

United States of America
Consumer Financial Protection Bureau

Administrative Proceeding
File No. 2017-CFPB-0007

In the Matter of:

Planet Home Lending, LLC

Consent Order

The Consumer Financial Protection Bureau (Bureau) has reviewed Planet Home Lending, LLC's (Planet, or Respondent, as defined below) mortgage referral and consumer usage activities, and has identified the following violations of law: improperly accepting a thing of value in exchange for referrals, in violation of Section 8(a) of the Real Estate Settlement Procedures Act, 12 U.S.C. § 2607(a), and its implementing regulation, Regulation X, 12 C.F.R. part 1024, (collectively, RESPA); obtaining and using credit reporting information for unauthorized purposes, in violation of Section 604(f) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(f); and resulting violations of Section 1036 of the Consumer Financial Protection Act (CFPA), 12 U.S.C. § 5536. The Bureau issues this Consent Order (Consent Order) under Sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565.

I
Jurisdiction

1. The Bureau has jurisdiction over this matter under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565, RESPA Section 8, 12 U.S.C. § 2607(d)(4), and FCRA Section 621, 15 U.S.C. § 1681s(b)(1)(H).

II
Stipulation

2. Respondent has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated January 26, 2017 (Stipulation), which is incorporated by reference and is accepted by the Bureau. By this Stipulation, Respondent has consented to the issuance of this Consent Order by the Bureau under sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565, without admitting or denying any of the findings of fact or conclusions of law, except that Respondent admits the facts necessary to establish the Bureau’s jurisdiction over Respondent and the subject matter of this action.

III
Definitions

3. The following definitions apply to this Consent Order:
- a. “Affected Consumers” means consumers who obtained a mortgage under the Master Origination Services and Sale Agreement from December 2012 to October 2014.
 - b. “Consumer Report” means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general

reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for—(A) credit or insurance to be used primarily for personal, family, or household purposes; (B) employment purposes; or (C) any other purpose authorized under 15 U.S.C. §1681b, as consistent with the definition of consumer report in 15 U.S.C. § 1681a(d).

c. "Effective Date" means the date on which the Consent Order is issued.

d. "Master Origination Services and Sale Agreement" means the agreement dated December 26, 2012 between Prospect and Respondent.

e. "Prospect" means Prospect Mortgage, LLC, its subsidiaries, successors, and assigns.

f. "Regional Director" means the Regional Director for the Northeast Region for the Office of Supervision for the Consumer Financial Protection Bureau, or their delegate.

g. "Related Consumer Action" means a private action by or on behalf of one or more consumers or an enforcement action by another governmental agency brought against Respondent based on substantially the same facts as described in Section IV of this Consent Order.

h. "Relevant Period" includes the period from December 26, 2012 to the present.

i. "Respondent" means Planet Home Lending, LLC, Green Planet Servicing, LLC, Planet Home Lending, Planet Home Servicing, and their subsidiaries, successors, and assigns.

IV

Bureau Findings and Conclusions

The Bureau finds the following:

Jurisdictional and General Findings

4. Respondent is a mortgage servicer and lender headquartered in Meriden, CT. Respondent is licensed to do business throughout the United States.

5. Mortgage servicing and mortgage origination are consumer financial products or services under the CFPB. 12 U.S.C. § 5481(15)(A)(i). Respondent is therefore a “covered person” as that term is defined by 12 U.S.C. § 5481(6).

Findings and Conclusions Related to Respondent Receiving Payments for Referrals of Real Estate Settlement Service Business, in violation of the Real Estate Settlement Procedures Act.

6. Respondent signed a contract called the Master Origination Services and Sale Agreement with Prospect, a mortgage lender, on December 26, 2012. Under the Master Origination Services and Sale Agreement, Respondent marketed Prospect’s services to its servicing clients, and tried to persuade them to refinance their existing mortgage with Prospect. In return, Prospect paid Respondent a portion of the proceeds from the sales of refinanced loans in the secondary market, and sent the mortgage servicing rights on the refinanced mortgage to Planet.

