

**UNITED STATES OF AMERICA
CONSUMER FINANCIAL PROTECTION BUREAU**

Administrative Proceeding

File No. 2014-CFPB- 0001

In the Matter of

**Fidelity Mortgage Corporation
and Mark Figert**

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

The Consumer Financial Protection Bureau (Bureau) intends to initiate an administrative proceeding against Fidelity Mortgage Corporation (Fidelity) and Mark Figert (collectively, Respondents) under Section 8 of the Real Estate Settlement Procedures Act, 12 U.S.C. § 2607, and its implementing regulation, Regulation X, 12 C.F.R. § 1024.14 (formerly codified at 24 C.F.R. § 3500.14) (collectively, RESPA).

Respondents, in the interest of compliance and resolution of the matter, and without admitting or denying any wrongdoing, consent to the issuance of the Consent Order to which this Stipulation and Consent to the Issuance of a Consent Order is attached (the 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 of 2010 (CFPA), 12 U.S.C. §§ 5563, 5565, and Section 8 of RESPA, 12 U.S.C. § 2607.

Consent

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

3. Respondents agree that the Order shall be deemed an "order issued with the consent of the person concerned" under 12 U.S.C. § 5563(b)(4), and agree 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 (Stipulation) voluntarily.

5. The Order resolves the claims asserted or which could have been asserted against Respondents in this administrative proceeding. Respondents acknowledge that no promise or representation has been made by the Bureau or employee, agent, or representative of the Bureau other than those contained in this Stipulation and the accompanying Order.

6. Respondents agree that the facts set forth in Section IV of the Order shall be given collateral estoppel effect, without further proof, in any proceeding by the Bureau based

on the entry of the Order, or in any subsequent civil litigation by the Bureau to enforce the Order or its rights to any payment or monetary judgment under the Order.

7. The terms and provisions of this Stipulation and the 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 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 Order.

8. This Order constitutes a settlement of the administrative proceeding against Respondents contemplated by the Bureau based on the Findings and Conclusions set forth in the Order. The Bureau releases and discharges Respondents from all potential liability for violations that have been or might have been asserted by the Bureau based on Respondents' conduct, as described in the Order, to the extent such practices are known to the Bureau as of the Effective Date of the Order. Notwithstanding the foregoing, the practices described in the Order may be used by the Bureau in future enforcement actions against Respondent and its affiliates for the sole purpose of establishing 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 Bureau to determine and ensure compliance with the terms and provisions of the Order or to seek penalties for any violations thereof.

9. Respondents agree that the Bureau may present the Order to the Bureau Director for signature and entry without further notice.


Waivers

10. Respondents, by consenting to this Stipulation, hereby waive:
 - a. any right to service of the Order, and agree that issuance of the Order will constitute notice to Respondents of its terms and conditions;
 - b. any objection to the jurisdiction of the Bureau, including, without limitation, under Section 1053 of the CFPA and Section 8 of RESPA;
 - c. the rights to 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 C.F.R. pt. 1081;
 - d. the right to seek any administrative or judicial review of the 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 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, Respondents agree that neither Respondents nor the Bureau are 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 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 Bureau Director as to, any order, opinion, finding of fact, or conclusion of law to be entered under the Stipulation;

- h. any right to claim bias or prejudice by the Bureau Director based on the consideration of or discussions concerning settlement of all or any part of the proceeding; and
- i. any right to claim denial of due process.

FIDELITY MORTGAGE CORPORATION BY:



Mark Figert
President, Fidelity Mortgage Corporation

1/13/14
Date

MARK FIGERT INDIVIDUALLY:



Mark Figert

1/13/14
Date