



**THE U.S DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**



**TITLE VIII CONCILIATION AGREEMENT**

**BETWEEN**



Belcourt, ND 58316  
(Complainants)

And



Hoopa, CA 95546  
(Complainant)

loanDepot.com, LLC, Mortgage Lender  
26642 Towne Center Dr.  
Foothill Ranch, CA 92610  
(Respondent)

And

David Gutierrez, Executive Licensed Officer  
26642 Towne Center Dr.  
Foothill Ranch, CA 92610  
(Respondent)

And

Yousuf Shah, Senior Licensed Lending Officer  
26642 Towne Center Dr.  
Foothill Ranch, CA 92610  
(Respondent)

And

Appraisal Management Services of America, Inc.  
10061 Talbert Avenue, #300  
Fountain Valley, CA 92708  
(Respondent)

Approved by the Office of Fair Housing and Equal Opportunity, Region VIII Director on  
behalf of the U. S. Department of Housing and Urban Development

**FHEO TITLE VIII CASE NUMBERS: 08-17-5267-8 and 08-18-6949-8**

## A. PARTIES

### Complainants:

Complainants A: [REDACTED]

Complainant B: [REDACTED]

### Respondents:

Respondent loanDepot.com, LLC, Mortgage Lender

Respondent David Gutierrez, Executive Licensed Officer

Respondent Yousuf Shah, Senior Licensed Lending Officer

Respondent Appraisal Management Services of America, Inc., Appraisal Company

The subject property for Complainants A is a single-family home located at [REDACTED] Belcourt, ND 58316.

The subject property for Complainant B is a single-family home located at [REDACTED] Hoopa, CA 95546.

## B. BACKGROUND

Respondent loanDepot.com, LLC (“Respondent loanDepot”) is a leading technology-enabled U.S. consumer lending platform headquartered in Foothill Ranch, California, offering residential real-estate mortgage loans and consumer loans. Respondent loanDepot holds licenses as FHA Non-Supervised Lender, FHA Direct Lender, VA Approved Lender and USDA Approved Lender. Respondent loanDepot is a licensed mortgage lender in every state. Respondent loanDepot is the nation's fifth largest retail mortgage originator, and the second largest non-bank consumer lender. Respondent loanDepot employs approximately 5400 lending professionals across the country including 1,700 licensed loan officers and it operates 180 local loan locations nationwide. Respondent loanDepot is the nation's second largest direct-to-consumer non-bank originator by annual funded loan amount and has facilitated over \$50 billion in total funding since inception. As of September 2016, Respondent loanDepot had total assets of \$2.08 billion.

Complainants A filed a complaint on February 27, 2017, with the U.S. Department of Housing and Urban Development (“the Department”) alleging they were injured by discriminatory acts of Respondent loanDepot and Respondent David Gutierrez, Executive

Licensed Officer and employee of Respondent loanDepot on the basis of their race, American Indian. Complainants A later amended the complaint to add as a Respondent Appraisal Management Services of America, Inc., (“Respondent AMSA”) the home appraisal company that communicated to Respondent loanDepot it would not conduct an appraisal of Complainants A’s residence because it was located on an Indian Reservation.

Complainant B filed a complaint on November 13, 2017, with the Department alleging he was injured by discriminatory acts of Respondent loanDepot because of his race, American Indian.

The alleged discriminatory actions in both complaints are similar. The Complainants owned their homes on American Indian Reservations in fee simple. They applied to refinance their primary residences with fixed-rate mortgage loans from Respondent loanDepot. Respondent loanDepot processed the loan applications in the normal course of business until Respondent loanDepot closed the loan application files because the homes were located on an American Indian Reservation. In the case of Complainants A, Respondent Appraisal Management Services of America, Inc. informed Respondent loanDepot it could not obtain and provide to Respondent loanDepot an appraisal because home was on “Indian land.”

Complainants allege Respondents violated sections 804(b), 804(c), and 805(a) of the Fair Housing Act as amended in 1988, 42 U.S.C. 3601 et seq. (“the Act”), on the basis of race, American Indian, by subjecting Complainants to discrimination in the making of loans, including discrimination in the terms, conditions, and privileges of financing of a dwelling, and by making discriminatory statements, with respect to the financing of a dwelling, that indicate a preference, limitation or discrimination based on race.

