

UNITED STATES OF AMERICA
BUREAU OF CONSUMER FINANCIAL PROTECTION

ADMINISTRATIVE PROCEEDING File
No. 2019-BCFP-0007

In the Matter of:

Freedom Mortgage Corporation

CONSENT ORDER

The Bureau of Consumer Financial Protection (Bureau) has reviewed the data collection, recording, and reporting practices of Freedom Mortgage Corporation (Respondent, as defined below) and has identified the following law violations: Respondent submitted mortgage-loan data for 2014, 2015, 2016, and 2017 that contained errors in violation of the Home Mortgage Disclosure Act (HMDA), 12 U.S.C. §§ 2801–2810, and its implementing regulation, Regulation C, 12 C.F.R. pt. 1003.¹ 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 (Consent Order).

¹ All references to Regulation C are to the version in effect during the Relevant Period.

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, and section 2804 of the Home Mortgage Disclosure Act, 12 U.S.C. §§ 2804(b) and (d).

II Stipulation

2. Respondent has executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated May 23, 2019 (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. “Board” means Respondent’s duly elected and acting Board of Directors.
 - b. “Effective Date” means the date on which the Consent Order is issued.

- c. “HMDA Data” are mortgage-loan data submitted in accordance with HMDA, 12 U.S.C. § 2803, and Regulation C, 12 C.F.R. § 1003.5.
- d. “Covered Loans” are applications for, originations of, and purchases of home purchase loans, home improvement loans, and refinancings that Respondent is required to report on a HMDA Loan/Application Register for each calendar year under HMDA and Regulation C.
- e. “HMDA Loan/Application Register” or “HMDA LAR” is the compilation of information about each applicant or borrower, reported on a loan-by-loan, application-by-application basis in accordance with HMDA and Regulation C.
- f. “Regional Director” means the Regional Director for the Northeast Region for the Office of Supervision for the Bureau of Consumer Financial Protection, or his or her 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 January 1, 2014, to December 31, 2017.
- i. “Respondent” means Freedom Mortgage Corporation, and its successors

and assigns.

IV

Bureau Findings and Conclusions

The Bureau finds the following:

4. Respondent is a for-profit mortgage lender with its principal place of business in Mount Laurel, New Jersey.
5. For at least the calendar years 2014 through 2017, Respondent was a “depository institution” within the meaning of HMDA, 12 U.S.C. § 2802(3)(B), (5); a “financial institution” within the meaning of Regulation C, 12 C.F.R. § 1003.2; and required to collect, record, and report data on HMDA-covered transactions. *See* 12 U.S.C. § 2803, 12 C.F.R. §§ 1003.4, 1003.5.
6. In each of 2013, 2014, 2015, and 2016, Respondent originated home-purchase loans, including refinancings of home-purchase loans, that equaled at least 90 percent of its loan-origination volume, measured in dollars.
7. In each of 2013, 2014, 2015, and 2016, Respondent originated more than \$10 billion in home-purchase loans, including refinancings of home-purchase loans.
8. On December 31st in 2013, 2014, 2015, and 2016, Respondent had a branch office in a Metropolitan Statistical Area for HMDA-reporting purposes because in each of 2013, 2014, 2015, and 2016, Respondent received

applications for, originated, or purchased over five Covered Loans related to property in multiple Metropolitan Statistical Areas or Metropolitan Divisions.

