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U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA

CONSUMER FINANCIAL PROTECTION BUREAU, and UNITED STATES OF AMERICA, Plaintiffs, v. FAIRWAY INDEPENDENT MORTGAGE CORPORATION, Defendant.	Civil Action No. 2:24-cv-01405-AMM **CONSENT ORDER**

INTRODUCTION

The Consumer Financial Protection Bureau (Bureau) and United States of America (United States) (together, Plaintiffs) commenced this civil action to obtain injunctive and monetary relief and civil penalties from Fairway Independent Mortgage Corporation (Defendant or Fairway). The Complaint alleges violations of the Fair Housing Act (FHA), 42 U.S.C. §§ 3601-3619, the Equal Credit Opportunity Act (ECOA), 15 U.S.C. §§ 1691-1691f, and the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. § 5536(a)(1)(A), in connection with Fairway's mortgage lending in the Birmingham-Hoover, Alabama, Metropolitan Statistical Area. Plaintiffs allege that Fairway unlawfully discriminated by redlining majority-Black areas in the Birmingham-Hoover, AL Metropolitan Statistical Area in its residential mortgage lending.

The Bureau, the United States, and Defendant agree to entry of this Consent Order (Order), without adjudication of any issue of fact or law, to settle and resolve all matters in dispute arising from the conduct alleged in the Complaint.

FINDINGS

1. This Court has jurisdiction over the parties and the subject matter of this action.

2. Fairway neither admits nor denies the allegations in the Complaint, except as specified in this Order. For purposes of this Order, Fairway admits the facts necessary to establish this Court's personal jurisdiction over Fairway and the subject matter jurisdiction related to the Lawsuit Subject Matter.

3. Fairway waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order and any claim it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this Order. Each party agrees to bear its own costs and expenses, including, without limitation, attorneys' fees.

4. Entry of this Order is in the public interest.

DEFINITIONS

5. The following definitions apply to this Order:

   a. "**Birmingham MSA**" means the Birmingham-Hoover, Alabama, Metropolitan Statistical Area, which for purposes of this Order encompasses Bibb, Blount, Chilton, Jefferson, Shelby, and St. Clair Counties.

   b. "**Board**" means Fairway's duly elected and acting Board of Directors.

   c. "**Bureau**" means the Consumer Financial Protection Bureau.

   d. "**Covered Staff and Official**" means:

i. all Fairway employees with substantive involvement in Fairway's activities related to the Lawsuit Subject Matter;

ii. senior management with oversight over marketing and compliance with the FHA and ECOA; and

iii. members of the Board.

e. "**Defendant** or **Fairway**" means Fairway Independent Mortgage Corporation, including its trade name MortgageBanc and any other names by which it might be known, and its successors and assigns.

f. "**Effective Date**" means the date on which the Order is entered by the Court.

g. "**Enforcement Director**" means the Assistant Director of the Office of Enforcement for the Bureau, or their delegate.

h. "**Lawsuit Subject Matter**" means the allegation that Fairway violated the FHA, ECOA, and/or the CFPA in connection with Fairway's residential mortgage lending in the Birmingham MSA through unlawful discrimination by redlining Majority-Black Neighborhoods.

i. "**Majority-Black Neighborhood**" means a census tract in the Birmingham MSA in which more than 50% of the residents are identified as Black or African American based on the 2020 U.S. Census.

j. "**Plaintiffs**" means the Consumer Financial Protection Bureau and the United States of America.

k. "**Qualified Applicant**" means an applicant who applies for a mortgage loan for a residential property located in a Majority-Black Neighborhood that will serve as the applicant's principal residence and is qualified for a mortgage

under the underwriting standards that Fairway applies to the mortgage loans it originates.

l. "**Related Consumer Action**" means a private action by or on behalf of one or more consumers or an enforcement action by another governmental agency brought against Fairway based on the Lawsuit Subject Matter.

m. "**Supervision Director**" means the Assistant Director of the Office of Supervision for the Consumer Financial Protection Bureau, or their delegate.

