Pricing Discrimination

We have brought several suits challenging discrimination in the price of credit. In the mortgage lending area, pricing disparities often arise as a result of discriminatory application of "overages," that is, the discretionary authority of employees or brokers to charge rates higher than the lender's set rates, for which the employees receive additional compensation. It should be emphasized that the higher prices resulting from overages are not related, in any way, to the qualifications of the borrower or the risk to the lender. The use of an employee or broker incentive program such as an overage system is not unlawful per se, but it becomes unlawful if applied in a manner to extract higher prices from minorities or women because of their race, national origin or gender.

The "overage" issue was involved in a lawsuit filed by our Department against the Huntington Mortgage Company in Cleveland in 1995, in a lawsuit filed in 1996 against the Fleet Mortgage Company in Brooklyn, and in a suit filed in 1996 against Long Beach Mortgage Company in California. In the Huntington and Fleet cases, we alleged that mortgage company employee loan officers were charging African-American and/or Hispanic borrowers higher up-front fees for home mortgage loans than they were charging to similarly situated white borrowers, and that these differences in price could not have occurred by chance and could not be explained by differences in the borrowers' loan qualifications. United States v. The Huntington Mortgage Company, Case No. 1:95 CV 2211 (N.D. Ohio 1995); United States v. Fleet Mortgage Corp., Case No. CV 96 2279 (E.D.N.Y. 1996).