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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

UNITED STATES OF AMERICA,  
Plaintiff,  
v.  
PLAZA HOME MORTGAGE, INC.,  
Defendant.

Case No.: 13cv2327-H (RBB)

**ORDER ENTERING CONSENT  
ORDER BETWEEN UNITED  
STATES OF AMERICA AND PLAZA  
HOME MORTGAGE, INC.**

On September 26, 2013, Plaintiff the United States of America (“the United States”) filed a complaint against Defendant Plaza Home Mortgage, Inc. (“Plaza” or “the lender”). (Doc. No. 1, “Compl.”) On the same day, the parties filed a joint motion for a consent order (“Order”). (Doc. No. 4.) On September 27, 2013, the Court conducted a telephonic hearing regarding the proposed Order. Joseph Price and Coty Montag appeared for Plaintiff United States. John Alessio and Lynde Selden appeared for Defendant Plaza. During the hearing, the Court inquired into the process used to provide notice to aggrieved borrowers. Additionally, the Court inquired into the monitoring program and determined that a three year monitoring period would be appropriate, without prejudice to a request for extension of monitoring by the United States for good cause.

This Order was submitted jointly by the parties to resolve the United States’ claims that Plaza has engaged in a pattern or practice of lending discrimination in

1 violation of the Fair Housing Act (FHA), 42 U.S.C. §§ 3601-3619, and the Equal Credit  
2 Opportunity Act (ECOA), 15 U.S.C. §§ 1691-1691f, by allowing its wholesale  
3 mortgage brokers to charge African-American and Hispanic borrowers higher broker  
4 fees for residential real estate-related loans than non-Hispanic white (“white”)  
5 borrowers.

6 There has been no factual finding or adjudication with respect to any matter  
7 alleged by the United States. Accordingly, the execution of this Order is not, and is not  
8 to be considered as, an admission or finding of any violation of the FHA or ECOA by  
9 Plaza. Rather, the parties have entered into this agreed Order to resolve voluntarily the  
10 claims asserted by the United States in order to avoid the risks and burdens of litigation.  
11 The parties agree that full implementation of the terms of this Order will provide a fair  
12 and reasonable resolution of the allegations of the United States in a manner consistent  
13 with Plaza’s legitimate business interests.

## 14 **II. BACKGROUND**

15 Plaza is a nationwide wholesale mortgage lender headquartered in San Diego,  
16 California. Plaza has offices in 15 cities and is licensed to conduct business in 48 states  
17 and the District of Columbia. Plaza also is licensed to make reverse mortgages in 44  
18 states and is qualified to make FHA, FNMA, HUD, GNMA, USDA, and VA loans.  
19 Plaza is subject to the enforcement authority of the Federal Trade Commission (“FTC”).  
20 As of January 5, 2012, the Consumer Financial Protection Bureau (“CFPB”) also has  
21 supervisory authority over Plaza.

22 In early 2009, the FTC examined data reported under HMDA in 2006 and 2007 to  
23 determine whether any wholesale lenders showed substantial rate spread disparities  
24 between white and minority borrowers. Based on this initial targeting analysis, the FTC  
25 identified Plaza as a lender with high disparities. In 2009, the FTC issued two civil  
26 investigative demands to Plaza, requesting loan data for 2006 to 2009 and information  
27 regarding the lender’s policies and mortgage business practices. In 2010, the FTC  
28 conducted four investigational hearings of Plaza officials and met with Plaza

1 representatives on several occasions to discuss the investigation. In 2011, at the FTC's  
2 request, the Department of Justice took over the investigation and obtained loan data for  
3 2010.

4 The United States' Complaint alleges that from 2006 to 2010, Plaza's policies and  
5 practices established a two-step process for the pricing of wholesale loans that it  
6 originated. The first step was to establish a base or par rate for a particular type of loan  
7 for an applicant with specified credit characteristics. The United States alleges that in  
8 this step, Plaza accounted for numerous objective credit-related characteristics of  
9 applicants by setting a variety of prices for each of the different loan products that  
10 reflected its assessment of individual applicant creditworthiness, as well as the current  
11 market rate of interest and the price it could obtain for the sale of such a loan from  
12 investors. Plaza communicated these prices through rate sheets that it issued to brokers  
13 on a daily basis. The rate sheets spelled out the "par" interest rates based on a  
14 borrower's credit characteristics and the yield spread premiums ("YSPs") that Plaza  
15 paid the broker when the loan application requested an interest rate that exceeded the  
16 par rate. The Complaint alleges that Plaza made the credit decision and had the sole and  
17 absolute discretion to approve or reject any application submitted by a broker.