Respondents deny having intentionally discriminated against Complainants, but agree to settle the claims in the underlying actions by entering into this Conciliation Agreement (hereinafter “Agreement”). Respondent loanDepot asserts it regularly makes credit available on American Indian Reservations in the normal course of business, but intends, in part through operation of this Conciliation Agreement, to expand its lending on American Indian Reservations by expending significant resources to provide and loan subsidies to qualified borrowers on American Indian Reservations, as well as robust financial support to community groups that support American Indian consumers.

It is understood by all parties that this Agreement does not constitute an admission by Respondents of any violation of the Fair Housing Act.

### **C. TERM OF AGREEMENT**

1. This Agreement shall govern the conduct of the parties to it for a period of three (3) years from the effective date of the Agreement.

#### **D. EFFECTIVE DATE**

2. The parties expressly agree that this Agreement constitutes neither a binding contract under state or federal law nor an Agreement pursuant to the Act, unless and until such time as it is approved by the Department, through the Director, Office of Fair Housing and Equal Opportunity ("FHEO") or his or her designee.
3. This Agreement shall become effective on the date on which it is approved by the FHEO Region VIII Director or his or her designee.

#### **E. GENERAL PROVISIONS**

4. The parties acknowledge that this Agreement is a voluntary and full settlement of the disputed complaints. The parties affirm that they have read and fully understand the terms set forth herein. No party has been coerced, intimidated, threatened or in any way forced to become a party to this Agreement.
5. It is understood that Respondents deny any violation of law and that this Agreement does not constitute an admission by Respondents or evidence of a determination by the Department of any violation of the Act.
6. Respondents acknowledge that they have an affirmative duty not to discriminate under the Act, and that it is unlawful to retaliate against Complainants or any person because that person has made a complaint, testified, assisted or participated in any manner in this proceeding under the Act. Respondents further acknowledge that any subsequent retaliation or discrimination constitutes both a material breach of this Agreement and a statutory violation of the Act.
7. This Agreement, after it has been approved by the FHEO Region VIII Director or his or her designee, is binding upon Respondents, their employees, heirs, successors and assigns and all others in active concert with Respondents in the ownership and operation of Respondents' businesses.
8. It is understood that, pursuant to Section 810(b)(4) of the Act, upon approval of this Agreement by the FHEO Region VIII Director or his or her designee, it is a public document.
9. This Agreement does not in any way limit or restrict the Department's authority to investigate any other complaint involving the Respondents made pursuant to the Act or any other complaint within the Department's jurisdiction.
10. No amendment to, modification of, or waiver of any provisions of this Agreement shall be effective unless: (a) all signatories or their successors to the Agreement agree in writing to the amendment, modification or waiver; (b) the amendment,

modification or waiver is in writing; and (c) the amendment, modification or waiver is approved and signed by the FHEO Region VIII Director or his or her designee.

11. The parties agree that the execution of this Agreement may be accomplished by separate execution of consents to this Agreement, and that the original executed signature pages attached to the body of the Agreement constitute one document.
12. Complainants forever waive, release, and covenant not to sue the Department or the Respondents, their heirs, executors, assigns, agents, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature, whether presently known or unknown, arising out of the subject matter of FHEO Title VIII Case Numbers 08-17-5267-8 and 08-18-6949-8 or which could have been filed in any action or suit arising from said subject matter.
13. Respondents hereby forever waive, release, and covenant not to sue the Department or the Complainants, their successors, assigns, agents, officers, board members, employees and attorneys with regard to any and all claims, damages and injuries of whatever nature whether presently known or unknown, arising out of the subject matter of FHEO Title VIII Cases Numbers 08-17-5267-8 and 08-18-6949-8 or which could have been filed in any action or suit arising from said subject matter.
14. This Agreement memorializes and constitutes the entire agreement and understanding between the parties and supersedes and replaces all prior negotiations, proposed agreements and agreements between the parties, whether written or unwritten. The parties acknowledge that no person or entity, nor an agent or attorney of any person or entity, has made any promises, representations, or warranties whatsoever, express or implied, which are not expressly contained in this Agreement, and the parties further acknowledge that they have not executed this Agreement in reliance upon any collateral promise, representation, warranty, or in reliance upon any belief as to any fact or matter not expressly recited in this Agreement.
15. The individual(s) signing on behalf of Respondents hereby represent that they have authority to sign for Respondents and that their signature(s) will bind Respondents.

