

UNITED STATES OF AMERICA
CONSUMER FINANCIAL PROTECTION BUREAU

File No. 2014-CFPB-0010 _____

In the Matter of:

Amerisave Mortgage Corporation;
Novo Appraisal Management Corp.; and
Patrick Markert.

**STIPULATION AND CONSENT
TO THE ISSUANCE OF
A CONSENT ORDER**

The Consumer Financial Protection Bureau (Bureau) intends to initiate an administrative proceeding against Amerisave Mortgage Corporation, Novo Appraisal Company, and Patrick Markert (Respondents), under 12 U.S.C. §§ 5563 and 5565, for their advertising deceptive mortgage rates and terms, charging illegal upfront fees before providing a Good Faith Estimate, making referrals for third-party services to affiliates without properly disclosing the affiliate relationship and making misleading representations about the nature of third-party services, in violation of the Consumer Financial Protection Act of 2010's prohibition on unfair, deceptive, or abusive acts or practices, 12 U.S.C. §§ 5531, 5536, Section 8 of the Real Estate Settlement Procedures Act, 12 U.S.C. § 2607, and its implementing regulation, Regulation X, 12 C.F.R. part 1024 (collectively, RESPA); the Truth in Lending Act and its implementing regulation,

Regulation Z, 12 C.F.R. part 1026 (collectively, TILA) and the Mortgage Acts and Practices Rule (MAP Rule) 12 C.F.R. part 1014.

Respondents, in the interest of compliance and resolution of the matter, consent to the issuance of a Consent Order substantially in the form of the one to which this Stipulation and Consent to the Issuance of a Consent Order is attached (Consent Order), and which is incorporated herein by reference.

In consideration of the above premises, Respondents agree to the following:

Jurisdiction

1. The Bureau has jurisdiction over this matter under Sections 1053 and 1055 of the Consumer Financial Protection Act (CFPA), 12 U.S.C. §§ 5563, 5565.

Consent

2. Respondents agree to the issuance of the Consent Order, without admitting or denying any of the findings of fact or conclusions of law, except that Respondents admit that the Bureau has jurisdiction over Respondents and the subject matter of this action.

3. Respondents agree that the Consent Order shall be deemed an “order issued with the consent of the person concerned” under 12 U.S.C. § 5563(b)(4), and agrees that the Order shall become a final order, effective upon issuance, and shall be fully enforceable by the Bureau under 12 U.S.C. §§ 5563(d)(1) and 5565.

4. Respondents enter into this Stipulation and Consent to the Issuance of a Consent Order voluntarily.

5. The Order resolves only Respondents’ potential liability for violations of

law that have been or might have been asserted by the Bureau based on the practices described in Section IV of the Consent Order, to the extent such practices occurred before the Effective Date and are known to the Bureau as of the Effective Date.

Respondents acknowledge that no promise or representation has been made by the Bureau or employee, agent, or representative of the Bureau, with regard to any other civil liability, any criminal liability, or immunity from such criminal liability.

6. Respondents agree that the facts set forth in Section IV of the Consent Order shall be given collateral estoppel effect, without further proof, in any proceeding before the Bureau based on the entry of the Consent Order, or in any subsequent civil litigation by the Bureau to enforce the Consent Order or its rights to any payment or monetary judgment under the Consent Order, such as a non-dischargeability complaint in any bankruptcy case.

7. Patrick Markert (Individual Respondent) further agrees that the facts set forth in Section IV of the Consent Order establish all elements necessary to sustain an action by the Bureau under Section 523(a)(2)(A) of the Bankruptcy Code, U.S.C. § 523(a)(2)(A), and that for such purposes this Consent Order shall have collateral estoppel effect against Individual Respondent, even in Individual Respondent's capacity as debtor-in-possession.

8. Individual Respondent agrees that the civil penalty imposed by the Consent Order represents a civil penalty owed to the United States Government, is not compensation for actual pecuniary loss, and, therefore, as to Individual Respondent, it is not subject to discharge under the Bankruptcy Code under 11 U.S.C. § 523(a)(7).

9. The terms and provisions of this Stipulation and the Consent Order shall be binding upon, and inure to the benefit of, the parties hereto and their successors in

interest. Nothing in this Stipulation or the Consent Order, express or implied, shall give to any person or entity, other than the parties hereto, and their successors hereunder, any benefit or any legal or equitable right, remedy, or claim under this Stipulation or the Consent Order.

10. Respondent agrees that the Bureau may present the Consent Order to the Bureau Director for signature and entry without further notice.

Waivers

11. Respondents, by consenting to this Stipulation, hereby waive:
- a. Any right to service of the Consent Order, and agrees that issuance of the Consent Order will constitute notice to the Respondent of its terms and conditions;
 - b. Any objection to the jurisdiction of the Bureau, including, without limitation, under section 1053 of the Dodd-Frank Act;
 - c. The rights to an issuance of a notice of charges; all hearings under the statutory provisions under which the proceeding is to be or has been instituted; the filing of proposed findings of fact and conclusions of law; proceedings before, and a recommended decision by, a hearing officer; all post-hearing procedures; and any other procedural right available under 12 U.S.C. § 5563 or 12 CFR Part 1081;
 - d. The right to seek any administrative or judicial review of the Consent Order;
 - e. Any claim for fees, costs or expenses against the Bureau, or any of its agents or employees, and any other governmental entity, related in any way to this enforcement matter or the Consent Order, whether

arising under common law or under the terms of any statute, including, but not limited to the Equal Access to Justice Act and the Small Business Regulatory Enforcement Fairness Act of 1996; for these purposes, Respondent agrees that Respondent is not the prevailing party in this action because the parties have reached a good faith settlement;

- f. Any other right to challenge or contest the validity of the Consent Order;
- g. Such provisions of the Bureau's rules or other requirements of law as may be construed to prevent any Bureau employee from participating in the preparation of, or advising the Director as to, any order, opinion, finding of fact, or conclusion of law to be entered in connection with this Stipulation or the Consent Order; and
- h. Any right to claim bias or prejudice by the Director based on the consideration of or discussions concerning settlement of all or any part of the proceeding.

BY:



Amerisave Mortgage Corporation

8/5/14

Date

Novo Appraisal Management Corporation Date
Martin Wilhelm, President

Patrick Markert Date

BY:

Amerisave Mortgage Corporation

Date



8/5/2014

Novo Appraisal Management Corporation

Date

Martin Wilhelm, President

Patrick Markert

Date

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Patrick Markert

8/5/2014

Patrick Markert

Date