18 The Complaint further alleges that Plaza's second step of pricing wholesale loans  
19 permitted mortgage brokers to exercise subjective, unguided discretion in setting the  
20 amount of broker fees charged to individual borrowers, unrelated to an applicant's credit  
21 risk characteristics. Mortgage brokers who supplied Plaza with wholesale loans were  
22 compensated in two ways: through direct fees paid by the borrower to the broker and/or  
23 through YSPs. In setting the terms and conditions for its loans, Plaza accounted for  
24 individual borrowers' differences in credit risk characteristics by setting the prices  
25 shown on its rate sheets for each loan product that included its assessment of applicant  
26 creditworthiness. The Complaint alleges that mortgage brokers' deviations from the  
27 rate sheet prices were separate from and not controlled by the credit risk adjustments  
28 already reflected in the rate sheet prices. The United States alleges that Plaza reviewed

1 these total broker fees that brokers charged to borrowers in the loans Plaza funded. The  
2 Complaint alleges that Plaza had written policies placing a ceiling on total broker fees  
3 that changed several times from 2006 to 2010; however, Plaza did not strictly enforce its  
4 shifting fee caps.

5 The United States contends that from 2006 through at least 2010, Plaza through  
6 its brokers charged thousands of African-American and Hispanic wholesale borrowers  
7 higher fees than white borrowers for home mortgage loans,<sup>1</sup> not based on their  
8 creditworthiness or other objective criteria related to borrower risk, but because of their  
9 race or national origin. The Complaint alleges that these disparities resulted from the  
10 implementation and the interaction of Plaza’s policies and practices that: (a) included  
11 pricing terms based on the subjective and unguided discretion of brokers in setting total  
12 broker fees not based on borrower risk in the terms and conditions of loans Plaza  
13 originated after par rates had been established by reference to credit risk characteristics;  
14 (b) did not require mortgage brokers to justify or document the reasons for the amount  
15 of total broker fees not based on borrower risk; (c) failed to monitor for or remedy the  
16 effects of racial and ethnic disparities in those broker fees; (d) permitted mortgage  
17 brokers to charge fees in excess of Plaza’s stated caps; and (e) failed to monitor for or  
18 remedy the effects of racial and ethnic disparities in those fees that exceeded Plaza’s  
19 stated caps. The United States contends that these policies and practices were not  
20 justified by business necessity or legitimate business interests. The Complaint alleges  
21 that as a result of Plaza’s practices, an African-American or Hispanic borrower paid, on  
22 average, hundreds of dollars more for a Plaza loan, in violation of the FHA and ECOA.

23 **III. POSITION OF PLAZA**

24 Plaza denies all allegations and claims of a pattern or practice of discrimination in  
25 violation of the FHA and the ECOA as set forth in the United States’ allegations. Plaza

26  
27 <sup>1</sup> For purposes of this Consent Order, and consistent with the Home Mortgage Disclosure Act  
28 (“HMDA”), the term “home mortgage loan” or “home loan” refers to loans originated for the purchase  
or refinance of owner-occupied, one-to-four family dwellings.

1 asserts that at all times it conducted its lending in compliance with the letter and spirit of  
2 the fair lending laws and in a non-discriminatory manner. Plaza maintains that any of  
3 the differences in pricing, as alleged by the United States, were attributable to  
4 legitimate, non-discriminatory factors.

5 The United States' claim focuses on wholesale loans and arises from the fees that  
6 independent mortgage brokers charged their customers. Plaza asserts that these fees  
7 were negotiated independently between the mortgage brokers and their clients. Plaza  
8 believes that competitive market conditions require it to allow independent mortgage  
9 brokers to negotiate their compensation directly with their borrower-customers. Plaza  
10 contends that it did not receive any compensation from brokers resulting from fees that  
11 its independent brokers charged borrowers. To the extent that brokers charged  
12 borrowers fees, that compensation went solely to the broker as part of the price  
13 negotiated directly between the broker and the borrower. Therefore, Plaza asserts that  
14 allowing mortgage brokers to set their own compensation is justifiable by a legitimate  
15 business purpose.

16 Furthermore, Plaza notes that it has not been advised by the United States that it  
17 alleges that any Plaza employee discriminated intentionally on the basis of race or  
18 national origin. Notwithstanding its disagreement with the allegations of the United  
19 States, Plaza has agreed to the entry of this order to resolve voluntarily the claims  
20 asserted by the United States in order to avoid the costs, risks, and burdens of litigation.

21 Since 2010, Plaza has taken steps designed to lessen any broker compensation  
22 disparities based on race or national origin. Plaza has revised its broker compensation  
23 policy to comply with the April 2011 amendments to Regulation Z. Plaza has  
24 developed a nationwide lending program intended to accommodate traditionally  
25 underserved communities and provide financial literacy training, home ownership  
26 instruction, and access to more affordable credit in the acquisition of housing. Plaza has  
27 also initiated a company-wide fair lending training program that is a part of its ongoing  
28

1 compliance program as well as its new-hire orientation syllabus.<sup>2</sup>

2 **IV. REMEDIAL ORDER**

3 **A. General Prohibitory Injunction**

4 1. Plaza, including all of its officers, employees, agents, representatives,  
5 assignees, and all those in active concert or participation with any of them, is hereby  
6 enjoined from engaging in any act or practice that discriminates on the basis of race or  
7 national origin in any aspect of a residential real estate-related transaction in violation of  
8 the FHA, or in any aspect of a credit transaction in violation of ECOA. This prohibition  
9 includes, but is not limited to: the adoption, performance, or implementation of any  
10 policy, practice, or act that results in race or national origin discrimination against  
11 residential mortgagors in the assessment of mortgage broker fees.

