

UNITED STATES OF AMERICA
Before the
CONSUMER FINANCIAL PROTECTION BUREAU

ADMINISTRATIVE PROCEEDING
File No. 2013-CFPB-0001

In the Matter of:

**Paul Taylor, Paul Taylor Homes Limited,
and Paul Taylor Corp.**

CONSENT ORDER

The Consumer Financial Protection Bureau (“CFPB”), through its staff, conducted an investigation of violations of the Real Estate Settlement Procedures Act of 1974 (“RESPA”), 12 U.S.C. § 2601 et seq., by Paul Bennett Taylor (“Taylor”), Paul Taylor Homes Limited (“PTH”), and Paul Taylor Corp. (collectively, “Respondents” as defined below) and has identified the following violations of law: accepting “fee[s], kickback[s], or thing[s] of value” in exchange for referrals of customers for real estate settlement services involving federally related mortgage loans in violation of Section 8(a) of RESPA. The CFPB hereby issues, pursuant to 12 U.S.C. §§ 5563 and 5565, this Consent Order (“Order”).

I

Overview

The CFPB finds, and Respondents neither admit nor deny, that Respondents have engaged in violations of RESPA, in connection with a joint venture, Stratford Mortgage Services (“Stratford”), created by Taylor and Benchmark Bank (“Bank”). In return for Taylor or PTH referring customers seeking mortgage loans to Stratford, Taylor received payments. These

payments were in violation of Section 8(a) of RESPA which prohibits payment or acceptance of any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, to refer customers for real estate settlement services (including but not limited to mortgage loans).

The CFPB also finds, and Respondents neither admit nor deny, that Respondents have engaged in violations of RESPA, in connection with a second joint venture, PTH Mortgage Company (“PTHM”), created by Taylor and Willow Bend Mortgage Company (“WBMC”). In return for Taylor or PTH referring customers seeking mortgage loans to PTHM, PTH received a payment that was intended to compensate Taylor. This payment was in violation of Section 8(a) of RESPA which prohibits payment or acceptance of any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, to refer customers for real estate settlement services (including but not limited to mortgage loans).

II

Jurisdiction

1. The CFPB has jurisdiction over this matter pursuant to Sections 1053 and 1055 of the Consumer Financial Protection Act (“CFPA”), 12 U.S.C. §§ 5563, 5565, and Section 8 of RESPA, 12 U.S.C. § 2607.

III

Stipulation

2. Respondents have executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated May 14, 2013 (“Stipulation”), which is incorporated by reference and is accepted by the CFPB. By this Stipulation, Respondents have consented to the issuance of this Consent Order (“Order”) by the CFPB pursuant to Sections 1053 and 1055 of the

CFPA, 12 U.S.C. §§ 5563 and 5565, without admitting or denying any findings of fact or conclusions of law, except that Respondents admit the CFPB's jurisdiction over Respondents and the subject matter of this action.

IV

Definitions

3. For purposes of this Order, the following definitions shall apply:
 - a. "Effective Date" shall mean the date on which the Order is issued.
 - b. "Enforcement Director" shall mean the Assistant Director of the Office of Enforcement for the Consumer Financial Protection Bureau.
 - c. "Respondents" shall mean Paul Taylor, Paul Taylor Homes Limited, and Paul Taylor Corp., including their successors and assigns.
 - d. "Related Consumer Action" shall mean a private damages action, or enforcement action by another governmental entity, brought against Respondents by or on behalf of one or more consumers based on substantially the same facts as set forth in Section V of this Order.
 - e. "Relevant Time Period" shall include the period from March 29, 2010, to the Effective Date.

CFPB FINDINGS

V

Findings of Fact

The CFPB finds the following:

4. During the Relevant Time Period, Taylor was the president of Paul Taylor Corp., which is the general partner of PTH, a homebuilding company based in Dallas, Texas.

5. Benchmark Bank (“Bank”) is a bank chartered under Texas law, based in Plano, Texas, and insured by the Federal Deposit Insurance Corporation (“FDIC”). During the Relevant Time Period, the Bank originated home mortgages.
6. In 1999, Taylor and Stratford Mortgage Corp. (“SMC”), a wholly-owned subsidiary of the Bank, entered into a joint venture to establish Stratford Mortgage Services, LC (“Stratford”). SMC and Taylor each contributed \$25,000 to Stratford’s initial capitalization in exchange for a 50% ownership interest. The purported purpose of the joint venture was to conduct mortgage originations through Stratford.
7. At Stratford’s creation, Taylor served as its Vice President, the President of the Bank served as Stratford’s President and CEO, and the Advisory Director of the Bank served as Stratford’s Secretary.
8. Taylor and/or PTH referred PTH customers to Stratford for mortgage origination services.
9. During the Relevant Time Period, 32 loans were originated through Stratford as a result of referrals made by Taylor and/or PTH.
10. Stratford conducted no origination business outside of the referrals sent to it by Taylor and/or PTH.
11. Stratford did not advertise itself to the public.
12. When loans were originated through Stratford, the Bank funded the loans and held them on its books until they were sold into the secondary market.
13. For all loans originated through Stratford during the Relevant Time Period, the Bank’s Centralized Residential Loan Department conducted the underwriting, processing, and closing functions.
14. All mortgage origination activities undertaken in the name of Stratford during the Relevant Time Period were performed by a single employee of the Bank (“Bank

Employee”). At all times relevant to this action, Stratford lacked any formal employment agreement with Bank Employee, or any other individual.

