

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

**Administrative Proceeding
File No. 2014-CFPB- 0003**

In the Matter of:

1st ALLIANCE LENDING, LLC

CONSENT ORDER

The Consumer Financial Protection Bureau (Bureau) has reviewed certain business practices of 1st Alliance Lending, LLC (First Alliance) and has identified violations of 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). Under Sections 1053 and 1055 of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5563, 5565, the Bureau issues this Consent Order (Order).

I

JURISDICTION

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

II

STIPULATION

2. First Alliance has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated February 20, 2014 (Stipulation), which is incorporated by reference and is accepted by the Bureau. By this Stipulation, First Alliance has consented to the issuance of this Order under Sections 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, admitting the findings of fact and conclusions of law set forth below.

III

FINDINGS AND CONCLUSIONS

The Bureau finds the following:

Background

3. First Alliance is a mortgage lender located in East Hartford, Connecticut. The company primarily provides loss-mitigation refinancing to homeowners. With approval of the mortgagee, First Alliance contacts selected borrowers and offers new loans with reduced principal amounts. First Alliance is a “covered person” under the CFPA, 12 U.S.C. § 5481(6).

4. For originating certain loans, First Alliance receives an origination fee and a loss-mitigation fee at the closing, or “settlement,” of each new mortgage it originates.

RESPA

5. RESPA’s Section 8(b) prohibits a person from paying or receiving a fee that has not been earned in connection with a real-estate settlement. 12 U.S.C. § 2607(b).

6. Both the loss-mitigation and the origination fees First Alliance receives at

settlement of the mortgages it originates are subject to RESPA's fee-splitting prohibition.

The Financing Arrangement

7. In 2010, First Alliance entered into a contractual relationship with a hedge fund (Hedge Fund) to finance certain mortgage loans that First Alliance was to originate. Hedge Fund created two companies (Company 1 and Company 2) to fund certain of First Alliance's mortgage originations. In exchange, First Alliance gave Company 1 or Company 2 a share of certain revenues relating to the mortgages, including a portion of the loss-mitigation and origination fees paid at settlement.

First Alliance's Payment of Unearned Settlement Fees

8. In August 2011, First Alliance obtained a new warehouse facility and informed Companies 1 and 2 that it would no longer use them to fund its mortgage originations. First Alliance then used the newly secured warehouse financing to fund mortgage originations it made between August 26, 2011 and April 25, 2012 (the Relevant Period).

9. Nonetheless, First Alliance split origination and loss-mitigation fees with Companies 1 or 2 on 83 of the mortgages originated during the Relevant Period, even though neither company provided financing or any other service for any of those mortgages.

10. In January 2013, First Alliance reported to the Bureau that it may have violated RESPA by splitting loss-mitigation and origination fees relating to the 83 loans with Companies 1 and 2 because they had not performed any settlement or other services for those loans.

11. After receiving this information, the Bureau commenced an investigation. At

the Bureau's request, First Alliance provided documents and submitted to interviews with Bureau counsel. First Alliance cooperated fully with the Bureau's investigation.

12. Based on the foregoing facts, the Bureau finds that First Alliance violated Section 8(b) of RESPA, 12 U.S.C. § 2607(b).

IV

ORDER

13. **IT IS HEREBY ORDERED** that First Alliance shall refrain from committing violations of Section 8 of RESPA or any other provision of a "Federal consumer financial law," as defined by 12 U.S.C. § 5481(14).

14. **IT IS HEREBY ORDERED** that under Section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law set forth in Section III of this Order, and taking into account the factors set forth in 12 U.S.C. § 5565(c)(3), First Alliance shall pay a civil money penalty of \$83,000 to the Bureau, as directed by the Bureau and as set forth herein:

A. Within 10 calendar days of the date this Order is entered, First Alliance shall pay the civil money penalty in the form of a wire transfer to the Bureau or to such agent as the Bureau may direct, and in accordance with wiring instructions to be provided by counsel for the Bureau;

B. The civil money penalty paid under this Order shall be deposited in the Civil Penalty Fund of the Bureau in accordance with Section 1017(d) of the CFPA, 12 U.S.C. § 5497(d);

C. First Alliance shall treat the civil money penalty as a penalty paid to the

government for all purposes. Regardless of how the Bureau ultimately uses those funds, First Alliance shall not:

i. claim, assert, or apply for a tax deduction or tax credit with regard to any federal, state, or local tax for any civil money penalty that First Alliance pays under this Order; or

ii. seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made under any insurance policy, with regard to any civil money penalty that First Alliance pays under this Order.

15. **IT IS HEREBY ORDERED** that in connection with this action and any related judicial or administrative proceeding or investigation commenced by the Bureau or to which the Bureau is a party, First Alliance shall:

A. Require its officers, employees, representatives, and agents to make themselves available for interviews at such times and places reasonably requested by the Bureau;

B. Require its officers, employees, representatives, and agents to make themselves available to testify at any deposition, hearing, trial, or other judicial proceeding, as reasonably requested by the Bureau;

C. Produce non-privileged documents and other materials, as reasonably requested by the Bureau; D. With respect to any notices and compulsory process issued by the Bureau for documents or testimony at depositions, hearings, or trials, or in connection with any related investigation:

- i. accept service by mail or facsimile transmission;
- ii. waive the territorial limits on service contained in Rule 45 of the Federal Rules of Civil Procedure and any applicable local rules, provided that the party requesting the testimony reimburse First Alliance's travel, lodging, and subsistence expenses at then-prevailing U.S. Government per diem rates; and
- iii. consent to any U.S. district court exercising personal jurisdiction over First Alliance for purposes of enforcing any such notices or compulsory process.

V

ADMINISTRATIVE PROVISIONS

16. The provisions of this Order shall not bar, estop, or otherwise prevent the Bureau, or any other federal or state agency or department, from taking any other action against First Alliance subject to the Stipulation and release set forth in this Order.

17. This Order 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 Bureau or its designated agent.

18. This Order is intended to be, and shall be construed to be, a final order issued under 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.

19. This Order constitutes a settlement of the administrative proceeding against First Alliance contemplated by the Bureau, based on the Bureau's findings described in

Section III of this Order.

20. The Bureau releases and discharges First Alliance from all potential liability (other than as set forth in this Order) for violations that have been or might have been asserted by the Bureau based on First Alliance's conduct, as described in Section III of this Order, to the extent such practices occurred before the date this Order was entered and were known to the Bureau as of that date. Notwithstanding the foregoing, the practices described in Section III of this Order may be used by the Bureau in future enforcement actions against First Alliance 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.

21. The provisions of this Order shall be enforceable by the Bureau. Any violation of this Order may result in the imposition by the Bureau of civil money penalties as set forth in Section 1055(c) of the CFPA, 12 U.S.C. § 5565(c).

22. 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 have been made by any of the parties. This Order and the accompanying Stipulation supersede all prior communications, discussions, or understandings, if any, of the parties, whether oral or in writing.

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

IT IS SO ORDERED, this 24th day of February, 2014.



Richard Cordray
Director
Consumer Financial Protection Bureau