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IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT INDEPENDENCEDAVID C. AND HOLLY E. McLEAN,
et al.,

Plaintiffs,

v.

FIRST HORIZON HOME LOAN
CORPORATION (f/k/a McGUIRE
MORTGAGE COMPANY),

Defendant.

Case No. 00CV-228530

Division 28

ORDER GRANTING PARTIAL SUMMARY JUDGMENT


On this 8 day of June, 2006, the Court takes up Plaintiffs David C. and Holly E. McLeans' Motion for Partial Summary Judgment. The Court, having received and reviewed the Amended Report of Senior Judge William F. Mauer, as Special Master, dated January 13, 2006, and having considered the record and the parties' arguments on the motion, including the suggestions, affidavits, deposition testimony and other evidence on which the parties rely, as well as Defendant's "Suggestions Opposing Plaintiffs' Motion for Summary Judgment, and Objection to [Special] Master's Recommendation that the Motion be Granted," hereby adopts the findings and conclusions of the Special Master, agrees that there is no genuine issue of material fact, and concludes that the McLeans are entitled to a partial summary judgment as a matter of law.

IT IS THEREFORE ORDERED that Defendant's Objection to the Special Master's Report is OVERRULED and that Plaintiffs' Motion for Partial Summary Judgment is GRANTED in part. A partial summary judgment is entered pursuant to Mo. Rule 74.04 in favor of Plaintiffs David C. and Holly E. McLean and against Defendant First Horizon Home Loan Corporation (f/k/a McGuire Mortgage Company) decreeing that: (a) the McLeans' second

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mortgage loans transactions were subject to the Missouri Second Mortgage Loans Act, §§ 408.231 RSMo, et seq.; (b) neither of the McLeans' two loans was a "business loan" within the meaning of § 408.015(2) RSMo; (c) the "loan discount" fees and "tax service fees" Defendant charged were not allowed by § 408.233.1 RSMo, and were thus, illegal per se; and (d) Defendant violated § 408.233.1 by charging, contracting for and/or receiving a "loan discount" fee and/or "tax service fee" in connection with each of the McLeans' two loans. Plaintiffs' Motion for Partial Summary Judgment is DENIED as to any claim based on Defendant's alleged violation of § 408.233.4 RSMo.

Dated: 8 June 06



Vernon E. Scoville, III, Circuit Court Judge

CC. Counsel of Record

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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on June 8, 2006, a true and correct copy of the above was faxed as follows:

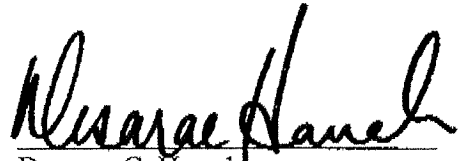
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