15. Stratford did not have its own office space. Bank Employee performed all of his work relating to loans originated through Stratford at his office space at the Bank. Stratford did not have a rental agreement with the Bank for use of the Bank’s space.
16. All of Stratford’s essential functions were either performed by Bank Employee or other employees of the Bank.
17. At all times since Stratford was formed, Taylor received periodic distributions from Stratford (or the Bank), purportedly based on his ownership interest in Stratford. During the Relevant Time Period, Taylor received \$106,194.20 in such distributions.
18. Stratford was dissolved on November 18, 2011. Subsequently, on or about June 1, 2012, the FDIC imposed a civil money penalty on the Bank after the FDIC “determined that the Bank violated [RESPA] by creating and operating a company that was used by [the Bank] as a conduit for paying unlawful referral fees ... for the referral of mortgage loan customers to the Bank.” Stratford was the company “used as a conduit for paying unlawful referral fees” and Taylor was the recipient of those fees.
19. WBMC is a mortgage lender based in Texas. At all times relevant to this action, WBMC originated home mortgages.
20. In 2003, Taylor and WBMC entered into a joint venture, PTHM.
21. Taylor and/or PTH referred PTH customers to PTHM for mortgage origination services.
22. All mortgages originated through PTHM were financed by WBMC.
23. Taylor received periodic distributions from PTHM purportedly based on his ownership interest in PTHM.

24. On October 20, 2010, PTH received \$12,000 pursuant to a service agreement between WBMC and PTH that was intended to compensate Taylor for referrals made to PTHM.

VI

CONCLUSIONS OF LAW

In light of the factual findings set forth in Section V above, the CFPB concludes:

Violation #1 of RESPA Section 8(a)

25. Taylor, by receiving distributions couched as a return on an ownership interest in Stratford, accepted a “fee, kickback, or thing of value,” pursuant to an agreement or understanding, in exchange for referring customers of PTH to Stratford for settlement services involving federally related mortgage loans, in violation of 12 U.S.C. § 2607(a).
26. These distributions are not subject to the “safe harbor” for affiliated business arrangements in 12 U.S.C. § 2607(c)(4) because Stratford did not constitute a bona fide “provider of settlement services” within the meaning of RESPA and instead was a sham controlled business arrangement as described in U.S. Department of Housing and Urban Development Statement of Policy 1996-2 Regarding Sham Controlled Business Arrangements, 61 Fed. Reg. 29,258 (June 7, 1996).

Violation #2 of RESPA Section 8(a)

27. PTH, by receiving a payment pursuant to a service agreement with WBMC that was intended to compensate Taylor for referrals made to PTHM, accepted a “fee, kickback, or thing of value,” pursuant to an agreement or understanding, in exchange for referring customers of PTH to PTHM for settlement services involving federally related mortgage loans, in violation of 12 U.S.C. § 2607(a).

CONDUCT PROVISIONS

VII

Order to Cease and Desist and to Take Other Affirmative Action

IT IS HEREBY ORDERED, pursuant to Sections 1053 and 1055 of the CFPA that:

28. Respondents, and their agents, and any entity in which they have a direct or beneficial ownership interest of more than one percent shall cease and desist from engaging in real estate settlement services (other than the sale of homes), or maintaining an ownership interest in any entity that provides or purports to provide real estate settlement services, for a period of five years from the date of this Order.

MONETARY PROVISIONS

VIII

Order to Pay Disgorgement

IT IS FURTHER ORDERED that:

29. A judgment for equitable monetary relief in the form of disgorgement is hereby entered in favor of CFPB and against Taylor, in the amount of one hundred eighteen thousand one hundred ninety-four dollars and twenty cents (\$118,194.20).
30. Within 10 days of the Effective Date, Taylor shall pay the above amount in the form of a wire transfer to the CFPB or such agent as the CFPB may direct, and in accordance with wiring instructions to be provided by counsel for the CFPB.
31. With regard to any equitable monetary relief or damages that Taylor pays pursuant to this Section if Taylor receives, directly or indirectly, any reimbursement or indemnification from any source, including but not limited to payment made pursuant to any insurance policy, or if Taylor secures a tax deduction or tax credit with regard to any federal, state, or local tax, Taylor shall: (a) immediately notify the Enforcement Director in writing, and

(b) within 10 days of receiving such funds or monetary benefit, Taylor shall transfer to the CFPB or to such agent as the CFPB may direct, and in accordance with wiring instructions to be provided by counsel for the CFPB, the full amount of such funds or monetary benefit. Taylor, PTH or Paul Taylor Corp. may, without notification to the Enforcement Director, in accordance with applicable tax laws, amend any federal or state tax return previously filed for the years 2010 through 2012, to accurately restate income during those years solely to reflect the disgorgement paid under this order, and they may retain any refunds or tax benefits resulting from the restatement of income.