CONDUCT PROVISIONS

I

Prohibited Conduct

IT IS ORDERED that:

6. Fairway and its officers, agents, servants, employees, and all other persons in active concert or participation with them who have actual notice of this Order, whether acting directly or indirectly, is permanently restrained from discriminating by engaging in acts or practices that constitute redlining of Majority-Black Neighborhoods in the Birmingham MSA. Nothing in this Order shall be read as an exception to this Paragraph.

II

Credit Needs Assessment and Remedial Plan

IT IS FURTHER ORDERED that:

7. Fairway must submit to Plaintiffs for non-objection a credit needs assessment for Majority-Black Neighborhoods in the Birmingham MSA (Credit Needs Assessment). A Credit Needs Assessment is a research-based market study that identifies for a lender the needs for financial services in a geographic area.

8. The Credit Needs Assessment must include:

a. an analysis of recent available demographic and socioeconomic data describing Majority-Black Neighborhoods;

b. an evaluation (to include market research and interviews) of the residential mortgage credit needs of, and corresponding lending opportunities in, Majority-Black Neighborhoods, including, but not limited to, the need for purchase, refinance, and home improvement loans, and the need for and feasibility of alternative mortgage products and programs that Fairway does not currently offer in the Birmingham MSA;

c. an assessment of potentially appropriate new retail office locations and hours of operation in Majority-Black Neighborhoods;

d. a review of the availability and feasibility of relevant federal, state, and local government programs that are available to Qualified Applicants seeking and obtaining residential mortgage loans in the Birmingham MSA;

e. meetings with representatives of community organizations involved in promoting fair lending, home ownership, or residential development in affected Majority-Black Neighborhoods;

f. potential strategies for how Fairway can provide residential mortgage loan products and services to Qualified Applicants in Majority-Black Neighborhoods; and

g. recommendations that address how each requirement of the Order set forth in Sections III through IX should be carried out to best achieve the remedial goals of this Order, including the number of annual outreach and advertising

events that Fairway should conduct to best increase applications for credit secured by properties in majority-Black Neighborhoods.

9. The Credit Needs Assessment must be conducted by an independent, qualified third-party consultant(s) selected by Fairway and subject to non-objection by Plaintiffs. Within 30 days of the Effective Date, Fairway must submit to Plaintiffs for non-objection the name(s) and qualifications of the third-party consultant(s) and a statement of work for the consultant(s) describing their proposed methodology for conducting the Credit Needs Assessment. If Plaintiffs object to the selected third-party consultant(s) and/or the statement of work, within 15 days of Plaintiffs' objection, Fairway must propose a new third-party consultant(s) and submit their qualifications to Plaintiffs for non-objection and/or revise and resubmit the statement of work.

10. Within 90 days of Plaintiffs' written notice of non-objection regarding the third-party consultant and statement of work, Fairway must submit the Credit Needs Assessment described in Paragraphs 7-8 to Plaintiffs for non-objection. If Plaintiffs object to any portion of the Credit Needs Assessment, Fairway must take appropriate corrective action and resubmit the Credit Needs Assessment within 15 days of receiving the objection. Within 10 days of Plaintiffs' written notice of non-objection to the Credit Needs Assessment, Fairway must distribute a copy of the Credit Needs Assessment to all Covered Staff and Officials.

11. Within 60 days of Plaintiffs' written notice of non-objection to the Credit Needs Assessment, Fairway must submit a remedial plan that details, in light of the recommendations made in the Credit Needs Assessment, the actions Fairway proposes to take to comply with each requirement of this Order set forth in Sections III through IX (e.g., loan subsidy, community partnerships, and advertising) (Remedial Plan), including the percentage of the subsidy fund

provided through the Loan Subsidy Program set forth in Section VI that must be applied to home purchase loans.