7. The Master Origination Services and Sale Agreement required Respondent to identify its servicing clients who were potentially eligible for a HARP refinance, and market Prospect as Respondent’s preferred refinance partner to them. Respondent sent letters containing its logo alongside Prospect’s logo.

8. Respondent also called consumers to solicit mortgage refinancings.

Respondent told consumers, “As a valued customer of Green Planet, we would like you to take advantage of a refinance opportunity to reduce your payment on your current mortgage loan.” If the consumer expressed interest, Respondent put the consumer on hold, transferred the call to Prospect, and made an introduction to smooth the transition. Respondent referred to Prospect as its “preferred partner.” Prospect then tried to persuade the consumer to apply for a refinance mortgage.

9. After Prospect originated a loan derived from such a referral, it would bundle it with other, similar HARP loans from Respondent. After selling the bundle to an investor, Prospect then split the net proceeds 50/50 with Respondent and sent the resulting mortgage servicing rights back to Respondent under the terms of the Master Origination Services and Sale Agreement.

10. Respondent successfully referred several hundred consumers to Prospect – and received a share of the resulting loan sale proceeds and the mortgage servicing rights in return – under the Master Origination Services and Sale Agreement. These were all federally related mortgage loans.

11. Section 8(a) of RESPA, 12 U.S.C. § 2607(a), provides that “no person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person.”

12. Respondent therefore accepted a thing of value under an agreement to refer real estate settlement services for federally related mortgage loans, in violation of RESPA §8(a), 12 U.S.C. § 2607(a).

Findings and Conclusions Related to Respondent's Improper Acquisition of Consumer Reports, in Violation of the Fair Credit Reporting Act.

13. To further identify those candidates among its client base who were potentially interested in refinancing, Respondent ordered Consumer Reports called "trigger leads," from Equifax, one of the three major consumer reporting agencies.

14. The trigger leads consisted of a list of Respondent's servicing clients, each of whom had a Consumer Report reflecting a hard credit inquiry resulting from a mortgage application during the previous day. For example, if a consumer had a mortgage being serviced by Respondent, and had her credit reviewed by a major bank when applying for a refinance, that consumer would appear on the following day's trigger lead report.

15. The trigger leads Equifax provided to Respondent contained information about Respondent's current servicing customers who were actively shopping for refinancing with lenders. Respondent contacted these individuals to market Prospect loans to them in the manner described above.

16. The trigger leads constituted Consumer Reports because they included, in whole or in part, information by a consumer reporting agency bearing on a consumer's creditworthiness, credit standing, credit capacity, character, personal characteristics, or mode of living that was used or expected to be used in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for credit to be used to be used primarily for personal, family, or household purposes. 15 U.S.C. § 1681a(d)(1).

17. Section 604(f) of the FCRA prohibits persons from using or obtaining Consumer Reports without a permissible purpose. 15 U.S.C. § 1681b(f). Respondent

obtained Consumer Reports and used the reports for marketing purposes, but did not make a firm offer of credit to the consumers. Marketing is not a permissible purpose under the FCRA. 15 U.S.C. § 1681b(a)-(c).

18. As a result, the acts or practices described above constitute a violation of Section 604(f) of the FCRA, 15 U.S.C. § 1681b(f).

ORDER

V

Conduct Provisions

IT IS ORDERED, under sections 1053 and 1055 of the CFPA, that:

19. Respondent and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, must not now or at any time in the future:

a. refer any consumer to any provider of a real estate settlement service if that provider has agreed to purchase or pay for any service from Respondent, and the provider's purchase of or payment for that service is connected or related in any way to those referrals;

b. enter into agreements with settlement service providers that include any requirement or understanding that Respondent will endorse the use of the settlement service provider's services, or do anything else to affirmatively influence prospective home buyers to use the settlement service provider;

c. give or accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall

be referred to any person, in violation of Section 8 of RESPA, 12 U.S.C. § 2607, and its implementing regulation, Regulation X, 12 C.F.R. § 1024.14;

- d. violate the Fair Credit Reporting Act, 15 U.S.C. § 1681b(f); and
- e. use or obtain a Consumer Report for any purpose unless:
 - i. Respondent obtains the Consumer Report for a purpose authorized under 15 U.S.C. § 1681b; and
 - ii. Respondent certifies the purpose in accordance with 15 U.S.C. § 1681e.

