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Attorney General Balderas Announces Over \$550M Multistate Settlement with Nation's Largest Subprime Auto Financing Company

Settlement with Santander Includes more than \$550 Million in Relief for Consumers

SANTA FE, NM – Attorney General Balderas, along with a coalition of 34 attorneys general, today announced a settlement with Santander Consumer USA Inc. (Santander) that includes approximately \$550 million in relief for consumers with even more relief in additional deficiency waivers expected. The settlement resolves allegations that Santander violated consumer protection laws by exposing subprime consumers to unnecessarily high levels of risk and knowingly placing these consumers into auto loans with a high probability of default. Today's settlement stems from a multistate investigation of Santander's subprime lending practices. In March 2015, the coalition opened the investigation into the largest subprime auto financing company in the country after receiving an increase in consumer complaints related to subprime auto loans.

"Barriers to transportation and credit are among the most problematic root causes for the health, safety, and prosperity of underserved New Mexican communities," said Attorney General Balderas. "Financial institutions should not prey upon hardworking New Mexicans who are already struggling to make ends meet for their families; and I will continue to fight to protect our families and consumers from these harms."

Based on the multistate investigation, the coalition alleges that Santander, through its use of sophisticated credit scoring models to forecast default risk, knew that certain segments of its population were predicted to have a high likelihood of default. Santander exposed these borrowers to unnecessarily high levels of risk through high loan-to-value ratios, significant backend fees, and high payment-to-income ratios. The coalition also alleges that Santander's aggressive pursuit of market share led it to underestimate the risk associated with loans by turning a blind eye to dealer abuse and failing to meaningfully monitor dealer behavior to minimize the risk of receiving falsified information, including the amounts specified for consumers' incomes and expenses. Finally, the coalition alleges that Santander engaged in deceptive servicing practices and actively misled consumers about their rights, and risks of partial payments and loan extensions.

Under the settlement, Santander is required to provide relief to consumers and, moving forward, is required to factor a consumer's ability to pay the loan into its underwriting.

Santander will pay \$65 million to the 34 participating states for restitution for certain

subprime consumers who defaulted on loans between Jan. 1, 2010 and Dec. 31, 2019. For consumers with the lowest quality loans who defaulted as of December 31, 2019 and have not had their cars repossessed, Santander is required to allow them to keep their car and waive any loan balance, up to a total value of \$45 million in loan forgiveness. Santander will also pay up to \$2 million for the settlement administrator who will administer restitution claims, and pay an additional \$5 million to the states.

The settlement also includes significant consumer relief by way of loan forgiveness. In all, Santander has agreed to waive the deficiency balances for certain defaulted consumers, with approximately \$433 million in immediate forgiveness of loans still owned by Santander, and additional deficiency waivers of loans that Santander no longer owns but is required to attempt to buy back.

Going forward, Santander cannot extend financing if a consumer has a negative residual income after taking into consideration a list of actual monthly debt obligations. Additionally, Santander is required to test all loans that default in the future to see if the consumer, at the time of origination, had a negative income. The test must include an amount for basic living expenses. If the loan is found to be unaffordable and the consumer defaulted within a certain amount of time, Santander is required to forgive that loan.

Santander is barred from requiring dealers to sell ancillary products, such as vehicle service contracts. Santander will also implement steps to monitor dealers who engage in income inflation, expense inflation, power booking, and Santander will enact additional documentation requirements for those dealers. Further, whereas Santander previously allowed these problematic dealers to waive documentation requirements on income and expenses, Santander no longer will allow such exceptions. If Santander has to use a default mortgage or rent payment value, the amount input must reasonably reflect the payment value for the geographic location. Finally, Santander will maintain policies and procedures for deferments, forbearances, modifications and other collection matters that all employees must follow.

Joining Attorney General Balderas in the settlement are the attorneys general of Arizona, Arkansas, California, Connecticut, the District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Utah, Virginia, Washington, West Virginia, and Wyoming.

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