12 2. This Order requires the lender to take actions to remedy its alleged  
13 discrimination. Plaza retains the discretion to take any additional actions that it believes  
14 are appropriate to achieve the goals of this Order. The effective date of this Order will  
15 be the date on which it is approved and entered by the Court.

16 **B. Pricing Policies and Procedures**

17 3. Plaza will have in place as part of a loan pricing policy, specific, race- and  
18 national origin-neutral standards for the assessment of broker fees on residential real-  
19 estate related loans that Plaza underwrites, originates, or funds that are designed to  
20 avoid unlawful discrimination by the lender. The loan pricing policy will also require  
21 that written documentation of such fees be maintained in each loan file and be among  
22 the application documents submitted to Plaza. These requirements will be made part of  
23 any broker agreement between a wholesale mortgage broker and Plaza.

24 4. Plaza’s loan pricing policies will require the lender to post and prominently  
25 display in each location where applications for Plaza’s loans are received a notice of

26 \_\_\_\_\_  
27 <sup>2</sup> In addition, since 2010, Plaza has hired a nationally recognized civil rights law firm to help  
28 implement and manage Plaza’s compliance program, and retained the services of a national non-profit  
fair housing organization to both review Plaza’s policies and recommend initiatives designed to  
prevent discrimination.

1 non-discrimination (a sample of which is attached as Exhibit A).

2 5. Plaza's policy will require brokers to make the following disclosures to  
3 applicants, to the extent not inconsistent with applicable law: (a) the full amount of any  
4 broker compensation and that such compensation may or may not be negotiable  
5 between the broker and borrower, and (b) a notice of non-discrimination that provides  
6 substantially the same information as is contained in Appendix A. Such disclosures will  
7 be in writing, signed by the broker and the borrower (if the borrower executes), and  
8 submitted by the broker to be made part of the loan file by Plaza. This disclosure will  
9 be made as early as practicable but not later than 48 hours prior to the closing of the  
10 loan.

11 6. Plaza's loan pricing policies will require all wholesale mortgage brokers  
12 from whom they accept wholesale residential mortgage applications to comply with the  
13 requirements established in Paragraphs 3-5. Plaza's policies will also require  
14 designated employees, subject to the approval of the United States and under the  
15 supervision of a designated manager of Plaza, to review applications received from  
16 wholesale mortgage brokers for compliance with loan pricing policies. Any loan that is  
17 not in compliance with the pricing policy may not be funded. All reviews will be  
18 documented and kept in the loan file.

19 7. During the term of this Order, Plaza may change its loan pricing policies as  
20 set forth in Paragraphs 3-6 upon written advance notice to the United States, which will  
21 have thirty (30) days from receipt of such notice to raise any objection to the proposed  
22 change(s). If it raises any objection, the parties will confer to resolve their differences.  
23 If they are unable to do so, either party may bring the dispute to this Court for  
24 resolution. Plaza will not implement the change(s) during such a dispute.

### 25 **C. Monitoring Program**

26 8. Within ninety (90) days of the Effective Date of this Order, Plaza will have  
27 in place a monitoring program designed to ensure compliance with this Order. The  
28 program will monitor the lender's loans for potential disparities based on race and

1 national origin. At a minimum, Plaza will monitor the compensation received by its  
2 wholesale mortgage brokers. The program also will require a semi-annual review by  
3 senior managers. Each semi-annual review will include, but not be limited to, an  
4 analysis designed to detect statistically significant broker fee disparities based on race  
5 and national origin with respect to the lender's loan products covered by this Order.  
6 The analysis will be conducted on an aggregate basis for all of Plaza's wholesale  
7 mortgage brokers and on a broker-by-broker basis in selected geographic areas, to be  
8 agreed upon by the parties in advance of each semi-annual analysis.

9           a. In the event that any such review discloses statistically significant  
10 broker fee disparities between African-American or Hispanic and white borrowers,  
11 Plaza will attempt to determine the reason(s) for those disparities and will promptly take  
12 corrective action to address disparities that are attributable to a policy or practice of  
13 Plaza and not justified by a legitimate business need. In determining whether to take  
14 corrective action and what action to take, a variety of different factors and analyses may  
15 be considered, with the review and approval of the United States, including analyses  
16 done at an aggregate, metropolitan statistical area, or broker level. Such analyses will  
17 be utilized as deemed appropriate on a case-by-case basis. Nothing in this Decree will  
18 mandate the use of any one type of analysis as dispositive of the corrective action to be  
19 taken in all situations. Corrective action may include, as warranted, financial  
20 remediation for borrowers, further modifications to Plaza's pricing policies and/or  
21 monitoring programs as appropriate, education, discipline, or termination of broker  
22 relationships, or any other action as deemed appropriate under the circumstances. Plaza  
23 will document all such disparities, determinations, and actions taken and will provide a  
24 summary of the semi-annual reviews and any documentation and analysis relating  
25 thereto to the United States on a semi-annual basis.