#### **F. RELIEF FOR COMPLAINANTS**

16. Respondent loanDepot agrees to pay Complainants A, by certified or cashier's check made out to [REDACTED] the amount of thirty thousand dollars (\$30,000) (Complainants A Settlement Check).

After execution of this Agreement, but prior to the delivery of the Complainants A Settlement Check, both [REDACTED] agree to provide a completed Internal Revenue Service (IRS) form W-9 to counsel for Respondent loanDepot. Respondent loanDepot shall issue Complainants A an IRS form 1099 for the amount of the Complainants A Settlement Check, and Respondent loanDepot and Complainants A understand and agree that Complainants A are responsible for any taxes that might be owed to the IRS or other taxing authority for this amount.

The Complainants A Settlement Check shall be sent within ten (10) days of the later of execution of this Agreement or receipt of a completed W-9 form. The Complainants A Settlement Check shall be sent via overnight delivery to the Complainants A at the following address:

[REDACTED]  
Belcourt, ND 58316

The completed W-9 form shall be sent to counsel for the Respondent at:

Buckley Sandler, LLP  
Attention: Michelle L. Rogers  
1250 24th St. NW Suite 700  
Washington, DC 20037

Alternatively, the completed W-9 can also be sent to counsel for Respondent by:


Email: mrogers@bucklesandler.com

Facsimile: (202) 349-8080

17. Respondent loanDepot agrees to pay, on behalf of and under the express direction of, Complainant B, by certified or cashier's check made out to [REDACTED] the amount of thirty thousand dollars (\$30,000) (Complainant B Settlement Check).

After execution of this Agreement, but prior to the delivery of the Complainant B Settlement Check, [REDACTED] (payee) agrees to provide a completed IRS form W-9 to counsel for Respondent. Respondent loanDepot shall issue Complainant B an IRS form 1099 for the amount of the Complainant B Settlement Check, and Respondent loanDepot and Complainant B understands and agrees that payee is responsible for any taxes that might be owed to the IRS or other taxing authority for this amount.

The Complainant B Settlement Check shall be sent within ten (10) days of the later of execution of this Agreement or receipt of a completed W-9 form. The Complainant B Settlement Check shall be sent via overnight delivery to the payee at the following address:

  
Hoopa CA 95546

The completed W-9 form shall be sent to counsel for the Respondent at:

Buckley Sandler, LLP  
Attention: Michelle L. Rogers  
1250 24th St. NW Suite 700  
Washington, DC 20037

Alternatively, the completed W-9 can also be sent to counsel for Respondent by:

Email: mrogers@buckleysandler.com

Facsimile: (202) 349-8080

#### **G. RELIEF IN THE PUBLIC INTEREST**

18. Respondent loanDepot agrees to take the actions set forth in this Section G and will provide the Department with written certification that these requirements have been met within thirty (30) days after each year beginning on the effective date of the Agreement. The final report delivered under the Agreement will be made within thirty (30) days from the three-year anniversary of the effective date of the Agreement.
19. Upon request following said certification, Respondent loanDepot shall produce within thirty (30) days a detailed accounting of all funds disbursed and a list of the loans containing a subsidy under the Agreement.
20. Loan Subsidies: Respondent loanDepot shall pay a subsidy for closing cost assistance and appraiser access for qualified Respondent loanDepot applicants seeking a mortgage loan for residences on American Indian Reservations where the applicant owns the property in fee simple. For each application where it is determined that the property is located on an American Indian Reservation and owned in by the applicant in fee simple, Respondent loanDepot will forego its origination fees, pay the cost of the applicant's appraisal, and pay the cost of the applicant's expenses related to title services and settlement. In addition, Respondent loanDepot will provide to the appraiser an incentive payment of

