

MEDIA RELEASE

Friday, 22 May 2009

ROGUE BROKER NOT SO AFFORDABLE

Consumer Action Law Centre (**Consumer Action**) has launched legal action against finance broker Affordable Home Loans and Mortgage Advice Pty Ltd (**Affordable Home Loans**) and its director, William Curry, on behalf of a client alleging the broker has unlawfully charged her a brokerage fee and unfairly placed a caveat over her home to secure payment.

Consumer Action Senior Policy Officer, Zac Gillam, said that Consumer Action's client approached the broker to refinance her existing home loan, which she was struggling to repay.

"Our claim sets out that our client entered into a brokerage agreement with Affordable Home Loans in early February to procure a home loan of no more than \$170,000, to be obtained through a bank not a private investor. It was important to our client that the loan was not through a private investor and that she was not liable for any up front fees in getting the loan because she had no means to pay such fees," said Mr Gillam.

"Our claim also states that the contract required an appropriate loan to be obtained before 27 February 2009, which was when our client's next home loan repayment was due."

"Only a few days before her next repayment was due, Affordable Home Loans allegedly presented our client with an offer for a loan from a private investor sourced through a law firm, for \$172,000, and with a requirement that she pay an upfront fee of \$1,500. The loan offer was also allegedly conditional on it being for business or commercial purposes."

"We claim that as the offer was not what our client had sought, she had to reject the offer."

Mr Gillam said the claim alleges that the broker then demanded the woman pay a brokerage fee of \$4,117, and registered a charge as a caveat against her home. While the caveat remains, the client is unable to obtain an alternative loan or sell her home.

"We allege that the broker in this case has demanded a fee that he is not entitled to and has engaged in both misleading and deceptive conduct and unconscionable conduct under the *Fair Trading Act*. We allege that he made representations to the effect that he would be able to obtain a loan with a reputable lender, and then presented an unsuitable offer knowing that our client would be under pressure to accept it."

"Placing a caveat over our client's home is a particularly unfair tactic. Unfortunately this is not the first time we have seen an unscrupulous broker use a caveat against a vulnerable consumer. It is time this practice was banned."

"Last year the State Governments put out a proposal to regulate brokers which included a ban on brokers lodging caveats to secure their fees, but the national consumer lending laws now being proposed by the Federal Government have dropped this proposal for no known reason. Reputable brokers do not resort to such tactics and there is no reason this practice should not be banned."

The Federal Government recently released draft new national consumer credit laws that, for the first time in Australia, will require brokers and lenders to meet appropriate standards through an obligation to

Consumer Action Law Centre
Level 7, 459 Little Collins Street
Melbourne Victoria 3000

Telephone 03 9670 5088
Facsimile 03 9629 6898

info@consumeraction.org.au
www.consumeraction.org.au

obtain a license, including engaging in responsible lending and joining a low cost and accessible dispute resolution scheme.

Mr Gillam said Consumer Action's legal claim seeks a declaration that their client is not liable for the brokerage fee, and that the caveat registered on her property should be removed at the expense of the broker. In addition, the claim seeks damages for the period during which the client has been unable to obtain an alternative loan.

Media Contact: Zac Gillam, Senior Policy Officer 03 9670 5088 or 0401 002 701