26           b. In the event that any such review discloses statistically significant  
27 disparities with respect to any particular broker's compensation practices, Plaza will  
28 require the broker to explain the non-discriminatory reason(s) for those disparities. If

1 there is no reasonable, non-race or national origin-based explanation for the noted  
2 disparities, Plaza will require the broker to take prompt corrective action to address the  
3 disparities.

4 9. If the United States raises any objections to Plaza's determinations or  
5 remedial actions, the parties will meet and confer to consider appropriate steps to  
6 address the concerns raised by the United States' review. If the parties are unable to  
7 come to an agreement regarding such objections, any party may bring the dispute to this  
8 Court for resolution.

9 **D. Notification to the United States and Right to Object**

10 10. Plaza will provide a copy of the policies it utilizes to implement Paragraphs  
11 3-6 of this Order and descriptions of the monitoring programs required under  
12 Paragraphs 8-9 to the United States within ninety (90) days of the Effective Date of this  
13 Order. The United States will have thirty (30) days from receipt of the policies and  
14 descriptions to raise any objections to them, and if it raises any, the parties will confer to  
15 resolve their differences. In the event the parties are unable to do so, either party may  
16 bring the dispute to this Court for resolution.

17 **E. Equal Credit Opportunity Training Program**

18 11. Plaza currently provides comprehensive fair lending training to  
19 management officials and employees. Within ninety (90) days of the Effective Date of  
20 the Order, Plaza will provide access to a copy of this Order and the policies referenced  
21 therein to its management officials and employees who participate in taking applications  
22 for, originating, or pricing loans secured by residential real estate, including employees  
23 who have significant contact with or oversight of mortgage brokers, and employees  
24 responsible for conducting compliance monitoring as provided in Paragraph 9 of this  
25 Order.

26 12. Within 180 days of the Effective Date of the Order, and annually thereafter  
27 for the duration of the Order, Plaza will continue to provide equal credit opportunity  
28 training to the management officials and employees specified in Paragraph 11. Plaza

1 will provide equal credit opportunity training to each new management official or  
2 employee whose responsibilities include those set forth in the preceding sentence within  
3 ninety (90) days of beginning his or her employment in that position.

4 13. During the equal credit opportunity training, Plaza will provide to each  
5 participant training on the terms of this Order, the policies referenced therein, the  
6 requirements of the FHA, the ECOA, and his or her responsibilities under each. Should  
7 the content of the training program required by this Paragraph change, such changes  
8 will be submitted to the United States for approval in advance of implementation. Any  
9 expenses associated with this training program will be borne by Plaza.

10 14. Plaza will secure from each official and employee specified in Paragraph  
11 11 a signed statement acknowledging that he or she has received access to a copy of this  
12 Order and the loan policies and has completed the initial equal credit opportunity  
13 training. The signature of the acknowledgement may be either manual or electronic.  
14 These statements will be substantially in the form of Appendix B (Acknowledgment)  
15 and Appendix C (Equal Credit Opportunity Training). During the term of this Order,  
16 each new employee or agent with substantive responsibility relating to the lender's loan  
17 programs covered by this Order will be provided access to a copy of this Order and  
18 given an opportunity to have any questions answered, and will sign the acknowledgment  
19 form statement (Appendix B) within ten (10) days of beginning his or her employment  
20 in that position.

21 **F. Community Enrichment Program**

22 15. Plaza currently operates a Community Enrichment Program that is  
23 designed to address the lack of affordable housing and lending products in minority and  
24 underserved communities in selected geographic areas nationwide. Plaza will continue  
25 to operate the Community Enrichment Program for the entire duration of the Order.

26 16. Through the program, Plaza offers the Fannie Mae Community Home  
27 Buyers Affordable Lending product as well as standard FHA, VA and USDA lending  
28 products to meet the financing needs of qualified applicants in communities that may

1 not otherwise have access to prime mortgage lending programs and interest rates. The  
2 program provides qualified residents in designated minority and underserved areas loan  
3 products with interest rates, terms, and/or other subsidies that are more advantageous to  
4 the applicant than Plaza's normal products. Under this program, Plaza offers one or  
5 more of the following: an interest rate below that which Plaza would normally charge,  
6 down payment or closing cost grants or assistance, or other financial aid.

7 17. Within thirty (30) days of entry of this Order, the parties will confer on the  
8 precise financial benefits Plaza will provide to qualified borrowers under the program  
9 for the duration of the Order. The parties will also confer on the specific geographic  
10 areas where the program will continue to operate and any other relevant program  
11 requirements, including the targeted marketing that Plaza will provide in each  
12 designated area. In the event that the parties are unable to agree upon the terms of the  
13 program, either party may bring the dispute to this Court for resolution.