20. Nothing in this order should be interpreted to limit the duration of Paragraph 19.

VI

Order to Pay Redress

IT IS FURTHER ORDERED that:

21. Within 10 days of the Effective Date, Respondent must reserve or deposit into a segregated deposit account \$265,000 for the purpose of providing redress to Affected Consumers as required by this Section.

22. Within 30 days of the Effective Date, Respondent must submit to the Regional Director for review and non-objection a comprehensive written plan for providing redress consistent with this Consent Order (Redress Plan). The Regional Director will have the discretion to make a determination of non-objection to the Redress Plan or direct the Respondent to revise it. If the Regional Director directs Respondent to revise the Redress Plan, Respondent must make the revisions and resubmit the Redress Plan to the Regional Director within 15 days. After receiving

notification that the Regional Director has made a determination of non-objection to the Redress Plan, the Respondent must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Redress Plan.

23. The Redress Plan must:

a. Specify how Respondent will identify all Affected Consumers and reimburse all Affected Consumers for the redress amount specified in the Redress Plan (Redress Amount).

b. Detail a methodology for calculating the Redress Amount for Affected Consumers.

c. Provide that redress payments made to Affected Consumers will be made by check, sent by mail, and accompanied by a Redress Notification Letter.

d. Provide an exemplar of the Redress Notification Letter and envelope. The letter must explain how Respondent calculated the amount of redress; how Respondent will provide redress; the date by which Respondent will provide redress; and that Respondent's redress payment is in accordance with the terms of this Consent Order. Respondent must not include in any envelope containing a Redress Notification Letter any materials other than the approved letters and redress checks (where applicable), unless Respondent has obtained written confirmation from the Regional Director that the Bureau does not object to including such materials.

e. When Respondent makes restitution to Affected Consumers by check, require Respondent to send the check by United States Post Office first-class mail, address correction service requested, to the Affected Consumer's last address as maintained in Respondent's records.

f. For any Affected Consumer whose restitution check is returned, require Respondent to make reasonable attempts to obtain a current address using standard address search methodologies, including a standard address search using the National Change of Address system and to promptly re-mail all returned restitution checks to current addresses, if any.

g. If the check for any eligible consumer is returned to Respondent after a second mailing, or if a current mailing address cannot be identified using standard address search methodologies, require Respondent to retain the Redress Amount of that Affected Consumer for a period of three hundred sixty (360) days from the date the restitution check was originally mailed, or a shorter period of time if required by law, during which period such amount may be claimed by such Affected Consumer upon appropriate proof of identity and, after such time, dispose of these monies in accordance with the Section.

h. Specify the timeframes and deadlines for implementing the steps described above.

i. Provide that Respondent will pay all costs of administering redress as required by this Section.

24. After completing the Redress Plan, if the amount of redress provided to Affected Consumers is less than \$265,000, within 30 days after completing the Redress Plan, Respondent must pay to the Bureau, by wire transfer to the Bureau or to the Bureau's agent, and according to the Bureau's wiring instructions, the difference between the amount of redress provided to Affected Consumers and \$265,000.

25. The Bureau may use these remaining funds to pay additional redress to Affected Consumers. If the Bureau determines, in its sole discretion, that additional

redress is wholly or partially impracticable or otherwise inappropriate, or if funds remain after the additional redress is completed, the Bureau will deposit any remaining funds in the U.S. Treasury. Respondent will have no right to challenge any actions that the Bureau or its representatives may take under this Section.

26. Respondent may not condition the payment of any redress to any Affected Consumer under this Consent Order on that Affected Consumer waiving any right.