32. In the event of any default on Taylor's obligations to make payment under this Order, interest, computed pursuant to 28 U.S.C. § 1961, as amended, shall accrue on any outstanding amounts not paid from the date of default to the date of payment, and shall immediately become due and payable.
33. Taylor shall relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law and no part of the funds shall be returned to Respondent.
34. In accordance with 31 U.S.C. § 7701, Taylor, unless he already has done so, shall furnish to the CFPB his taxpayer identifying numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.
35. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action, Respondents shall notify the Enforcement Director of the final judgment, consent order, or settlement in writing. That notification shall indicate the amount of redress, if any, that Respondents paid or are required to pay to consumers and should describe the consumers or classes of consumers to whom that redress will be paid.
36. Pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), any consumer reporting agency may furnish a consumer report concerning any

Respondent to the CFPB, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

COMPLIANCE PROVISIONS

IX

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that,

37. Within seven days of the Effective Date, Respondents shall submit to the Enforcement Director an acknowledgment of receipt of this Order, sworn under penalty of perjury.
38. Within 30 days of the Effective Date, Respondents, for any business for which they are the majority owner or which they directly or indirectly control, shall deliver a copy of this Order to each of its board members and executive officers, as well as to any managers, employees, or other agents and representatives who have responsibilities related to settlement services, including but not limited to employees in a position to refer customers or potential customers to settlement service providers.
39. For a period of five years from the Effective Date, Respondents, for any business for which they are the majority owner or which they directly or indirectly control, shall deliver a copy of this Order to the managers, employees, or other agents and representatives of such businesses who will have responsibilities related to settlement services, including but not limited to employees in a position to refer customers or potential customers to settlement service providers, before they assume their responsibilities.
40. Respondents shall secure a signed and dated statement acknowledging receipt of a copy of this Order, with any electronic signatures complying 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 Order pursuant to this Section.

X

Notices

IT IS FURTHER ORDERED that:

41. Unless otherwise directed in writing by a CFPB representative, all submissions, requests, communications, consents or other documents relating to this Order shall be in writing and shall be sent by overnight courier (not the U.S. Postal Service), as follows:

Enforcement Director

Consumer Financial Protection Bureau

ATTENTION: Office of Enforcement

1700 G Street, N.W.

Washington D.C. 20552

The subject line shall begin: *In re Paul Taylor*, File No. 2013CFPB-0001

Provided however that Respondents may send such reports or notifications by first-class mail, but only if Respondents contemporaneously send an electronic version of such report or notification to Compliance@cfpb.gov.

ADMINISTRATIVE PROVISIONS

XI


Administrative Provisions

42. Except as set forth in Paragraph 43, the provisions of this Consent Order shall not bar, estop or otherwise prevent the CFPB, or any other federal or state agency or department from taking any other action against Respondents.
43. The CFPB releases and discharges Respondents from all potential liability for violations of law that have been or might have been asserted by the CFPB based on the practices described in Section V of this Order, to the extent such practices occurred prior to the Effective Date and are known to the CFPB as of the effective date of the Consent Order. Notwithstanding the foregoing, the practices alleged in this Consent Order may be utilized by the CFPB in future enforcement actions against Respondents, and any partnership, joint venture or limited liability company in which Respondents have an ownership interest, 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 shall not preclude or affect any right of the CFPB to determine and ensure compliance with the terms and provisions of the Order, or to seek penalties for any violations thereof.
44. This Order is intended to be, and shall be construed to be, a final order issued pursuant to 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 CFPB or the United States.
45. This Order shall be effective on the date of issuance, and shall remain effective and enforceable, except to the extent that, and until such time as, any provisions of this Order

shall have been amended, suspended, waived, or terminated in writing by the CFPB or its designated agent.

46. Calculation of time limitations shall run from the Effective Date and shall be based on calendar days, unless otherwise noted.
47. The provisions of this Order shall be enforceable by the CFPB. Any violation of this Order may result in the imposition by the CFPB of the maximum amount of civil money penalties allowed under section 1055(c) of the CFPA, 12 U.S.C. § 5565(c).
48. This Order and the accompanying Stipulation contain the complete agreement between the parties. No promises, representations or warranties other than those set forth in this Order and the accompanying Stipulation, and the May 14, 2013 Affidavit signed by Taylor have been made by any of the parties. This Order, the accompanying Stipulation and the Affidavit signed by Taylor supersede all prior communications, discussions, or understandings, if any, of the parties, whether oral or in writing.

IT IS SO ORDERED, this 17 day of May, 2013.


Richard Cordray
Director
Consumer Financial Protection Bureau