9. On December 31st of 2013, 2014, 2015, and 2016, Respondent had total assets of more than \$1.6 billion.
10. In each of 2013, 2014, 2015, and 2016, Respondent originated more than 50,000 home-purchase loans, including refinancings of home-purchase loans.
11. Respondent reported data on over a million Covered-Loan applications that it had collected during the years 2014 through 2017. Measured by applications received, Respondent was one of the ten largest HMDA reporters in all four years.
12. During the Relevant Period, Respondent employed over 700 loan officers at a time in six to eight call centers and generated most of its HMDA-reportable applications through these call centers.
13. Respondent's electronic system-of-record is a proprietary system called "Lakewood." Loan officers in call centers collect and enter application information from consumers into an overlay to Lakewood also created by Respondent, called "Sales Portal."² However, if Lakewood detects that

² HMDA and Regulation C require covered lenders to collect, record, and report each applicant's and co-applicant's race, ethnicity, and sex. 12 U.S.C. § 2803(a),

certain application information is missing, it is programmed to initiate a “hard stop” that prevents the file from advancing or being saved in Sales Portal.

14. When applicants did not provide the requested race or ethnicity over the phone, the Sales Portal user manual instructed loan officers to enter the information in Sales Portal in a way that would produce a hard stop.
15. The programming logic that caused this hard stop existed at least from the beginning of 2014 until at least October 2017.
16. To get around this hard stop, certain loan officers were told by managers or other loan officers that, when applicants did not provide their race or ethnicity, they should select non-Hispanic white (regardless of whether that was accurate).
17. This practice of selecting non-Hispanic white when a customer did not provide race and ethnicity over the phone was not limited to a specific location, loan officer, or time period.
18. Within certain audio recordings reviewed by the Bureau of applications taken

(b); 12 C.F.R. § 1003.4(a), (b), pt. 1003 apps. A, B. Applicants, however, are not required to provide this information. When a consumer applies over the phone, as with Respondent’s call centers, and does not provide the requested race, ethnicity, or sex information, the lender must report that the applicant did not provide the information. *See* 12 C.F.R. pt. 1003 apps. A, § I(D)(2), and B, § II(E).

over the phone from approximately 430 applicants from 2014 through part of 2017, at least 125 applicants did not provide the requested race and/or ethnicity, yet Respondent reported these applicants as non-Hispanic white.

19. For example, in response to being asked his race and ethnicity, an applicant in 2015 twice stated he did not want to answer. Yet Respondent reported this applicant as non-Hispanic white.
20. This incorrect reporting identified by audio recordings occurred in seven different call centers, associated with over 80 different loan officers, in all four years reviewed (2014 – 2017).
21. Audio recordings reviewed by the Bureau show that Respondent misreported data in another way in approximately 300 instances. Specifically, Respondent incorrectly reported applicants as non-Hispanic white even though the applicants provided requested race or ethnicity information other than non-Hispanic white, overstating the number of non-Hispanic white applicants.
22. In addition, in October 2015 Respondent internally identified that, for VA-guaranteed loans, if the applicant's sex was selected as "information not provided," Sales Portal did not allow the marital status to be saved and would remove the co-applicant's income.
23. Rather than addressing this system issue, for nearly a year—until September

2016—Respondent used the “workaround” of selecting a sex when the applicant did not provide one for telephonic applications.

24. Applicants sometimes called to complain that the information recorded by Respondent was incorrect. At this point in the application process, loan officers no longer had the ability to access Sales Portal to correct the information, and applicants were sometimes told that the information could not be changed.
25. As described above, much of Respondent’s loan officers’ reporting of incorrect race, ethnicity, and sex information was intentional.
26. Respondent did not maintain procedures reasonably adapted to avoid the HMDA errors described in this Order.
27. Respondent’s HMDA reporting errors are not bona fide errors within the meaning of Regulation C. *See* 12 C.F.R. § 1003.6(b).
28. Respondent’s HMDA Data submissions for calendar years 2014, 2015, 2016, and 2017 contained errors in violation of HMDA, 12 U.S.C. § 2803, and Regulation C, 12 C.F.R. §§ 1003.4, 1003.5.

