

United States Department of Housing and Urban Development

Case No. 04-13-0040-8

Conciliation Agreement

Under the Fair Housing Act (Title VIII)

Between

Jacksonville Area Legal Aid, Inc.
(Complainant)

And

Wells Fargo Bank, N.A.,
(Respondent)

Approved by the Assistant Secretary for Fair Housing and Equal Opportunity on
behalf of the United States Department of Housing and Urban Development

Effective Date: _____, 2013

I. PARTIES

A. Complainant

Jacksonville Area Legal Aid, Inc.
126 West Adams Street
Jacksonville, FL 32202

Representing Complainant:

Allison E. Albert, Esq.
David Cronin, Esq.
Jacksonville Area Legal Aid, Inc.
126 West Adams Street
Jacksonville, FL 32202
(904) 356-8371
allison.albert@jaxlegalaid.org

B. Respondent

Wells Fargo Bank, N.A.
101 N. Phillips Avenue
Sioux Falls, SD 57104

Representing Respondent:

Anand S. Raman
Joseph L. Barloon
SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP
1440 New York Avenue, NW
Washington, DC 20005
(202) 371-7000
anand.raman@skadden.com
joseph.barloon@skadden.com

II. STATEMENT OF POSITIONS

A. Complainant's Position

1. On October 16, 2012, Complainant filed a complaint (the "Complaint") with the U.S. Department of Housing and Urban Development ("HUD") against

Wells Fargo Bank, N.A., pursuant to 42 U.S.C. §§ 3604, 3605 and 3610. Complainant asserts that Respondent has violated the Fair Housing Act (the "Act") by maintaining and marketing Real Estate Owned ("REO") properties in predominantly White areas in materially better condition than such properties in predominantly African-American, Latino, and other non-White communities ("minority neighborhoods").

B. Respondent's Position

2. Respondent denies that it has violated the Fair Housing Act or engaged in differential treatment of REO properties on the basis of race, national origin or any other prohibited basis. Respondent avers that it is firmly committed to the principles of home ownership, fair housing, and equal opportunity and has invested heavily in minority neighborhoods in Duval County and throughout the nation.
3. Respondent asserts that throughout the period of time at issue in this proceeding and to the present, it has managed REO properties in a responsible manner and without regard to the racial composition of the communities it serves. Respondent asserts that it has implemented industry-leading policies and procedures for managing REO properties, and that these policies and procedures were and are applied to REO property maintenance and marketing without regard for race, national origin, or any other impermissible factor.
4. Respondent enters this settlement solely for the purpose of avoiding contested litigation with Complainant, and to instead devote its resources to its REO maintenance and marketing responsibilities, and to providing important and meaningful assistance to minority communities throughout the nation.
5. Respondent notes that it has not been advised by HUD of any allegation that any of Respondent's employees discriminated intentionally on the basis of race or national origin. Respondent not only denies that it discriminated unlawfully, but affirmatively asserts that it has fulfilled its responsibilities with respect to REO maintenance and marketing without regard to race or national origin, and that its community investment efforts have benefitted communities of all racial compositions.

C. Conciliation

6. HUD has not reached a determination regarding the complaint pursuant to 42 U.S.C. § 3610(g) and has made no findings regarding the allegations. Nonetheless, the Assistant Secretary of Housing and Urban Development for Fair Housing and Equal Opportunity ("Assistant Secretary"), Complainant and Respondent (collectively, the "Parties") have engaged in discussions in an effort to resolve the matter voluntarily. Although the Parties have differing views of the operative facts and legal framework, they share a commitment to the principles of fair housing and equal treatment. Accordingly, the Parties and HUD have been able to reach an agreement satisfactory to the Parties and which HUD deems to be in the public interest.

III. AGREEMENT

A. Term of Agreement

7. This Conciliation Agreement ("Agreement") shall be in effect for a period of 18 months from the effective date of the Agreement, unless Respondent, Complainant and the Assistant Secretary shall agree to an extension for purposes of completing the actions mandated by the Agreement.

B. Effective Date

8. The Parties expressly agree that this Agreement constitutes neither a binding contract under state or federal law nor a conciliation agreement pursuant to the Fair Housing Act, unless and until such time as it is approved by the parties and by the Assistant Secretary. This Agreement shall become effective on the date on which it is approved by the Assistant Secretary.