14 18. For the duration of this Order, Plaza will retain the discretion to offer  
15 multiple forms of financial assistance to qualified applicants on an individual basis as it  
16 deems appropriate under the factual circumstances of a particular application so long as  
17 the maximum total financial assistance provided by Plaza on a covered transaction does  
18 not exceed \$15,000. Plaza will apply the available funds in a manner that maximizes  
19 the likelihood that it will originate a loan to a qualified applicant, consistent with  
20 applicable underwriting guidelines, investor guidelines, and safety and soundness  
21 standards. Plaza also will have discretion to provide the loan subsidy among its single-  
22 family residential loan products.

23 19. Plaza may expend additional funds in connection with the program,  
24 including funds related to homebuyer education, counseling, and sponsorship of trade  
25 events and conferences. Any homebuyer education or counseling associated with the  
26 program must be conducted by a HUD-approved counseling agency. Plaza may define  
27 additional procedures and requirements for homebuyer education and counseling,  
28 subject to approval by the United States.

1           20. No provision of this Order, including the Community Enrichment Program,  
2 requires Plaza to make any unsafe or unsound loan or to make a loan to a person who is  
3 not qualified for the loan based on lawful, nondiscriminatory terms. Nor does any  
4 provision of this Order require Plaza to alter its standards for underwriting mortgage  
5 loans. The bank's underwriting standards applied to applicants that qualify for the  
6 Community Enrichment Program will be no less favorable than the standards that are  
7 applied to all other applicants. At the same time, no provision of this Order imposes an  
8 obligation on Plaza to apply underwriting standards to applicants that qualify for the  
9 program that are more favorable than the standards otherwise applied by the lender. No  
10 provision of this Order will require Plaza to offer a benefit to a borrower, or a form of  
11 financial assistance, that violates any law, regulation, rule, or standard imposed by any  
12 federal agency, including the Department of Housing and Urban Development (HUD).

13           21. During the term of this Order, Plaza will provide semi-annual progress  
14 reports to the United States summarizing its actions taken during the previous six  
15 months to implement the Community Enrichment Program, including the number of  
16 loans originated under the program, the amount of subsidies provided, and a description  
17 of any marketing, consumer education, or outreach related to the program.

18           22. During the term of this Order, Plaza will assess the effectiveness of the  
19 Community Enrichment Program in achieving its goals and will recommend to the  
20 United States any changes it reasonably believes are necessary and appropriate to  
21 increase the program's effectiveness.

22           23. The United States has the sole discretion to determine whether Plaza is in  
23 material compliance with Paragraphs 15-22 of this Order. If at any time during the term  
24 of this Order the United States has reason to believe that Plaza is not materially  
25 complying with these paragraphs, it will notify Plaza and the parties will meet and  
26 confer for the purpose of mutually agreeing upon a course of action to effect Plaza's  
27 compliance with the Community Enrichment Program. In the event that the United  
28 States and Plaza are unable to agree upon a course of action to effect Plaza's material

1 compliance, the United States has the discretion to present the matter to the court or to  
2 rescind this Consent Order and seek supplemental relief or reinstate its Complaint. In  
3 the event that the United States opts to rescind this Consent Order under the terms of  
4 this paragraph, Plaza expressly agrees not to count time during which this Consent  
5 Order is in place, or use the terms or existence of this Consent Order, to plead, argue, or  
6 otherwise raise any defenses under theories of claim preclusion, issue preclusion, statute  
7 of limitations, estoppel, laches, or similar theories. If the United States determines that  
8 Plaza has materially complied with Paragraphs 15-22 of this Order, it will provide a  
9 certification to Plaza no later than sixty (60) days after Plaza's submission of its third  
10 annual report pursuant to Paragraph 39.

11 **V. SATISFACTION OF UNITED STATES' CLAIMS FOR**  
12 **MONETARY RELIEF**

13 24. Plaza will deposit in an interest-bearing escrow account the total sum of \$3  
14 million to compensate for monetary damages that aggrieved persons may have suffered  
15 as a result of the alleged violations of the FHA and ECOA with respect to residential  
16 mortgage loans (the "Settlement Fund"). Title to this account will be in the name of  
17 "Plaza Home Mortgage, Inc. for the benefit of aggrieved persons pursuant to Order of  
18 the Court in Civil Action No. 3:13-cv-02327-H (RBB)". Plaza will provide written  
19 verification of the deposit to the United States within fifteen (15) days of the Effective  
20 Date of this Order. Any interest that accrues will become part of the Settlement Fund  
21 and be utilized and disposed of as set forth herein.