seven hundred and fifty dollars (\$750), in addition to normal local market-rate compensation typically paid by a borrower. Under no circumstances will any benefit under a provision of this section result in a higher interest rate, fee, or any other cost that will negate the benefit of the subsidy. Respondent loanDepot will not, however, be required to pay discount points elected to be paid by the borrower to buy down the interest rate (i.e., a buyer-paid discount point). The total amount paid out pursuant to this paragraph, inclusive of fees waived or appraisal incentives paid, shall not exceed forty thousand dollars (\$40,000) over the thirty (30)-month period beginning on the effective date of the Agreement. Any funds remaining at the thirty (30)-month mark will be expended by the end of the term of the Agreement by Respondent loanDepot on affirmative marketing to prospective borrowers on American Indian Reservations.

21. Community Group Assistance: Respondent loanDepot shall provide financial support for programs aimed at improving housing conditions, financial literacy and education for American Indians in and around American Indian Reservations. Respondent loanDepot shall spend a minimum of eighty thousand dollars (\$80,000) each year, two hundred and forty thousand dollars (\$240,000) over the term of the Agreement) on such outreach programs. This will include amounts paid to partner with or support one or more community-based organizations or governmental organizations that provide (a) home repair or other grants designed to assist American Indian homeowners on their properties on American Indian Reservations, or (b) credit, financial, homeownership, or foreclosure-prevention and education services, in either case to American Indian residents of American Indian Reservations.
22. Fair Lending Training: Within six (6) months of the effective date of this Agreement, Respondent loanDepot shall provide training to all employees (“Production Employees”) who accept applications for mortgage loans, underwrite mortgage loans, and/or process mortgage loans. This will include individuals employed by Respondent loanDepot involved in the creation, application, or implementation of underwriting guidelines for mortgage loans. This training shall encompass the fair lending obligations of residential mortgage lending personnel under the Act and their responsibilities under this Agreement. Respondent loanDepot shall bear all costs associated with the training.

In addition, within thirty (30) days of the effective date of this Agreement, Respondent loanDepot shall provide its Production Employees a copy of this Agreement and allow an opportunity for its Production Employees to have questions concerning the Agreement answered. This communication to such employees shall include an explicit statement that the company policy is to take all actions reasonable and necessary, consistent with safe and sound lending practices and investor guidelines, to ensure it offers and provides all persons with



an equal opportunity to apply for and obtain mortgage loans regardless of the area in which the property securing the loan is located.

23. Policies and Procedures, Respondent loanDepot: Respondent loanDepot shall review and revise existing policies or, as necessary, adopt a new policy(ies) regarding underwriting home mortgage loans on fee simple land located within the boundaries of an American Indian Reservation to ensure its policies are consistent with the requirements of the Fair Housing Act. Respondent loanDepot shall revise any and all other written policy statements or criteria regarding Respondent loanDepot policy concerning loans secured by fee-simple land located within the boundaries of an American Indian Reservation. Respondent loanDepot shall inform the FHEO Region VIII Director of the revised and, where applicable, newly adopted policy(ies) within ninety (90) days of the effective date of this Agreement. Respondent loanDepot agrees to make any changes to its policies that the FHEO Region VIII Director identifies as needed to comply with this Agreement or the Act.

Within thirty (30) days of implementing revised or newly adopted policy(ies), Respondent loanDepot agrees to communicate these requirements to all loanDepot, LLC managers and employees involved in the processing of home mortgage loan applications.

