

CONCILIATION AGREEMENT

Between

The United States Department of Housing and Urban Development

and

The National Community Reinvestment Coalition

727 15th Street, Suite 900

Washington, DC 20005

Complainant

and

SouthStar Funding LLC

a/k/a Capital Home Mortgage

400 Northridge Rd. Suite 1000

Atlanta, GA 30350

Respondent

HUD Case Number: 03-06-0378-8

The National Community Reinvestment Coalition (hereinafter “Complainant” or “NCRC”), filed an administrative complaint under the Fair Housing Amendments Act of 1988 (hereinafter known as the “Act”) on April 12, 2006 with the Department of Housing and Urban Development (hereinafter known as the “Department” or “HUD”) against SouthStar Funding LLC (hereinafter “SouthStar” a/k/a “Capital Home Mortgage” or “Respondent”). Complainant, Respondent, and HUD hereby voluntarily enter into this Conciliation Agreement, as follows:

WHEREAS, the Complainant is a non-profit organization that has the mission of increasing fair and equal access to credit, capital, and banking services and products;

WHEREAS, the Complainant has launched a National Civil Rights Best Practices campaign for corporations, with a special focus on lenders, insurers, loan servicers, and securitizers who are supportive of Complainant’s mission;

WHEREAS, the Complainant has filed an administrative complaint (the “Complaint”) seeking to enforce certain provisions of the Act and seeking injunctive relief, actual and punitive damages;

WHEREAS, the Complainant alleges that the Respondent has violated Section 804(b) and Section 805 of the Act, based on race and national origin;

WHEREAS, the Respondent is in the business of originating residential mortgages secured by single-family residences primarily through mortgage loan brokers;

WHEREAS, the Respondent sells or securitizes the loans it originates to investors in the secondary market;

WHEREAS, Complainant NCRC alleges that Respondent SouthStar has engaged in a pattern and practice of discrimination against African Americans and Latinos in the policies and practices it uses to determine eligibility for some of its mortgage loan products by prohibiting loans on row homes in Baltimore and/or row homes valued at less than \$100,000.00 nationally;

WHEREAS, the specific relief provided herein for the Complainant meets their demands for relief, and the Department has determined that the other relief detailed herein is sufficient to vindicate the public interest; and

WHEREAS, Respondent's underwriting criteria is based upon and dependent upon its investors' underwriting criteria; and

WHEREAS, Respondent, in entering into this Conciliation Agreement, denies any discriminatory conduct toward Complainant or the communities Complainant serves; and

WHEREAS, Respondent is committed to providing equal lending opportunities by following fair lending practices and by increasing home ownership opportunities, and seeks to be an industry leader in responsible lending practices; and

WHEREAS, Respondent desires to avoid further expense in defending this Complaint;

THEREFORE, Complainant and Respondent agree to enter into this Conciliation Agreement to resolve this dispute without an evidentiary hearing.

I. GENERAL REMEDIAL PROVISIONS

- A. Respondent agrees that it, together with its officers and employees, shall not violate any of the provisions of the Act, or any applicable state or local fair housing laws, in future real estate transactions covered by these laws.
- B. The parties acknowledge that this Conciliation Agreement is a voluntary and full settlement of the Complaint. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this

Conciliation Agreement. The parties have read and fully understand the significance of the terms set forth herein.

- C. This Conciliation Agreement shall become effective on the date it is signed by the Director, of the Office of Fair Housing and Equal Opportunity, Philadelphia Region III (the “effective date”) and shall remain in effect for a period of four (4) years from its effective date.
- D. Pursuant to Section 810(b)(4) of the Act, this Conciliation Agreement is a public document.
- E. The parties agree that, in the interest of speedily concluding this matter, the Conciliation Agreement may be executed by the parties’ signatures on separate pages. The separately signed pages shall be attached to the body of the Conciliation Agreement to constitute one document.
- F. Respondent agrees to designate an employee to receive complaints from consumers, real estate agents, and mortgage brokers. This person will report directly to a member of Respondent’s upper management, to ensure that management is aware of problems as they occur, and shall have sufficient authority to resolve problems quickly and equitably.
- G. Respondent has instituted a “second review” procedure for all denied loan applications. The second review shall be carried out by the Credit Risk Manager or a senior underwriter who has received training in Respondent’s underwriting procedures and fair housing (as described below). The second review official shall ensure that all mortgage loan applications are being reviewed in a consistent manner without any discrimination on a prohibited basis. The second review official shall be empowered to overturn any underwriting decision if in the judgment of this official, an error was made. A log of files reviewed and actions taken will be maintained by the Respondent for the duration of this Agreement.
- H. Respondent agrees that if it advertises its loan products to consumers, then the advertising shall be accomplished through media that serves the general public, as well as media that serves the African-American, and Latino communities. All advertising will comply with the Act and convey the message that customers are welcome to apply and have their application processed without regard to their race, color, religion, sex, national origin, handicap, or familial status.
- I. Respondent agrees that it will not use the property type of row home as an underwriting criterion to exclude borrowers for any of its loan products. Respondent agrees that it will underwrite loans secured by row homes using the same underwriting criteria for loans secured by condominiums and townhomes.

- J. Respondent may use minimum property value as one of many underwriting criteria to determine the eligibility of an applicant for a loan, but may not use minimum property value as an absolute bar to the making of any loan. To the extent Respondent uses minimum property value as one of many underwriting criteria, it will ensure that it applies all of the criteria in compliance with the Act.
- K. Respondent agrees that it will notify the mortgage loan brokers and secondary market investors with whom it conducts business that it has discontinued its prohibition against lending on row homes under \$100,000.00 in value and row homes in Baltimore.

