



February 17, 2022

ELEVATE SETTLES WITH DISTRICT OF COLUMBIA IN REGARD TO BANK LOAN PROGRAMS

Elevate, a fintech, entered into a settlement with the District of Columbia to resolve a suit brought by the District of Columbia in regard to the fintech's activities related to two bank loan programs facilitated and advertised by the fintech. The banks were not parties to the suit or the settlement. The case and settlement follow a pattern of state regulator's bypassing the banks and bringing actions against service providers and fintechs.

Under the settlement the fintech agreed not to (i) provide or advertise loans or lines of credit to District of Columbia consumers at an interest rate above 24% APR; (ii) act as a service provider to a lender that provides loans or lines of credit to District of Columbia consumers at an interest rate above 24% APR; or (iii) represent that it is permitted to offer loans or lines of credit in the District of Columbia without possessing any required District of Columbia money lender license.

The fintech also agreed to pay \$3.84 million, with \$3.4 million going to consumers that paid interest or would have paid interest greater than 24% APR. 24% APR is the amount permitted to be charged in the District of Columbia under the usury cap applicable to non-bank lenders.

In agreeing to the settlement, the fintech denied all allegations in the complaint and denied any violations of law. In the complaint, the District of Columbia alleged that the fintech had the predominant economic interest in the loans made by the banks under two separate loan programs and alleged that the fintech was the true lender for the loan programs. The complaint also alleged deceptive marketing and violations of the District of Columbia Consumer Protection Procedures Act.

The case and settlement illustrate the continuing focus of regulators on the predominant economic interest concept and the challenges in defending true lender allegations. □

✧ *Elizabeth Anstaett and Nathan Copeland*

Darrell L. Dreher
ddreher@dtlaw.com

Elizabeth L. Anstaett
eanstaett@dtlaw.com

Nathan D. Copeland
ncopeland@dtlaw.com

Susan L. Ostrander
sostrander@dtlaw.com

2750 HUNTINGTON CENTER
41 S. HIGH STREET
COLUMBUS, OHIO 43215
TELEPHONE: (614) 628-8000 FACSIMILE: (614) 628-1600
WWW.DTLAW.COM

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Michael C. Tomkies
mtomkies@dtlaw.com

Benjamin J. Hurford
bhurford@dtlaw.com

Mercedes C. Ramsey
mramsey@dtlaw.com

Judith M. Scheiderer
jscheiderer@dtlaw.com

Robin R. De Leo
robin@deher-la.com