paid By	Paid To	Amount
Loan Discount :	Borrower	Originator	\$ 2,410.53
Application Fee :	Borrower	Originator	\$ 395.00
Appraisal Fee :	Borrower	Originator	\$ 450.00
Credit Report Fee :	Borrower	Originator	\$ 38.00
Flood Certification Fee :	Borrower	Affiliate	\$ 26.00
Tax Related Service Fee :	Borrower	Affiliate	\$ 173.00
Application Fee :	Borrower	Originator	\$ 795.00
Yield Spread Premium/Rebate :	Lender	Originator	\$ 9,693.00
Commitment (Rate Lock) Fee :	Borrower	Lender	\$ 550.00
Attorney's Fees :	Borrower	Provider	\$ 850.00
Courier Fee :	Seller	Provider	\$ 257.00
Office Expense Fee :	Seller	Provider	\$ 50.00
Wire Transfer Fee :	Seller	Provider	\$ 50.00

**Total Fees:** **\$ 15,737.53**

Fees Excluded	Paid By	Paid To	Amount
Title Insurance :	Borrower	Provider	\$ 2,176.00
Prepaid Interest :	Borrower	Lender	\$ 336.30
Insurance Impound - Hazard :	Borrower	Lender	\$ 158.01
Mortgage Insurance-Impound :	Borrower	Lender	\$ 239.63
County Property Taxes-Impound :	Borrower	Lender	\$ 1,038.22
Recording Fees-Mortgage/Deed of Trust :	Borrower	Provider	\$ 500.00
Survey Fee :	Borrower	Provider	\$ 575.00
Recording Fees-Mortgage/Deed of Trust :	Seller	Provider	\$ 75.00
Doc Tax Stamps/Transfer Taxes - City/County :	Borrower	Provider	\$ 724.20
Doc Tax Stamps/Transfer Taxes - City/County :	Seller	Provider	\$ 2,097.20
Village Property Tax/County Property Tax :	Borrower	Provider	\$ 1,557.34

**Total Fees:** **\$ 9,476.90**

**HOEPA Review** **Result: PASS**

**State Rules Review**Result: **FAIL**

Message:The New York High Cost Home Loan Act prohibits a debt ratio greater than 50% on a high cost loan. (NY Bank 6-l(2)(k); 3 NY ADC 41.3(b))

Review Status: **FAIL**

State Rule: Back End Ratio Must Be &lt;= 50%(6950)

Message:New York High Cost Home Loans Act prohibits negative amortization. (NY Bank 6-l(2)(c); 3 NY ADC 41.2(c))

Review Status: **FAIL**

State Rule: Neg Am Not Allowed(7200)

Message:The New York High Cost Home Loans Act prohibits charging any points and fees when a lender refinances its own, or its affiliate's, existing high cost loan with a new high cost loan. In all other instances, a lender may not charge points and fees in connection with a high cost loan, if the proceeds of the high cost loan are used to refinance an existing high cost loan and the last financing was within 2 years. (NY Bank 6-l; 3 NY ADC 41.3(d))

Review Status: **WARNING**

State Rule: Refinance Warning(18820)

Message:The New York Banking Board Regulation - Part 80 (3 NY ADC 80.8) does not allow Tax Related Service Fee (2comply Fee ID: 107) to be charged to the Borrower in NY.

Review Status: **FAIL**

State Rule: Fee Not Allowed(2000000)

Message:Part 80 of the New York Gen. Regs. prohibits an Application Fee or Processing Fee to be figured as a percentage of the loan or credit line amount. (3 NY ADC 80.8(r))

Review Status: **WARNING**

State Rule: Application &amp; Processing Fee Warning(52470)

Message:New York Part 38 only allows one application fee per transaction. (3 NY ADC 38.7(b)(1))

Review Status: **FAIL**

State Rule: Only One Application Fee is Allowed Per Transaction(5010)

Message:This is a New York "non-traditional home loan" consummated between 01/01/2003 - 09/01/2008. The New York Real Property Actions and Proceedings Law requires a lender or mortgage loan servicer to provide a special 14-point type statutory notice to the borrower at least 90 days prior to commencing any legal action, including foreclosure, against the borrower on a "non-traditional home loan." (NY RPAPL 1304(5)(E))

Review Status: **WARNING**

State Rule: Option ARM or Interest Only Loan(55950)

Message:The System could not complete its State Rules Review because of an issue with the Licensing Reviewer (LIC).

Review Status: **FAIL**

State Rule: Mavent Message(10000009)

**License Review - Lender**Result: **PASS**

Review Status:

License Review: License Review - Lender ( LIC )

License Role: Lender

Jurisdiction: NY

License Type: NL

Exempt: false

**License Review - Broker**Result: **FAIL**

Message:A New York Mortgage Banker or Mortgage Broker license is needed for loans secured by 1-4 unit residential real property. (NY Bank 590-2; 3 NY ADC 39.4(e); 3 NY ADC 39.5)

Review Status:

License Review: &gt; 4 Units

**Geocode Data**Result: **PASS**

Address 1: 160 Bleecker St

Latitude: 40.725400

Address 2:

Longitude: -73.998000

City:	New York
County:	New York County
State:	NY
Zip Code:	10012-1541
State FIPS:	36
County FIPS:	061

CBSA Number:	35620
CBSA Division:	35644
Census Tract:	0043.00
Match Code:	S80
Location Quality Code:	ZC5X
Score:	0.0900000

**Making Home Affordable  
Enterprise Rules Review**

Result: **WARNING**

Message: This loan is not eligible for modification under the federal "Making Home Affordable" program, because it is a junior lien loan. (Home Affordable Modification Program Guidelines; [financialstability.gov](http://financialstability.gov))