12. The Remedial Plan must also include:

a. the steps Fairway will take to revise its mortgage lending policies and practices to address redlining risks, including, at a minimum, risk that may arise from office locations or assignment of loan officers to office locations, loan officer outreach and referral relationships, types of loan products, and marketing in the Birmingham MSA;

b. the adoption of, or changes to, written policies and procedures regarding Fairway's marketing, as well as the training and monitoring of its loan officers in marketing mortgage loan products, soliciting mortgage loans, and originating mortgage loans in the Birmingham MSA;

c. the adoption of, or changes to, processes for ongoing statistical monitoring of mortgage redlining risk in the Birmingham MSA, including statistical peer analysis of the percentage of applications and originations from Majority-Black Neighborhoods in the Birmingham MSA; and

d. the adoption of, or changes to, the processes for reporting redlining risk or associated remedial efforts in the Birmingham MSA to the Board.

13. The Remedial Plan must include specific timeframes for implementation of the actions identified in Paragraphs 11-12 and a mechanism for keeping the Board apprised of their status. The proposals within the Remedial Plan will be subject to non-objection by Plaintiffs.

14. If Plaintiffs object to any portion of the Remedial Plan, Fairway must make revisions and resubmit the Remedial Plan within 15 days of receiving the objection. Fairway must begin implementing the Remedial Plan within 30 days of Plaintiffs' written notice of non-objection to it. Any material changes to the Remedial Plan are subject to Plaintiffs' prior non-objection.

III

Fair Lending Training

IT IS FURTHER ORDERED that:

15. Fairway must ensure that all Covered Staff and Officials receive annual live or interactive fair lending training. The training must include topics on implicit racial bias, conduct that constitutes redlining, and how to detect, prevent, and remedy redlining, as well as training on Fairway's obligations under ECOA, Regulation B, the FHA, and this Order. Fairway will implement a system for each Covered Staff and Official to acknowledge that they completed the fair lending training. All training attendees will be required to demonstrate proficiency. Fairway must bear all costs associated with the training.

16. Within 45 days of the Effective Date, Fairway must submit the proposed training curriculum to Plaintiffs for non-objection. If Plaintiffs object to any portion of the training curriculum, Fairway must make revisions and resubmit the training curriculum within 15 days of receiving the objection.

17. Within 30 days of Plaintiffs' written notice of non-objection regarding the proposed training curriculum, Fairway must commence delivery of the training described in this Section with training to conclude within 45 days. Fairway must provide a report to Plaintiffs that

includes the acknowledgements and demonstrations of proficiency described in Paragraph 15 as part of its annual Compliance Report under Paragraph 51.

18. Any person who becomes a Covered Staff or Official must, within 30 days of beginning such position, receive the training described in Paragraph 15.

IV

Manager of Community Lending

IT IS FURTHER ORDERED that:

19. Within 90 days of the Effective Date, Fairway must designate a full-time employee as a Manager of Community Lending with responsibility for overseeing the development of Fairway's lending in Majority-Black Neighborhoods and Fairway's compliance with Sections III through IX of this Order. Fairway must maintain this position throughout the term of this Order. If the Manager of Community Lending leaves the position or a new Manager of Community Lending is appointed at any time during the term of this Order, Fairway must notify Plaintiffs in writing within 10 days of such change.

20. The Manager of Community Lending must report directly to Fairway's Executive Vice President of Fair Lending.

21. The Manager of Community Lending and Fairway will oversee the continued development of lending in Majority-Black Neighborhoods within the Birmingham MSA consistent with the action steps contained in the Credit Needs Assessment, coordinate the community lending initiatives and outreach programs required under this Order, promote financial education, serve as a resource to Fairway's staff to encourage and develop more lending to Qualified Applicants within Majority-Black Neighborhoods, monitor loan officers' solicitation and origination of loans in Majority-Black Neighborhoods, and build relationships

with community groups. The Manager of Community Lending must provide reports on at least an annual basis to the Board and Chief Executive Officer of Fairway on Fairway's activities under Sections III through IX of this Order.

