

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA *ex rel.* GEORGE  
MANN and JOHN FERGUSON; STATE OF NEW  
YORK *ex rel.* GEORGE MANN and JOHN  
FERGUSON; and GEORGE MANN and JOHN  
FERGUSON individually,

Plaintiffs,

v.

FIFTH THIRD BANCORP and its subsidiaries,

Defendants.

:  
: 11 Civ. 4499 (DAB)

:  
: ECF Case

: **STIPULATION AND ORDER OF**  
: **SETTLEMENT AND RELEASE**  
: **BETWEEN THE UNITED**  
: **STATES AND THE RELATORS**

WHEREAS, this Stipulation and Order of Settlement and Release (the “Relator Stipulation”) is entered into between the United States of America (the “United States”), by its attorney Preet Bharara, United States Attorney for the Southern District of New York, and relators George Mann and John Ferguson (“Relators” and, together with the United States, the “Parties”), through their counsel;

WHEREAS, on or about June 30, 2011, the Relators filed a complaint in the above-captioned action in the United States District Court for the Southern District of New York (the “Court”) under the *qui tam* provisions of the False Claims Act, as amended, 31 U.S.C. § 3729 *et seq.* (the “FCA”), and on or about November 12, 2012, the Relators filed an amended complaint alleging, *inter alia*, that FTB used fraudulently inflated appraisals in connection with its origination of residential mortgage loans (the “Relators’ Action”);

WHEREAS, on or about September 30, 2015, the United States, defendant Fifth Third Bancorp and its subsidiaries (“FTB”), and the Relators entered into a Stipulation of Settlement and Dismissal (the “Settlement Agreement”);

WHEREAS, pursuant to Paragraph 3 of the Settlement Agreement, FTB agreed to pay the United States \$84,911,018 to resolve claims of the United States for the Covered Conduct as defined in the fourteenth recital paragraph of the Settlement Agreement (the "Settlement Amount");

WHEREAS, the Relators have asserted that, pursuant to 31 U.S.C. § 3730(d)(1), they are entitled to receive a portion of the Settlement Amount (the "Relator Share Claim"); and

WHEREAS, the United States and the Relators mutually desire to reach a full and final compromise of the Relator Share Claim pursuant to the terms set forth below.

NOW, THEREFORE, in reliance on the representations contained herein and in consideration of the mutual promises, covenants, and obligations in this Relator Stipulation, and for good and valuable consideration, receipt of which is hereby acknowledged, the United States and the Relators agree as follows:

1. Contingent upon receipt by the United States of full payment due to the United States under Paragraph 3 of the Settlement Agreement, the United States will pay Relators, c/o Kenney & McCafferty, P.C., and Stengle Law, as attorneys for the Relators ("Relators' Counsel"), seven and one-half percent (7.5%) of the payment of the Settlement Amount received from FTB (\$6,368,326) in accordance with written instructions provided by Relators' Counsel within a reasonable time after the United States' receipt of the payment of the Settlement Amount.

2. The obligation to make the payment to the Relators under Paragraph 1 is expressly conditioned on, and only arises with, the receipt by the United States of the payment of the Settlement Amount from FTB required by the Settlement Agreement. In the event that FTB fails to make the payment required by the Settlement Agreement, the United States shall have no

obligation to make any payment to the Relators.

3. Relators agree that this settlement is fair, adequate, and reasonable under all circumstances, and will not challenge the Settlement Agreement, including but not limited to the Settlement Amount, pursuant to 31 U.S.C. § 3730(c)(2)(B) or other applicable law, and expressly waive the opportunity for a hearing on any such objection, pursuant to 31 U.S.C. § 3730(c)(2)(B) or other applicable law.

4. In agreeing to accept payment of the Relators' share set forth in Paragraph 1 above, and upon payment thereof, Relators, for themselves and their heirs, successors, attorneys, agents and assigns, release and are deemed to have released and forever discharged the United States and its agencies, officers, employees, servants, and agents from any claim for a share of any proceeds of the Settlement Agreement pursuant to 31 U.S.C. § 3730 or other applicable law, and from any and all claims against the United States and its agencies, officers, employees, servants, and agents arising from or relating to any claim against FTB in the Relators' Action.

5. This Relator Stipulation does not resolve or in any manner affect any claims the United States has or may have against the Relators arising under Title 26, U.S. Code (Internal Revenue Code), or any claims that the Parties may have arising under this Relator Stipulation.