II. EMPLOYEE TRAINING

- A. **CURRENT EMPLOYEES:** Within 180 days after the date of this Agreement, all of the Respondent's officers, and employees engaged in soliciting, processing, underwriting, reviewing, or approving loans shall complete a training course that includes the following elements:
 - 1. The Respondent's responsibilities under this Agreement;
 - 2. The purpose of and prohibitions contained in the Act as it relates to mortgage lending;
 - 3. The Respondent's anti-discrimination policy; and
 - 4. The Respondent's disciplinary policy pertaining to violations of the Act by employees.
- B. **NEW EMPLOYEES:** Commencing ninety (90) days after the date of this Agreement and thereafter for the duration of this Agreement, the Respondent's new employees hired to solicit, process, underwrite, review, or approve loans shall complete the training course described in the above paragraph within thirty (30) days of employment.
- C. **TRAINING FREQUENCY:** The Respondent's officers and employees shall complete the same training approximately one year after the initial training is delivered, and again two years after the initial training is delivered.
- D. **TRAINING FORM:** Each person who is required to complete a training course under this section of this Agreement shall execute a form, which shall be maintained by the Respondent, acknowledging:

1. Completion of the training course, and
2. That they have received, read, and understand the Respondent's policies regarding discrimination, including the Respondent's disciplinary policy regarding violations of the Act.

III. RECORD-KEEPING AND REPORTING REQUIREMENTS

- A. During the term of this Agreement, Respondent shall retain all mortgage loan application files that were submitted (regardless of Respondent's final determination on the application) and all documents and notices relevant to such underwriting decisions and all records of the second review official. Respondent will also maintain copies of all advertising done pursuant to Section I.I. above.

IV. SPECIFIC RELIEF FOR THE COMPLAINANT AND COMPLAINANT'S RELEASE

- A. Respondent shall pay Complainant a total of five hundred thousand (\$500,000.00) dollars. On September 15, 2006, Respondent will provide to the Complainant's attorney, Relman & Associates ("Complainant's Attorney"), a check in the amount of one hundred twenty-five thousand (\$125,000.00) dollars made payable to the Complainant's Attorney. On January 8, 2007, 2008, 2009, and 2010, Respondent will provide to the Complainant's Attorney a check in the amount of ninety three thousand seven hundred fifty (\$93,750.00) dollars made payable to Complainant's Attorney. A copy of all checks will be provided to the Director of the Office of Fair Housing And Equal Opportunity, 100 Penn Square East, Philadelphia, PA 19107.
- B. On January 8, 2007, 2008, 2009, and 2010 the Respondent will provide Complainant's Attorney with a copy of its underwriting guidelines so that Complainant can ensure that Respondent is in compliance with this Conciliation Agreement. All documents provided shall be held in strict confidence and may not be disseminated to third parties. The parties will comply with Section V(A) below in resolving any differences regarding interpretation and compliance with this Conciliation Agreement.
- C. In exchange for the Respondent's compliance with the provisions of this Conciliation Agreement, the Complainant hereby waives, releases, acquits, discharges, and covenants not to sue the Respondent, or pursue any administrative action against the Respondent in any forum, with respect to any matters that were alleged in, were within the scope of the allegations, or could have been alleged in this Complaint against this Respondent. In exchange for Complainant's agreement to resolve its claims by executing this Conciliation Agreement, the Respondent hereby

waives, releases, acquits, discharges, and covenants not to sue the Complainant, or pursue any administrative action against the Complainant in any forum, with respect to any matters related to the allegations in the Complaint.

- D. Respondent agrees and understands that pursuant to a situation, which reasonably so warrants, during the term of this Conciliation Agreement as defined under Section I.C., the Secretary (the Secretary) of HUD on request of Complainant or on his own motion, may review compliance with this Conciliation Agreement. As a part of such review, the Secretary may require written reports concerning compliance, may inspect the premises, examine witnesses, and examine and copy pertinent records of the Respondent at any reasonable time given reasonable notice by the Department to the Respondent.
- E. For the purpose of this Conciliation Agreement, the Secretary shall determine whether the Respondent has complied with the terms of this Conciliation Agreement. Whenever the Secretary has reasonable cause to believe that the Respondent has breached the Conciliation Agreement, the Secretary may refer the matter to the Attorney General for appropriate action pursuant to 42 U.S.C. Section 814(b)(2).

V. OTHER PROVISIONS

- A. The parties to this Conciliation Agreement will endeavor in good faith to resolve informally any differences regarding interpretation and compliance with this Conciliation Agreement. As stated in Section IV.D., the Secretary shall determine whether the Respondent has complied with the terms of this Conciliation Agreement. In the event that the parties and HUD are unsuccessful at resolving any disputes regarding interpretation and compliance, the Conciliation Agreement may be enforced pursuant to the provisions of 42 U.S.C. Section 3610(c).
- B. The terms of this Agreement will bind any assignee or successor in interest of the Complainant and the Respondent. The parties assume that any assignee or successor in interest to Respondent will voluntarily implement the provisions of this Agreement, but if any such assignee or successor in interest declines to implement voluntarily the provisions of this Agreement, it shall present to the Department its proposed plan of operation. If the Department concludes that the proposed plan will hinder the attainment of the goals of this Agreement, it shall present such concerns to the successor in interest and attempt to resolve the differences voluntarily. Any differences that cannot be resolved by the parties may be presented to the HUD's Offices of the Administrative Law Judges for resolution.

SIGNATURE PAGE

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John Taylor, President and CEO
For National Community Reinvestment Coalition
Complainant

Date _____

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Kirk Smith, President
For SouthStar Funding, LLC
Respondent

Date

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APPROVED ON BEHALF OF THE SECRETARY:

Wanda S. Nieves, Director
Region III, Office of Fair Housing
and Equal Opportunity

Date