V

Location and Personnel to Serve Majority-Black Neighborhoods

IT IS FURTHER ORDERED that:

22. Subject to any applicable approval of the appropriate regulator or licensing agency, within 7 months of the Effective Date Fairway must open or acquire one new loan production office or full-service retail office located in a Majority-Black Neighborhood. The office must be in a retail-oriented space in a visible location and have signage that is visible to the general public. The office must accept first-lien mortgage loan applications and must provide, at a minimum, the full range of services and hours of operation offered at Fairway's other retail location(s) in the Birmingham MSA. The location of the office must consider the recommendations of the Credit Needs Assessment required by Section II and will be subject to Plaintiffs' non-objection. If Plaintiffs object to the location of the office, Fairway must submit a new proposed location with 30 days of receiving the objection.

23. Once the office required by Paragraph 22 has been established, Fairway must assign at least one full-time mortgage loan officer or community lending officer to the new office whose responsibilities will include soliciting mortgage loan applications from Majority-Black Neighborhoods in the Birmingham MSA. This individual must receive compensation that is no less favorable than the compensation provided to other Fairway loan officers in the Birmingham MSA. Fairway must maintain the mortgage loan officer or community lending officer assignment described in this Paragraph for the term of this Order.

VI

Loan Subsidy Fund

IT IS FURTHER ORDERED that:

24. Fairway must invest at least $7,000,000 in a loan subsidy fund to increase the mortgage credit extended in Majority-Black Neighborhoods (Loan Subsidy Program). Through the Loan Subsidy Program, Fairway must offer home purchase, refinance, and home improvement loans to Qualified Applicants on a more affordable basis than otherwise available from Fairway.

25. Loan subsidies under the Loan Subsidy Program will be provided through any of the following means, or a combination thereof:

a. originating a mortgage loan at an interest rate below the otherwise prevailing market interest rate offered by Defendant;

b. down payment assistance in the form of a direct grant;

c. closing cost assistance in the form of a direct grant;

d. payment of the initial mortgage insurance premium on loans subject to such mortgage insurance; or

e. other assistance measures, if approved by Plaintiffs in writing.

The combined forms of loan subsidies set forth in this Paragraph cannot exceed $14,000 per Qualified Applicant unless Fairway receives written non-objection from Plaintiffs to increase that amount.

26. Fairway must offer each Qualified Applicant one or more of the forms of the loan subsidy set forth in Paragraph 25, subject to the terms of this Order and regulatory requirements. Fairway will retain discretion to offer more than one, or all, of the forms of assistance in

Paragraph 25 to Qualified Applicants on an individual basis as it deems appropriate subject to regulatory requirements. Fairway must exercise this discretion in a manner that is consistent with originating mortgage loans to Qualified Applicants, with due reliance upon the applicable mortgage loan underwriting standards and will have discretion to provide the loan subsidy among its mortgage loan products.

27. The investment in the Loan Subsidy Program that is set forth in Paragraph 24 must consist only of the cost of providing the loan subsidies to consumers described in Paragraph 25 and not the cost of implementing the Loan Subsidy Program, which will be separately borne by Fairway. Loan subsidies under the Loan Subsidy Program must be provided throughout the term of the Order set forth in Section XIX, so long as funds remain for the Loan Subsidy Program.

28. No provision of this Order, including this Section, requires Fairway to make any unsafe or unsound loan or to make a loan to a person who is not qualified for the loan based upon lawful, nondiscriminatory terms. Fairway's underwriting standards applied to consumers seeking loans for properties located in Majority-Black Neighborhoods must be no less favorable than the underwriting standards applied to loans sought by consumers seeking loans for properties in other census tracts in the Birmingham MSA. Loans that Fairway originates under the Loan Subsidy Program will not exceed the conforming loan limit established by the Federal Housing Finance Agency. Nothing in this order relieves Defendant of its responsibilities to comply with Federal consumer financial law, 12 U.S.C. § 5481(14).

VII

Advertising and Outreach

IT IS FURTHER ORDERED that:

29. Fairway must spend at least $500,000 over the term of this Order on advertising and outreach to increase lending in Majority-Black Neighborhoods, as set forth in this Section.

30. Fairway's advertising and outreach under this Section must be informed by the findings and recommendations of the Credit Needs Assessment required in Section II, must advertise Fairway's residential loan products for purchase, refinance, and home improvement loans and the Loan Subsidy Program to Majority-Black Neighborhoods, and must seek to generate applications for mortgage loans from Qualified Applicants.