27. In the event of any default on Respondent's obligations to make payment under this Consent Order, interest, computed under 28 U.S.C. § 1961, as amended, will accrue on any outstanding amounts not paid from the date of default to the date of payment, and will immediately become due and payable.

28. Respondent must relinquish all dominion, control, and title to the funds paid under this Consent Order to the fullest extent permitted by law and no part of the funds may be returned to Respondent.

29. Under 31 U.S.C. § 7701, Respondent, unless it has already done so, must furnish to the Bureau its taxpayer identifying numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of this Consent Order.

30. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action, Respondent must notify the Regional Director of the final judgment, consent order, or settlement in writing. That notification must indicate the amount of redress, if any, that Respondent paid or is required to pay to consumers and describe the consumers or classes of consumers to whom that redress has been or will be paid.

VII Reporting Requirements

IT IS FURTHER ORDERED that:

31. Respondent must notify the Bureau of any development that may affect compliance obligations arising under this Consent Order, including but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Consent Order; the filing of any bankruptcy or insolvency proceeding by or against Respondent; or a change in Respondent's name or address. Respondent must provide this notice, if practicable, at least 30 days before the development, but in any case no later than 14 days after the development.

32. Within 90 days of the Effective Date, and again one year after the Effective Date, Respondent must submit to the Regional Director an accurate written compliance progress report (Compliance Report) that has been approved by the Board, which, at a minimum:

- a. Describes in detail the manner and form in which Respondent has complied with this Consent Order; and
- b. Attaches a copy of each Order Acknowledgment obtained under Section VIII (Order Distribution and Acknowledgement), unless previously submitted to the Bureau.

VIII

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that,

33. Within 30 days of the Effective Date, Respondent must deliver a copy of this Consent Order to each of its board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who have responsibilities related to the subject matter of the Consent Order.

34. For 5 years from the Effective Date, Respondent must deliver a copy of this Consent Order to any business entity resulting from any change in structure referred to in Section VII (Reporting Requirements), any future board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who will have responsibilities related to the subject matter of the Consent Order before they assume their responsibilities.

35. Respondent must secure a signed and dated statement acknowledging receipt of a copy of this Consent Order, ensuring that any electronic signatures comply with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.*, within 30 days of delivery, from all persons receiving a copy of this Consent Order under this Section.

IX

Recordkeeping

IT IS FURTHER ORDERED that

36. Respondent must create, or if already created, must retain for at least 5 years from the Effective Date, the following business records:

a. All documents and records necessary to demonstrate full compliance with each provision of this Consent Order, including all submissions

to the Bureau; and

b. All documents and records pertaining to the Redress Plan, described in Section VI above.

37. Respondent must retain the documents identified in Paragraph 36 for the duration of the Consent Order.

38. Respondent must make the documents identified in Paragraph 36 available to the Bureau upon the Bureau's request.

X
Notices

IT IS FURTHER ORDERED that:

39. Unless otherwise directed in writing by the Bureau, Respondent must provide all submissions, requests, communications, or other documents relating to this Consent Order in writing, with the subject line, "*In re Planet Home Lending, LLC*, File No. 2017-CFPB-0007," and send them either:

a. By overnight courier (not the U.S. Postal Service), as follows:

Regional Director, CFPB Northeast Region
140 East 45th Street, 4th Floor
New York, NY 10017;

or

b. By first-class mail to the below address and contemporaneously by email to Enforcement_Compliance@cfpb.gov:

Regional Director, CFPB Northeast Region
140 East 45th Street, 4th Floor
New York, NY 10017

XI

Cooperation with the Bureau

IT IS FURTHER ORDERED that:

40. Respondent must cooperate fully to help the Bureau determine the identity and location of, and the amount of injury sustained by, each Affected Consumer. Respondent must provide such information in its or its agents' possession or control within 14 days of receiving a written request from the Bureau.