C. General Provisions

9. The Parties acknowledge that this Agreement is a voluntary and full settlement of the disputed complaint. No party has been coerced, intimidated, threatened, or in any way forced to become a party to this Agreement. The Parties have read and fully understand the significance of the terms set forth herein. Each person who signs this Agreement in a representative capacity warrants that his or her execution of this Agreement is duly authorized, executed and delivered by and for the entity for which he or she signs.

10. It is understood that the Respondent denies any violation of law and that this Agreement does not constitute an admission by the Respondent or evidence of a determination by HUD of any violation of the Act or any other law.
11. This Agreement, after it has been approved by the Assistant Secretary, is binding upon HUD, as well as the Complainant, the Respondent, and their respective employees, successors and assigns.
12. It is understood that, pursuant to Section 801(b)(4) of the Act, upon approval of this Agreement by the Assistant Secretary, this Agreement is a public document. However, HUD will hold confidential all information of a personal or proprietary nature concerning Parties to this Agreement that is not contained in the body of the Agreement.
13. This Agreement is intended to fully and finally resolve all claims that were or could have been asserted based on the subject matter of or facts alleged in Complainant's Complaint. However, this Agreement does not in any way limit or restrict HUD's authority to investigate any other complaint involving Respondent made pursuant to the Fair Housing Act, or any other complaint within HUD's jurisdiction.
14. No amendments to, modifications of, or waiver of any provision of this Agreement shall be effective unless all of the following conditions are met: (a) all signatories or their successors to the Agreement are notified in advance and agree to the proposed 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 Parties and the Assistant Secretary, or his designee. Any such amendment, modification, waiver or consent shall be effective only in the specific instance and for the specific purpose for which given.
15. The Parties agree that this Agreement may be executed by the Parties' signatures of consent on separate pages. The separate pages will be attached to the body of the Agreement to constitute one document. The Parties agree that signature pages received via electronic transmission will be considered official, provided that the original copy of the signature page is forwarded to HUD immediately upon signing of the Agreement. Both the original and any electronically transmitted signature pages will be retained in the official case file.
16. In exchange for Respondent's compliance with the provisions of this Agreement, the Complainant hereby forever waives, releases and covenants

not to sue HUD or the Respondent, or its employees, assigns or successors, with regard to any and all claims, damages and injuries of whatever nature, whether presently known or unknown, arising out of the facts alleged in or the same subject matter as HUD Case No. 04-13-0040-8 or which could have been filed in any action or suit arising from such facts or subject matter.

17. Respondent hereby forever waives, releases and covenants not to sue HUD or the Complainant, or its employees, assigns or successors, with regard to any and all claims, damages and injuries of whatever nature, whether presently known or unknown, arising out of the facts alleged in or the same subject matter as HUD Case No. 04-13-0040-8 or which could have been filed in any action or suit arising from such facts or subject matter. As a further material consideration of Respondent entering into this Agreement, Complainant shall refrain from making any disparaging comments about Respondent as to any subject encompassed within the Complaint.
18. Respondent acknowledges that it is unlawful to retaliate against any person because that person has made a complaint, testified, assisted or participated in any manner in a proceeding under the Act and that any such act of retaliation constitutes a material breach of this Agreement and a violation of the Act. If any provision of this Agreement is determined to be invalid or unenforceable for any reason, then such provision shall be treated as severed from the remainder of this Agreement, and shall not affect the validity and enforceability of all the other provisions of this Agreement as long as such severance does not materially change the rights and obligations of the Parties.

D. Confidentiality and Non-Disclosure

i. Matters Subject to Confidentiality

19. Complainant and Respondent agree that the following matters (the "Confidential Matters") are, and shall remain, strictly confidential: (i) all negotiations, discussions, communications or correspondence between Complainant and Respondent, or their respective counsel, with respect to any matter relating to this Agreement or the terms thereof; and (ii) any future negotiations, discussions, communications or correspondence between Complainant and Respondent, or their respective counsel, with respect to any matter relating to this Agreement or the terms thereof, or regarding facts alleged in or the same subject matter as HUD Case No. 04-13-0040-8 or which could have been filed in any action or suit arising from such facts or subject matter.

ii. Prohibition Against Disclosure

20. In recognition of the confidential nature of the Confidential Matters, the Parties agree that, subject to the exclusions identified in Paragraph 21 below, they shall not disclose, discuss or communicate in any manner whatsoever the Confidential Matters to anyone. In particular, the Parties agree that they shall refrain in all instances from making any comments or statements regarding the Confidential Matters to persons other than those enumerated in Paragraph 21 below.