24. Policies and Procedures, Respondent AMSA: Respondent AMSA shall review, revise and adopt a new policy(ies) regarding appraisals relative to applications for home mortgage loans on land located within the boundaries of an American Indian Reservation to ensure AMSA's policies are consistent with the requirements of the Fair Housing Act. Respondent AMSA shall revise any and all other written policy statements or criteria regarding Respondent AMSA's policy concerning appraisals of land located within the boundaries of an American Indian Reservation. Respondent AMSA's new policies will contain a requirement to obtain the written certification of its appraisers that each will comply with the Act and written assurances from each that each will conduct appraisals on American Indian Reservations. Respondent AMSA's new policy will prohibit contracting with any appraiser who refuses to conduct appraisals on American Indian Reservations. Respondent AMSA shall seek and must obtain written approval from the FHEO Region VIII Director of the revised and, where applicable, newly adopted policy(ies) within ninety (90) days of the effective date of this Agreement. Respondent AMSA agrees to make any changes to its policies that the FHEO Region VIII Director identifies as needed to comply with this Agreement or the Act.

Within thirty (30) days of receiving the FHEO Region VIII Director's written approval of the revised or newly adopted policy(ies), Respondent AMSA agrees to communicate these requirements to all AMSA managers, employees and contractors involved in appraisals related to home mortgage loan applications.

## **H. MONITORING**

25. The Department shall determine compliance with the terms of this Agreement. During the term of this Agreement, the Department may review compliance with this Agreement by examining witnesses and copying pertinent records. Monitoring this Agreement may also include, but is not limited to, conducting fair housing tests by the Department or other entity. Respondents agree to provide full cooperation in any monitoring review undertaken by the Department to ensure compliance with the Agreement.

## **I. REPORTING AND RECORDKEEPING**

26. Within thirty (30) days of payment as provided in Section F of this Agreement, Respondents shall transmit one (1) a photocopy of the checks identified in paragraph seventeen (17) along with a copy of a receipt acknowledging receipt of the check signed by Complainants.
27. All Reports and correspondence pursuant to this Agreement shall include FHEO Title VIII Case Numbers 08-17-5267-8 and 08-18-6949-8. All required certifications and documentation of compliance must be submitted to:

Amy M. Frisk, Region VIII Director  
Office of Fair Housing and Equal Opportunity  
U.S. Department of Housing and Urban Development  
1670 Broadway, Floor 23  
Denver, CO 80202-4801

## **J. CONSEQUENCES OF BREACH**

28. Whenever the Department has reasonable cause to believe that Respondents have breached this Agreement, the matter may be referred to the Attorney General of the United States, to commence a civil action in the appropriate U. S. District Court, pursuant to §§ 810(c) and 814(b)(2) of the Act.

**K. SIGNATURES [COMPLAINANTS]**

[Redacted Signature]

Complainant

8/20/18

Date

[Redacted Signature]

Complainant

8/20/18

Date

[Redacted Signature]

Complainant

Date

[Redacted Signature]

Payee

Date

**K. SIGNATURES [COMPLAINANTS]**

  
Complainant \_\_\_\_\_ Date \_\_\_\_\_

  
Complainant \_\_\_\_\_ Date \_\_\_\_\_

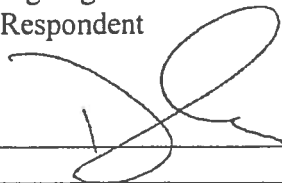
  
Complainant \_\_\_\_\_ Date 8/20/18

  
Payee \_\_\_\_\_ Date 8-20-18

**K. SIGNATURES [RESPONDENTS I]**

  
\_\_\_\_\_ 9-4-18  
\_\_\_\_\_

Peter Macdonald, EVP, General Counsel  
Signing on behalf of loanDepot.com, LLC  
Respondent Date

  
\_\_\_\_\_ 9/4/18  
\_\_\_\_\_

David Gutierrez, Licensed Officer, loanDepot.com, LLC  
Respondent Date

  
\_\_\_\_\_ 9-4-18.  
\_\_\_\_\_

Yousuf Shah, Lending Officer, loanDepot.com, LLC  
Respondent Date

**K. SIGNATURES [RESPONDENTS II]**

*Christy Deutsche*

*8/21/18*

Christy Deutsche

Date

Signing on behalf of Appraisal Management Services of America, Inc.

Respondent

**L. APPROVAL**

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Amy M. Frisk  
Region VIII Director  
Office of Fair Housing and Equal Opportunity

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Date