ORDER

V

Conduct Provisions

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

29. Respondent and its officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, may not violate Section 304(a), (b), or (h) of the Home Mortgage Disclosure Act, 12 U.S.C. § 2803(a), (b), and (h), or Sections 1003.4(a)-(b) or 1003.5(a) of Regulation C, 12 C.F.R. §§ 1003.4(a)-(b), 1003.5(a), and Respondent must take the following affirmative actions:
- a. develop, implement, and maintain policies, procedures, and internal controls to ensure compliance with the data collection, recording, and reporting requirements set forth in HMDA and Regulation C;
 - b. develop, implement, and maintain a program to regularly test HMDA Data integrity and institute prompt corrective action to address errors, including by listening to a representative sample of telephonic applications to ensure that HMDA-reportable information provided by applicants is accurately collected and recorded; and
 - c. develop, implement, and maintain operating policies and training procedures, provided when employees join Respondent and repeated at recurring intervals, to ensure that personnel have a current and complete understanding of HMDA standards and reporting requirements and how to collect, record, and report HMDA data accurately.

Compliance Plan

IT IS FURTHER ORDERED that:

30. Within 45 days of the Effective Date, Respondent must submit to the Regional Director for review and determination of non-objection a comprehensive compliance plan designed to ensure that Respondent's collection, recording, and reporting of HMDA Data and HMDA policies, procedures, and compliance management system comply with all applicable Federal consumer financial laws and the terms of this Consent Order (Compliance Plan). The Compliance Plan must include, at a minimum:
 - a. Detailed steps for addressing each action required by this Consent Order; and
 - b. Specific timeframes and deadlines for implementation of the affirmative actions required by Paragraph 29 of this Consent Order.
31. The Regional Director will have the discretion to make a determination of non-objection to the Compliance Plan or direct Respondent to revise it. If the Regional Director directs Respondent to revise the Compliance Plan, Respondent must make the requested revisions and resubmit the revised Compliance Plan to the Regional Director within 15 days of the date that the Regional Director directs Respondent to revise the Compliance Plan.

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

VII

Role of the Board

IT IS FURTHER ORDERED that:

33. The Board must review all submissions (including plans, reports, programs, policies, and procedures) required by this Consent Order prior to submission to the Bureau.
34. Although this Consent Order requires Respondent to submit certain documents for review and non-objection by the Regional Director, the Board will have the ultimate responsibility for proper and sound management of Respondent and for ensuring that Respondent complies with Federal consumer financial law and this Consent Order.
35. In each instance that this Consent Order requires the Board to ensure adherence to, or perform certain obligations of Respondent, the Board must:
 - a. Authorize whatever actions are necessary for Respondent to fully comply with the Consent Order;
 - b. Require timely reporting by management to the Board on the status of

compliance obligations; and

- c. Require timely and appropriate corrective action to remedy any material non-compliance with any failures to comply with Board directives related to this Section.

VIII

Order to Pay Civil Money Penalties

IT IS FURTHER ORDERED that:

- 36. Under section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law and regulation described in Section IV of this Consent Order, and taking into account the factors in 12 U.S.C. § 5565(c)(3), Respondent must pay a civil money penalty of \$1.75 million to the Bureau.
- 37. Within 10 days of the Effective Date, Respondent must pay the civil money penalty by wire transfer to the Bureau or to the Bureau's agent in compliance with the Bureau's wiring instructions.
- 38. The civil money penalty paid under this Consent Order will be deposited in the Civil Penalty Fund of the Bureau as required by section 1017(d) of the CFPA, 12 U.S.C. § 5497(d).
- 39. Respondent must treat the civil money penalty paid under this Consent Order as a penalty paid to the government for all purposes. Regardless of how the Bureau ultimately uses those funds, Respondent may not:

- a. Claim, assert, or apply for a tax deduction, tax credit, or any other tax benefit for any civil money penalty paid under this Consent Order; or
 - b. 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 paid under this Consent Order.
40. To preserve the deterrent effect of the civil money penalty in any Related Consumer Action, Respondent may not argue that Respondent is entitled to, nor may Respondent benefit by, any offset or reduction of any compensatory or monetary remedies imposed in the Related Consumer Action because of the civil money penalty paid in this action. If the court in any Related Consumer Action offsets or otherwise reduces the amount of compensatory monetary remedies imposed against Respondent based on the civil money penalty paid in this action or based on any payment that the Bureau makes from the Civil Penalty Fund, Respondent must, within 30 days after entry of a final order granting such an offset or reduction, notify the Bureau, and pay the amount of the offset or reduction to the U.S. Treasury. Such a payment will not be considered an additional civil money penalty and will not change the amount of the civil money penalty imposed in this action.
41. 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.