22 25. Within thirty (30) days of the Effective Date of this Order, Plaza will  
23 identify a proposed Settlement Administrator ("Administrator"). Within thirty (30) days  
24 of obtaining the United States' consent to the selected Administrator, Plaza will execute  
25 a contract with the Administrator to conduct the activities set forth in the following  
26 paragraphs. Plaza will obtain the United States' consent to the contract prior to its  
27 execution. Plaza will bear all reasonable costs and expenses of the Administrator. The  
28 Administrator's contract will require it to work cooperatively with the United States in

1 the conduct of its activities, including reporting regularly and providing all reasonably  
2 requested information to the United States. Plaza will allow the Administrator access to  
3 relevant mortgage loan files and borrower contact information for the purposes of  
4 accomplishing its duties under the Order. The contract will require the Administrator to  
5 comply with all confidentiality and privacy restrictions applicable to the party who  
6 supplies the information and data to the Administrator.

7         26. In the event the United States has reason to believe that the Administrator  
8 is not materially complying with the terms of its contract with Plaza, the United States  
9 and Plaza will meet and confer for the purpose of mutually agreeing upon a course of  
10 action to effect the Administrator's material compliance with its contract. In the event  
11 that the United States and Plaza are unable to agree upon a course of action to effect the  
12 Administrator's material compliance with its contract, the parties may present the matter  
13 to the court.

14         27. Within thirty (30) days of the Effective Date of this Order, the United  
15 States will request any information it believes will assist in identifying aggrieved  
16 persons and determining any damages. Plaza will, within thirty (30) days of receipt of  
17 such request, supply, to the extent that it is within the lender's control, such information  
18 as requested. Requested data may be supplied as a supplement to the database already  
19 provided to the United States by the lender in the course of the United States' inquiry.  
20 To the extent that the information is not within Plaza's control, the lender will, within  
21 thirty (30) days of receipt of such request, supply any data in its control that identifies  
22 other parties that may have that the information.

23         28. The United States will, upon reasonable notice, be allowed access to the  
24 lender's records and files to verify the accuracy of the data provided and to otherwise  
25 identify persons entitled to the payments from the Settlement Fund.

26         29. Within ninety (90) days of the Effective Date of this Order, the United  
27 States will provide to the Administrator a list of aggrieved persons and an initial  
28 estimate of the amount each borrower will receive from the Settlement Fund. The

1 United States will base these initial estimates on the loan fees and costs of the individual  
2 loans. Pursuant to its contract, the Administrator will make its best efforts, using all  
3 reasonable methods regularly used by companies that administer litigation and  
4 government enforcement settlement funds, to locate each identified aggrieved person  
5 and obtain such information as the United States reasonably considers necessary from  
6 each. The Administrator's contract will require the Administrator to complete this  
7 responsibility within a period of four (4) months from the date the United States  
8 provided the list, subject to an extension of time as provided by Paragraph 40. The  
9 Administrator's contract will require it to establish cost-free means for the allegedly  
10 aggrieved persons to contact it, such as email and a toll-free telephone number, and will  
11 require it to provide all written materials to aggrieved persons in both English and  
12 Spanish.

13 30. The United States will specify the final amount each aggrieved person  
14 located by the Administrator will receive from the initial amount deposited into the  
15 Settlement Fund no later than sixty (60) days after the Administrator's deadline for  
16 locating aggrieved persons has passed. The United States will provide the  
17 compensation list to the Administrator. No individual may request a review by the  
18 Court or the Administrator of the final payment amounts. The parties agree that the  
19 total amount of the Settlement Fund will not be altered based on the number of allegedly  
20 aggrieved persons who confirm their identity and willingness to release individual  
21 discrimination claims pursuant to Paragraph 31.

22 31. The Administrator will send releases, as set forth in Appendix D  
23 ("Release"), to each aggrieved person prior to their receipt of their payment. After  
24 receipt of executed Releases, the Administrator will promptly deliver payments to those  
25 persons in the amounts determined by the United States as described in Paragraph 30.  
26 The Administrator's identification and payment responsibility may be implemented on a  
27 rolling basis with approval from the United States.

28 32. The Administrator's contract will require the Administrator to set forth

1 reasonable deadlines, subject to approval of the United States, so that compensation is  
2 distributed and checks are presented for payment or become void prior to the date that is  
3 twenty-four (24) months from the date the Administrator begins to locate aggrieved  
4 persons pursuant to Paragraph 29.

5 33. Payments from the Settlement Fund to allegedly aggrieved persons will be  
6 subject to the following conditions:

7 (a) No aggrieved person will be paid any amount from the Settlement  
8 Fund until he or she has executed and delivered to the Administrator a written release of  
9 all claims, legal or equitable, that he or she might have against the released persons and  
10 entities regarding the claims asserted by the United States in this lawsuit, so long as  
11 such claims accrued prior to the entry of this Order; and

12 (b) The total amount paid by Plaza collectively to the aggrieved persons  
13 will not exceed the amount of the Settlement Fund, including accrued interest.

