

COURTS

Law firms sue over home equity agreements

Attorneys allege consumers being denied protections, housing market put at risk

Translate

By Aldo Svaldi
asvaldi@denverpost.com

Two Denver public interest law firms sued one of the country's largest providers of "home equity agreements" in Adams County District Court on Thursday.

Denver-based Halperin Petersen & Mikkilineni (HPM) and Towards Justice filed a class-action lawsuit on behalf of Colorado homeowners against Unlock Partnership Solutions Inc. and its parent company, Tempe-based Unlock Technologies.

"This lawsuit seeks to protect Colorado families' most important investment and put an end to illegal practices that rob them of their equity," said Eric Halperin, founding partner at Halperin Petersen, in a release.

The lead plaintiff in the case is Sheila Johnsen of Commerce City, who signed a home equity agreement, or HEA, with Unlock in 2023 after her husband Adam suffered serious injuries in a car accident.

She was extended \$65,400, which represented 12.6% of the couple's home value in 2023. When the balloon payment is due in 10 years, they will be on the hook for repaying 25.78% of the home's value at that time.

The lawsuit alleges Unlock is providing mortgage loans under the guise of HEAs as a way to skirt federal and state consumer protections on loans, including caps on how much interest can be charged.

Unlock has extended equity advances to hundreds of homeowners in the state using complicated contracts. Homeowners are granted a certain percentage of their current equity in return for agreeing to pay back about double that share of the future value when the home is sold or at the end of 10 years.

For example, if someone takes out 15% of a home's equity value in 2026, they must repay Unlock 30% of the home's value in 2036, although that ratio can vary somewhat.

Unlock takes out a deed of trust on the home, which is typical in mortgages, and owners are required to make the necessary repairs to maintain the value of the property.

Unlock packages the agreements and sells them as securitized debt instruments on Wall Street, another way the product mimics mortgage debt. Halperin alleges consumers needing credit are being deceived by complicated and confusing terms that obscure the high costs involved.

On the surface, if a home doesn't go up in value, the cost of capital would run about 7.2% a year at the end of 10 years, not too far off the current rate charged on a 30-year mortgage.

But Unlock pads the agreements with fees and often appraises homes below their actual market value to provide a "risk discount," the lawsuit says.

"Unlock has structured its HEA product with highly lopsided terms so that it effectively shifts almost every potential downside risk and cost to consumers to ensure the future payment it receives far exceeds its advance," the two firms allege.

Assuming normal home value appreciation, combined with the added costs, and the implied cost of capital can run 20% to 30% a year, the lawsuit argues. That exceeds the usury caps on unsupervised consumer loan interest rates of 12% to 21% in Colorado.

In June, Unlock Partnership Solutions reached an agreement with Colorado Attorney General Phil Weiser to comply with the state consumer lending laws and licensing requirements and to pay \$283,375 in restitution on prior agreements.

Providers of HEAs, like Unlock, argue they are taking an equity stake with an uncertain payout, not extending a loan with a guaranteed right of principal repayment.

Consumers don't make monthly payments, there is no stated interest rate, and credit agencies don't receive reports.

No debt-to-income ratios are required to qualify, which appeals to homeowners who lack a steady stream of income required for conventional loans.

While consumers don't have to make monthly payments, they do face a day of reckoning if they can't repay the HEA. Consumer advocates argue that could push some of them into foreclosure and put the larger housing market at risk.

"As a result of Unlock's alleged predatory and illegal practices, hundreds of Coloradans are subject to ballooning payments, loss of home equity, and restrictions on their ability to use their homes as they see fit," the two firms argue.

Unlock didn't reply to a request for comment.