42. Respondent must relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law and no part of the funds may be returned to Respondent.
43. Under 31 U.S.C. § 7701, Respondent, unless it already has 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.
44. 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.

IX

Reporting Requirements

IT IS FURTHER ORDERED that:

45. 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.
46. Within 7 days of the Effective Date, Respondent must designate at least one telephone number and email, physical, and postal address as points of contact, which the Bureau may use to communicate with Respondent.
47. Respondent must report any change in the information required to be submitted under Paragraph 45 at least 30 days before the change or as soon as practicable after the learning about the change, whichever is sooner.
48. Within 90 days of the Effective Date, and again at least annually, 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. Lists each applicable paragraph and subparagraph of the Order and describes in detail the manner and form in which Respondent has complied with each such paragraph and subparagraph of the Consent Order;
- b. Describes in detail the manner and form in which Respondent has complied with the Compliance Plan; and
- c. Attaches a copy of each Order Acknowledgment obtained under Section X, unless previously submitted to the Bureau.

X

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that,

- 49. Within 45 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.
- 50. For the duration of the Consent Order, Respondent must deliver a copy of this Consent Order to any business entity resulting from any change in structure referred to in Section IX, 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.

51. 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.

XI

Recordkeeping

IT IS FURTHER ORDERED that:

52. Respondent must create, or if already created, must retain for the duration of the Consent Order, all documents and records necessary to demonstrate full compliance with each provision of this Consent Order, including all submissions to the Bureau.
53. Respondent must retain the documents identified in Paragraph 52 for the duration of the Consent Order.
54. Respondent must make the documents identified in Paragraph 52 available to the Bureau upon the Bureau's request.

XII

Notices

IT IS FURTHER ORDERED that:

55. 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 Freedom Mortgage Corporation*, File No. 2019-BCFP-0007,” and send them by overnight courier or first-class mail to the below address and contemporaneously email to Enforcement_Compliance@cfpb.gov:

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

XIII

Compliance Monitoring

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

56. Within 21 days of receipt of a written request from the Bureau, Respondent must submit additional Compliance Reports or other requested non-privileged information, related to the requirements of this Consent Order, which must be made under penalty of perjury; provide sworn testimony related to requirements of this Consent Order and Respondent’s compliance with those requirements; or produce non-privileged documents related to

requirements of this Consent Order and Respondent's compliance with those requirements.

57. Respondent must permit Bureau representatives to interview about the requirements of this Consent Order and Respondent's compliance with those requirements any employee or other person affiliated with Respondent who has agreed to such an interview. The person interviewed may have counsel present.
58. 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.

XIV

Modifications to Non-Material Requirements

IT IS FURTHER ORDERED that:

59. 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.
60. The Regional Director may, in his or her discretion, modify any non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) if he or she determines good cause justifies the modification. Any such modification by the Regional Director

must be in writing.

XV

Administrative Provisions

61. 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 62.
62. 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 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.
63. 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.

64. This Consent Order will terminate five years from the Effective Date.

Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted. The Consent Order will remain effective and enforceable until such time, except to the extent that any provisions of this Consent Order have been amended, suspended, waived, or terminated in writing by the Bureau or its designated agent.

65. 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.

66. 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 CFP A, 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.

67. 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.

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

IT IS SO ORDERED, this 31st day of May, 2019.



Kathleen Kraninger
Director

Bureau of Consumer Financial Protection