14 34. Any moneys not distributed from the Settlement Fund, including accrued  
15 interest, within two (2) years of the date the initial notifications are sent to persons  
16 deemed to be aggrieved by the United States will be distributed to qualified  
17 organization(s) that provide services including credit and housing counseling (including  
18 assistance in obtaining loan modification and preventing foreclosure), legal  
19 representation of borrowers seeking to obtain a loan modification or to prevent  
20 foreclosure, financial literacy, and other related educational programs targeted at  
21 African-American and Hispanic potential and former borrowers in communities where  
22 the Complaint alleges significant discrimination occurred against African-American and  
23 Hispanic borrowers. Recipient(s) of such funds must not be related to Plaza or any  
24 entity owned by Plaza. Before selecting the qualified organization(s), Plaza will obtain  
25 a proposal from the organization(s) on how the funds will be used consistent with the  
26 above-stated purpose, submit such proposal to the United States, and consult with and  
27 obtain the non-objection of the United States. The United States and Plaza may request  
28 modification of the proposal before approving the organization(s). The parties will

1 thereafter seek approval from the Court to distribute the remaining funds to the qualified  
2 organization(s). Plaza will require each recipient to submit to Plaza and the United  
3 States a detailed report on how funds are utilized within one (1) year after the funds are  
4 distributed, and every year thereafter until the funds are exhausted.

5 35. Plaza will not be entitled to a set-off, or any other reduction, of the amount  
6 of payments to aggrieved persons because of any debts owed by the identified persons.  
7 Plaza also will not refuse to make a payment based on a release of legal claims or loan  
8 modification previously signed by any such aggrieved persons.

9 36. During the period of this Order, Plaza will maintain a complaint resolution  
10 program to address consumer complaints alleging discrimination regarding loans  
11 originated by Plaza. Documentation regarding this complaint resolution program,  
12 including documentation of individual complaints and resolutions, if any, will be made  
13 available to the United States on a semi-annual basis and included in the reports  
14 referenced in Paragraph 38. A person will not be deemed ineligible for the complaint  
15 resolution program on the basis of having executed the release described in Paragraph  
16 33(a), but there is no requirement under this Order that any complaint necessarily be  
17 resolved for or against the lender.

## 18 VI. EVALUATING AND MONITORING COMPLIANCE

19 37. For the duration of this Order, Plaza will retain all records relating to its  
20 obligations hereunder as well as its compliance activities as set forth herein. The United  
21 States will have the right to review and copy such records upon request.

22 38. In addition to the reporting requirements set forth in Paragraphs 8(a), 21,  
23 and 36, Plaza will submit a report to the United States within six months of the effective  
24 date of this Order regarding its progress in establishing and implementing each of the  
25 remedial items specified in this Order. A second report will be filed on the first  
26 anniversary of this Order. Thereafter, Plaza will submit a report annually for the term of  
27 the Order describing the actions taken in compliance with the provisions of the Order.  
28 The report will include an objective assessment of the extent to which each quantifiable

1 obligation was met, an explanation of why any particular component fell short of  
2 meeting the goal for that year, and any recommendations for additional actions to  
3 achieve the goals of this Order. If applicable, Plaza will attach to the annual reports  
4 representative copies of training material and disseminated pursuant to this Order.

## 5 **VII. ADMINISTRATION**

6 39. The Order will terminate after the submission of Plaza's third annual report  
7 to the United States, provided that Plaza has materially complied with Paragraphs 15-22  
8 of this Order, as set forth in Paragraph 23. If the United States determines that Plaza has  
9 not materially complied with Paragraphs 15-22, the United States must present good  
10 cause to the Court for extending the term of this Order or rescinding this Order and  
11 reinstating its complaint ninety (90) days before Plaza submits its third annual report  
12 pursuant to Paragraph 38.

13 40. Any time limits for performance fixed by this Order may be extended by  
14 mutual written agreement of the parties. Additionally, details related to administration  
15 of the Settlement Fund as set forth in Paragraphs 25-32 can be modified by agreement  
16 of the parties and without further Court approval. Other modifications to this Order  
17 may be made only upon approval of the Court, by motion by either party. The parties  
18 recognize that there may be changes in relevant and material factual circumstances  
19 during the term of this Order that may impact the accomplishment of its goals. The  
20 parties agree to work cooperatively to discuss and attempt to agree upon any proposed  
21 modifications to this Order resulting therefrom.

22 41. In the event that any disputes arise about the interpretation of or  
23 compliance with the terms of this Order, the parties will endeavor in good faith to  
24 resolve any such dispute between themselves before bringing it to this Court for  
25 resolution. The parties agree that if it either reasonably believes that the other party  
26 failed to comply with any obligation under this Order, it will provide written notice  
27 thereof and allow a period of at least thirty (30) days to discuss a voluntarily resolution  
28 of the alleged violation before presenting the matter to this Court. In the event of either

1 a failure by Plaza to perform in a timely manner any act required by this Order or an act  
2 by Plaza, in violation of any provision hereof, the United States may move this Court to  
3 impose any remedy authorized by law or equity, including attorneys' fees and costs.

4 42. Nothing in this Order will excuse the lender's compliance with any  
5 currently or subsequently effective provision of law or order of a regulator with  
6 authority over Plaza that imposes additional obligations on the lender.