6. This Relator Stipulation shall inure to the benefit of and be binding only on the United States and the Relators, their successors, assigns and heirs.

7. This Relator Stipulation shall become final, binding, and effective only upon entry by the Court.


8. This Relator Stipulation constitutes the entire agreement of the United States and the Relators with respect to the subject matter of this settlement stipulation and may not be changed, altered, or modified, except by a written agreement signed by the United States and the

Relators specifically referring to this Relator Stipulation.

9. This Relator Stipulation may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

Dated: September 30, 2015  
New York, New York

PREET BHAHARA  
United States Attorney  
Southern District of New York

By:   
PIERRE G. ARMAND  
Assistant United States Attorney  
86 Chambers Street  
New York, New York 10007  
Tel: (212) 637-2724  
Fax: (212) 637-2686  
Email: Pierre.Armand@usdoj.gov

Dated: September \_\_\_, 2015, 2015

KENNEY & McCAFFERTY

By: \_\_\_\_\_  
BRIAN P. KENNEY  
KATHRYN M. SCHILLING  
1787 Sentry Parkway West  
Building 18, Suite 410  
Blue Bell, PA 19422  
Tel: 215.367.4333  
Fax: 215.367.4335  
Email: [kschilling@kenneymccafferty.com](mailto:kschilling@kenneymccafferty.com)

*Attorney for the Relators*

Dated: September \_\_\_, 2015

STENGLE LAW

By: \_\_\_\_\_  
LINDA J. STENGLE  
9 Lenswood Drive  
Boyertown, PA 19512  
Tel: (610) 367-1604  
Email: [linda@lindastengle.com](mailto:linda@lindastengle.com)

*Attorney for the Relators*

Relators specifically referring to this Relator Stipulation.

9. This Relator Stipulation may be executed in counterparts, each of which shall constitute an original and all of which shall constitute one and the same agreement.

Dated: September \_\_, 2015  
New York, New York

PREET BHAHARA  
United States Attorney  
Southern District of New York

By: \_\_\_\_\_  
PIERRE G. ARMAND  
Assistant United States Attorney  
86 Chambers Street  
New York, New York 10007  
Tel: (212) 637-2724  
Fax: (212) 637-2686  
Email: Pierre.Armand@usdoj.gov

Dated: September 29, 2015, 2015

By: \_\_\_\_\_  
KENNEY & McCAFFERTY  
BRIAN P. KENNEY  
KATHRYN M. SCHILLING  
1787 Sentry Parkway West  
Building 18, Suite 410  
Blue Bell, PA 19422  
Tel: 215.367.4333  
Fax: 215.367.4335  
Email: [kschilling@kenneymccafferty.com](mailto:kschilling@kenneymccafferty.com)

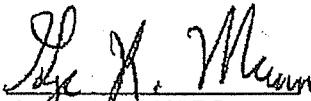
*Attorney for the Relators*

Dated: September 29, 2015

By: \_\_\_\_\_  
STENGLE LAW  
LINDA J. STENGLE  
9 Lenswood Drive  
Boyertown, PA 19512  
Tel: (610) 367-1604  
Email: [linda@lindastengle.com](mailto:linda@lindastengle.com)

*Attorney for the Relators*

Dated: September 23, 2015

  
GEORGE MANN  
*Relator*

Dated: September \_\_, 2015, 2015

\_\_\_\_\_  
JOHN FERGUSON  
*Relator*

Dated: \_\_\_\_\_, 2015  
New York, New York


SO ORDERED:

\_\_\_\_\_  
HON. DEBORAH A. BATT'S  
UNITED STATES DISTRICT JUDGE

Dated: September \_\_, 2015

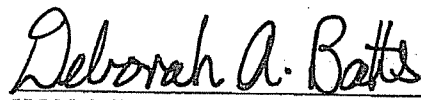
\_\_\_\_\_  
GEORGE MANN  
*Relator*

Dated: September \_\_, 2015, 2015

  
\_\_\_\_\_  
JOHN FERGUSON  
*Relator*

Dated: \_\_\_\_\_, 2015  
New York, New York

SO ORDERED:

  
\_\_\_\_\_  
HON. DEBORAH A. BATTS 10/5/15  
UNITED STATES DISTRICT JUDGE