

IN THE UNITED STATE DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

TERESA LOPEZ, on behalf of herself	:	
and all others similarly situated,	:	
Plaintiffs,	:	Index No. CV 98-7204
	:	
v.	:	(Sifton, Ch. J.)
	:	
DELTA FUNDING CORP., et al.,	:	
Defendants.	:	

DECLARATION OF ISMENE SPELIOTIS

I, Ismene Speliotis, state:

A. Introduction.

1. I am the Director of New York ACORN Housing Corporation (“ACORN HC”).

ACORN AC, a sister organization of New York ACORN (described further below). ACORN HC is dedicated to bettering the lives of low and moderate-income New Yorkers by improving their access to affordable housing. As part of ACORN HC’s work, it has fought the practices of predatory lenders, such as Delta Funding Corp. and the other defendants in the above-styled lawsuit (referred to collectively as “Delta”). In particular, ACORN HC has counseled many Delta victims and assisted them in trying to renegotiate their loans, help them maintain equity in their homes, and to prevent foreclosure.

2. As Director of ACORN HC, I am responsible for its day-to-day operations. I have knowledge of the facts set forth in this declaration, including the facts concerning New York ACORN, which is objecting to the proposed class action settlement in this case. I have been authorized by New York ACORN and its Executive Director Bertha Lewis to sign this declaration of behalf of New York ACORN.

B. ACORN and New York ACORN.

3. ACORN is the nation's largest community organization of low and moderate-income families, with over 120,000 member families organized into 600 neighborhood chapters in 45 cities across the country. ACORN's priorities include better housing for home buyers and tenants, living wages for low-wage workers, more investment in our communities from banks and governments, and better public schools. ACORN achieves these goals by building community organizations that have the power to win changes — through direct action, negotiation, legislation, and voter participation.

4. New York ACORN ("NY ACORN") is one of ACORN's chapters. It has over 23,000 members. NY ACORN organizes and recruits members solely in low and moderate-income neighborhoods, such as those subject to the predatory lending practices of the defendants in the above-styled lawsuit.

5. In her capacity as NY ACORN Executive Director, Bertha Lewis is responsible for the day-to-day operations of the chapter and for taking actions on behalf of our membership and the interests of the low and moderate-income communities that we serve. Ms. Lewis has authorized NY ACORN to object to the settlement of the above-styled class action suit.

C. ACORN's Involvement In Challenging Predatory Lending Practices.

6. ACORN, NY ACORN, and ACORN HC have made publicizing and eliminating predatory lending one their chief concerns in recent years. As ACORN's website notes:

The United States in recent years has seen a dramatic increase in a form of legalized robbery known as predatory lending. Predatory lending means imposing unfair and abusive loan terms on borrowers, often through aggressive sales tactics, taking advantage of borrowers' lack of understanding of extremely

complicated transactions, and outright deception. Predatory loans turn the dream of home ownership into a nightmare, in the worst instances ending in foreclosure. The damage done is increased by the fact that predatory loans are made in such concentrated volume in poor and minority neighborhoods where better loans are not readily available, and the loss of equity, and foreclosure can devastate already fragile communities. Although not all subprime loans are predatory, predatory lending is concentrated in the subprime loan market. There is a place for responsible subprime loans, where somewhat higher interest rates balance the genuinely higher risk of lending to borrowers with past credit problems. Today, however, too many subprime loans include abusive terms or conditions, too many have rates and fees much higher than can reasonably be justified by the credit records of the borrowers, and too many are going to borrowers who could and should qualify for loans at significantly lower rates. A Freddie Mac study suggested that about one third of the borrowers who have received subprime loans could have qualified for prime loans, while Fannie Mae Chairman Franklin Raines estimated that as many as half could have.

<http://www.acorn.org/acorn10/predatorylending/campaign.htm>.

7. ACORN has published a number of reports on predatory lending, including a voluminous, meticulously detailed study that reviews lending practices both on a nationwide basis and in dozens of cities around the country, including New York City. That study — *Separate and Unequal 2001: Predatory Lending in America* (Nov. 14, 2001) — is available on our website at <http://www.acorn.org/acorn10/predatorylending/reports.htm>. The study demonstrates ACORN's longstanding interest in combatting predatory lending and describes our members' involvement in the issue.

D. NY ACORN's and ACORN HC's Work Regarding the Predatory Lending Practices of the Delta Defendants.

8. NY ACORN and ACORN HC, like ACORN nationally, have been very involved in fighting predatory lending. NY ACORN and ACORN HC have taken a particular interest in this lawsuit, because defendant Delta and its affiliates and brokers have a huge market share of the mortgage loan business in the low-income neighborhoods that we serve and in which our members live.

9. ACORN HC has counseled and met with approximately 75 Delta victims on an individual basis. In most circumstances, the victims were unable to make their loan payments because those payments were beyond their means and the loans should have never been made on the terms offered by Delta. In some instances, we have been able to negotiate better deals and in others we advised victims on how to take advantage of the settlement with Delta negotiated by the New York Attorney General's office.

D. NY ACORN's Involvement In This Class Action.

10. NY ACORN was very disturbed to learn of the nature of this settlement. It was concerned that most of the victims would get very small monetary benefits. However, more fundamentally, NY ACORN was outraged that the victims would have to give up all claims that they held against Delta, including all defenses and counterclaims in foreclosure cases. There is no way that borrowers facing foreclosure on abusive loans should be denied their rights to defend themselves. Because Delta's victims will lose all of their claims and defenses unless they opt out, the settlement effectively requires them to take action to preserve the rights that they already have. That is terribly unfair.

11. It is difficult to know the precise number of NY ACORN members who are class

members in this class action. Based on my work and the work of my colleagues at NY ACORN and ACORN HC with Delta victims, and with NY ACORN members in organizing around issues involving predatory lending, I estimate that number is approximately 100 families. (Of course, many more Delta victims are members of other ACORN chapters).

12. Shortly after learning of the proposed settlement in this case, we decided that we should alert Delta borrowers with whom we had worked in the past — both members and non-members — of our concerns about the settlement. We therefore sent a letter to those people. In the letter, we asked these borrowers to call us to get more information and so that we could answer any questions that they may have. Some called us and some did not.

13. The letter did not advise Delta borrowers to opt out of the class action settlement. Nevertheless, we recognize that there is a huge risk that class members will not opt out after getting the class action notice, because there is no way from the class action notice to understand that Delta borrowers will be giving up all of their defenses and counterclaims to pending and future foreclosure cases. Although the benefits of the proposed settlement are paltry, we would be less concerned with the settlement if it did not also strip the borrowers of all their legal rights against Delta, including in foreclosure cases.

16. Because we are certain that many NY ACORN members and others in the low-income communities that we serve will be unaware of the settlement's broad release of rights — eliminating all their claims under federal and state law — and because the settlement will put the vast majority of the class members in a worse position than they would be without the suit, NY ACORN is objecting to this settlement on their behalf.

17. NY ACORN believes that the settlement should be rejected for the reasons stated in our objections. It takes this position not only because it is concerned with Delta's predatory practices and helping Delta's victims, but also because of the terrible precedent that the approval of this settlement would set if a predatory lender were able to strip borrowers of all their legal claims and defenses in the manner Delta that seeks here.

Signed under the pains and penalties of perjury pursuant to 28 U.S.C. 1746 in Brooklyn, New York, on May 10, 2002.

Ismene Speliotis
Director, ACORN HC on behalf of
NY ACORN