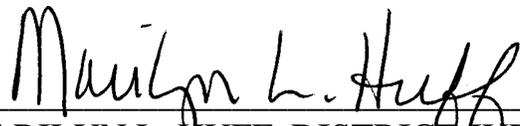
7 43. The parties agree that, as of the date of the entry of this Order, litigation is  
8 not "reasonably foreseeable" concerning the matters described above. To the extent that  
9 either party previously implemented a litigation hold to preserve documents,  
10 electronically stored information (ESI), or things related to the matters described above,  
11 the party is no longer required to maintain such litigation hold. Nothing in this  
12 paragraph relieves either party of any other obligations imposed by this Order.

13 44. Subject to the conditions of Paragraphs 23 and 39, Plaza's compliance with  
14 the terms of this Order will fully and finally resolve all claims of the United States  
15 relating to the alleged violation of the fair lending laws by means of discriminating on  
16 the basis of race and national origin, as alleged in the Complaint in this action, including  
17 all claims for equitable relief and monetary damages and penalties. Each party to this  
18 Consent Order will bear its own costs and attorney's fees associated with this litigation.

19 45. The Court will retain jurisdiction for the duration of this Consent Order to  
20 enforce the terms of the Order, after which time the case will be dismissed with  
21 prejudice.

22 IT IS SO ORDERED

23 DATED: October 1, 2013

24   
25 \_\_\_\_\_  
26 MARILYN L. HUFF, DISTRICT JUDGE  
27 UNITED STATES DISTRICT COURT  
28

**APPENDIX A**

**We do Business in Accordance with  
Federal Fair Lending Laws**

**UNDER THE EQUAL CREDIT OPPORTUNITY  
ACT, IT IS ILLEGAL TO DISCRIMINATE IN ANY  
CREDIT TRANSACTION:**

**On the basis of race, color, national origin, religion,  
sex, marital status, or age;**

**Because income is from public assistance; or**

**Because a right has been exercised under the Federal  
Consumer Credit Protection Laws.**

**IF YOU BELIEVE YOU HAVE BEEN  
DISCRIMINATED AGAINST, YOU SHOULD SEND  
A COMPLAINT TO ONE OF THE FOLLOWING:**

**U.S. Department of Justice  
Civil Rights Division  
Housing and Civil Enforcement  
Section  
Washington, DC 20530  
1-800-896-7743  
<http://www.usdoj.gov/crt/housing>**

**Consumer Financial Protection Bureau  
P.O. Box 4503  
Iowa City, Iowa 52244  
(855) 411-CFPB (2372)  
(855) 729-CFPB (2372) (TTY/TDD)  
[www.consumerfinance.gov](http://www.consumerfinance.gov)**

**Federal Trade Commission  
Washington, DC 20580  
(202) 326-2222  
<https://www.ftccomplaintassistant.gov/>**

**APPENDIX B**

Officer and Employee Acknowledgement

I acknowledge that on \_\_\_\_\_, I was provided copies of the Consent Order entered by the Court in United States v. Plaza Home Mortgage, Inc. (S.D. Cal.), and the loan policies developed pursuant thereto. I have read and understand these documents and have had my questions about these documents answered. I believe I understand my legal responsibilities and will comply with those responsibilities.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Job Title

\_\_\_\_\_  
Date

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**APPENDIX C**

Officer and Employee Training Certification

I certify that on \_\_\_\_\_, I received training with respect to my responsibilities under the Consent Order entered by the Court in United States v. Plaza Home Mortgage, Inc. (S.D. Cal.), and the federal fair lending laws. I have had the opportunity to have my questions about them answered. I believe I understand my legal responsibilities not to discriminate under the federal fair lending laws, including the Fair Housing Act and Equal Credit Opportunity Act, and will comply with those responsibilities.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

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Job Title

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**APPENDIX D**

Release

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5 In consideration for the parties' agreement to the terms of the Consent Order  
6 entered in United States v. Plaza Home Mortgage, Inc. (S.D. Cal.), and the payment to  
7 me of \$\_\_\_\_\_, pursuant to the Consent Order and effective upon that payment, I  
8 hereby release and forever discharge all claims, rights, remedies, and recoveries related  
9 to the facts of credit discrimination in the origination of residential mortgage loans at  
10 issue in the litigation referenced above, and release and forever discharge all claims,  
11 rights, remedies, and recoveries arising from credit discrimination alleged in that  
12 litigation in connection with the origination of my loan(s), known and unknown, up to  
13 and including the date of execution of this release.

14 I understand that this releases those claims, rights, remedies and recoveries  
15 against Plaza Home Mortgage, Inc., and against any and all related entities, parents,  
16 predecessors, successors, subsidiaries, and affiliates, and against any and all of their past  
17 and present directors, officers, agents, managers, supervisors, shareholders, and  
18 employees and their heirs, executors, administrators, successors in interest, or assigns.

19  
20 Executed this \_\_\_ day of \_\_\_\_\_, \_\_\_\_.

21  
22 \_\_\_\_\_  
Signature

23  
24 \_\_\_\_\_  
Print Name

25  
26 \_\_\_\_\_  
Address