41. Respondent must cooperate fully with the Bureau in this matter and in any investigation, litigation, or administrative proceeding related to or associated with the conduct described in Section IV (Bureau Findings and Conclusions). Respondent must provide truthful and complete information, evidence, and testimony. Corporate Respondent must cause Respondent's officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that the Bureau may reasonably request upon 5 days' written notice, or other reasonable notice, at such places and times as the Bureau may designate, without the service of compulsory process.

XII

Compliance Monitoring

IT IS FURTHER ORDERED that, to monitor Respondent's compliance with this Consent Order:

42. Within 14 days of receipt of a written request from the Bureau, Respondent must submit additional Compliance Reports or other requested

information, which must be made under penalty of perjury; provide sworn testimony; or produce documents.

43. Respondent must permit Bureau representatives to interview any employee or other person affiliated with Respondent who has agreed to such an interview. The person interviewed may have counsel present.

44. Nothing in this Consent Order will limit the Bureau's lawful use of civil investigative demands under 12 C.F.R. § 1080.6 or other compulsory process.

XIII

Modifications to Non-Material Requirements

IT IS FURTHER ORDERED that:

45. Respondent may seek a modification to non-material requirements of this Consent Order (e.g., reasonable extensions of time and changes to reporting requirements) by submitting a written request to the Regional Director.

46. The Regional Director may, in their discretion, modify any non-material requirements of this Consent Order (e.g., reasonable extensions of time and changes to reporting requirements) if they determine good cause justifies the modification. Any such modification by the Regional Director must be in writing.

XIV

Administrative Provisions

47. The provisions of this Consent Order do not bar, estop, or otherwise prevent the Bureau, or any other governmental agency, from taking any other action against Respondent, except as described in Paragraph 48.

48. The Bureau releases and discharges Respondent from all potential liability for law violations that the Bureau has or might have asserted based on the practices described in Section IV (Bureau Findings and Conclusions) of this Consent Order, to the extent such practices occurred before the Effective Date and the Bureau knows about them as of the Effective Date. The Bureau may use the practices described in this Consent Order in future enforcement actions against Respondent and its affiliates, including, without limitation, to establish a pattern or practice of violations or the continuation of a pattern or practice of violations or to calculate the amount of any penalty. This release does not preclude or affect any right of the Bureau to determine and ensure compliance with the Consent Order, or to seek penalties for any violations of the Consent Order.

49. All pending motions are hereby denied as moot.

50. This Consent Order is intended to be, and will be construed as, a final Consent Order issued under section 1053 of the CFPA, 12 U.S.C. § 5563, and expressly does not form, and may not be construed to form, a contract binding the Bureau or the United States.

51. This Consent Order will remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Consent Order have been amended, suspended, waived, or terminated in writing by the Bureau or its designated agent.

52. Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted.

53. Should Respondent seek to transfer or assign all or part of its operations that are subject to this Consent Order, Respondent must, as a condition of sale, obtain

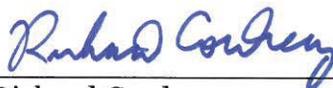
the written agreement of the transferee or assignee to comply with all applicable provisions of this Consent Order.

54. The provisions of this Consent Order will be enforceable by the Bureau. For any violation of this Consent Order, the Bureau may impose the maximum amount of civil money penalties allowed under section 1055(c) of the CFPB, 12 U.S.C. § 5565(c). In connection with any attempt by the Bureau to enforce this Consent Order in federal district court, the Bureau may serve Respondent wherever Respondent may be found and Respondent may not contest that court's personal jurisdiction over Respondent.

55. This Consent Order and the accompanying Stipulation contain the complete agreement between the parties. The parties have made no promises, representations, or warranties other than what is contained in this Consent Order and the accompanying Stipulation. This Consent Order and the accompanying Stipulation supersede any prior oral or written communications, discussions, or understandings.

56. Nothing in this Consent Order or the accompanying Stipulation may be construed as allowing the Respondent, its Board, officers, or employees to violate any law, rule, or regulation.

IT IS SO ORDERED, this 30th day of January, 2017.



Richard Cordray
Director
Consumer Financial Protection Bureau