iii. Limited Disclosure

21. Notwithstanding the limitations set out in Paragraph 20, above, the Parties agree that Confidential Matters may be disclosed to: (1) counsel for the Parties; (2) individuals who are affiliated or associated in a professional capacity with the Parties, so long as such disclosure is reasonably necessary to effectuate the terms and conditions of the settlement or to comply with legal, regulatory, or auditing requirements; (3) any competent public authority to which a Party is obligated to report the fact or terms of the Agreement, including HUD; (4) as required by order of any court of competent jurisdiction; or (5) as required by order of any administrative agency, including HUD.
22. Prior to making any disclosures pursuant to Paragraphs 21(4) or 21(5), the Party seeking disclosure shall provide reasonable prior written notice to the legal counsel to the Parties as identified in this Agreement such that they may take any steps necessary to prevent or limit disclosure.

iv. Remedies

23. The Parties hereto agree that in the event of a breach of the Confidentiality and Non-Disclosure provisions of this Agreement: (a) each and every term of this Agreement shall remain in full force and effect; and (b) the exclusive remedies of the non-breaching Party shall be, at the non-breaching Party's election, injunctive relief and/or damages.

IV. RELIEF IN THE PUBLIC INTEREST

24. Respondent has agreed to implement enhancements to its REO maintenance and marketing standards satisfactory to HUD.

V. RELIEF FOR COMPLAINANT

25. Within 30 days of the effective date of this Agreement, Respondent shall provide, via wire transfer or any other mutually agreed upon method, \$535,000 to Complainant in full and final satisfaction of this matter.
26. Of the amount referenced in Paragraph 25, \$450,000 shall be used for programs in minority communities to address neighborhood stabilization, development, and property rehabilitation, as approved by HUD. Such funds shall be distributed no later than 18 months after the date of this Agreement.
27. Of the amount referenced in Paragraph 25, \$45,000 is intended to finance the costs Complainant incurs in administering the programs and services identified in Paragraph 26.
28. Of the amount referenced in Paragraph 25, \$40,000 is intended as payment to Complainant.
29. Complainant will make periodic reporting to HUD and Respondent regarding the use of the relief funds. Complainant will submit to HUD and Respondent a quarterly report on the 15th day of the month after the calendar quarter ("Quarterly Report"). The first Quarterly Report will be due on the 15th day of the month after the close of the first full calendar quarter elapsed since the initial distribution of grant funds to the recipient. If the due date falls on a Saturday, the Quarterly Report is due the Friday before. If the due date falls on a Sunday, the Quarterly Report is due the Monday after.
30. In the Quarterly Report, Complainant will report the progress of its grant for the previous quarter, including but not limited to progress against its schedule and budget, expenditures to date, and a narrative statement on its progress. Complainant should also include, as appropriate, best practices and lessons learned from the date of the prior Quarterly Report.

VI. EVALUATING AND MONITORING COMPLIANCE

A. Reporting and Recordkeeping

31. For the duration of this Agreement, Respondent shall retain all records relating to its obligations under this Agreement. HUD shall have the right to review and copy such records upon request.

32. On the one year anniversary of the effective date of this Agreement, Respondent shall make a report to HUD on its progress in fulfilling the goals of this Agreement.
33. HUD may review and shall determine compliance with the terms of this Agreement during the term of this Agreement. Respondent and Complainants agree to provide full cooperation in any such monitoring review undertaken by HUD.
34. Whenever HUD has reasonable cause to believe that Respondent has 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.
35. All certifications and documentation of compliance required under this Agreement shall be submitted to:

U.S. Department of Housing and Urban Development
Fair Housing Enforcement Center
ATTENTION: CONCILIATION REVIEW
San Francisco Regional Office – Region IX
600 Harrison Street, 3rd Floor
San Francisco, CA 94107-1300

SIGNATURE PAGE

SIGNATURES

For Complainant, Jacksonville Area Legal Aid


James Kowalski, Director

5 June 2013
Date

For Respondent Wells Fargo Bank, N.A.



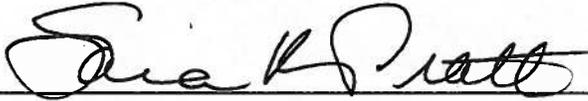
Michael J. DeVito
EVP, Head of Default Servicing

6-5-2013

Date

Approved:

On Behalf of the Department of Housing and Urban Development



By: Sara K. Pratt

Deputy Assistant Secretary for Enforcement and Programs

6/5/13
Date

Conciliators: Catherine Ross-Perry
Sara K. Pratt