31. Fairway must include on all of its written advertising or promotional materials referencing residential mortgage loans, including digital and online advertising, an Equal Housing Opportunity logo, slogan or statement. All audio advertising will include an audible statement that Fairway is an "Equal Opportunity Lender" or an "Equal Housing Lender."

32. Fairway must conduct or sponsor at least two outreach programs in the Birmingham MSA each year during the term of this Order. These programs will be designed for real estate professionals and entities that can be identified as engaging in the residential real estate-related business in Majority-Black Neighborhoods. Through these programs, Fairway must inform attendees of its products and services for purchase, refinance, and home improvement loans, including the Loan Subsidy Program described in this Order, and otherwise develop business relationships with them, as appropriate considering the remedial goals of this Order. Fairway may offer these outreach programs at its new office location required to be

opened under Paragraph 22 or at another location reasonably convenient to the business operations of the attendees and to Majority-Black Neighborhoods.

VIII

Consumer Financial Education

IT IS FURTHER ORDERED that:

33. Fairway must spend at least $250,000 for the purpose of funding a consumer financial education program that considers the results of the Credit Needs Assessment required by Section II and is designed to provide information, training, and counseling services about consumer finance to individuals in Majority-Black Neighborhoods to help identify and support Qualified Applicants.

34. Through the consumer financial education program described in Paragraph 33, Fairway must sponsor at least two financial education events each year during the term of this Order, to be offered by community or governmental organizations with which Fairway partners pursuant to Section IX. Salaries or other compensation for participating personnel of Fairway or any of its affiliates will not be credited towards the amount spent on these programs.

35. Fairway may offer these consumer financial education events at its new office location required to be opened under Paragraph 22 or at another location reasonably convenient to Majority-Black Neighborhoods.

IX

Community Development Partnership Program

IT IS FURTHER ORDERED that:

36. Fairway must spend at least $250,000 on partnerships with one or more community-based or governmental organizations that provide:

a. home repair or other grants designed to assist homeowners who experience financial distress or deferred maintenance on their properties; or

b. consumer financial education, homeownership, or foreclosure prevention services.

These grants or services must be provided to residents of Majority-Black Neighborhoods.

37. Fairway must develop the partnerships described in Paragraph 36 in a manner consistent with the recommendations of the Credit Needs Assessment required by Section II; specifically, Fairway must form partnerships with organizations that will aid it in marketing its residential loan products for purchase, refinance, and home improvement loans in Majority-Black Neighborhoods and extending credit to Qualified Applicants seeking loans for properties in Majority-Black Neighborhoods.

38. During the term of this Order, Fairway must evaluate its partnerships annually to identify any required changes to the program to better meet the residential credit needs of Majority-Black Neighborhoods, and the evaluation must be presented to Plaintiffs for non-objection. Fairway must present a summary of its evaluation and any proposed changes to Plaintiffs as a part of its annual Compliance Report under Paragraph 51. Any proposed changes will be subject to Plaintiffs' non-objection.

X

Order to Pay Civil Money Penalty

IT IS FURTHER ORDERED that:

39. Under section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law alleged in the Complaint, Fairway must pay a civil money penalty of $1,900,000 to the Bureau.

40. Within 10 days of the Effective Date, Fairway must pay the civil money penalty by wire transfer to the Bureau or to the Bureau's agent in compliance with the Bureau's wiring instructions.

41. The civil money penalty paid under this Order will be deposited in the Civil Penalty Fund of the Bureau as required by section 1017(d) of the CFPA, 12 U.S.C. § 5497(d).

42. Fairway, for all purposes, must treat the civil money penalty paid under this Order as a penalty paid to the government. Regardless of how the Bureau ultimately uses those funds, Fairway may not:

a. claim, assert, or apply for a tax deduction, tax credit, or any other tax benefit for any civil money penalty paid under this Order; or

b. seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made under any insurance policy, with regard to any civil money penalty paid under this Order.

43. To preserve the deterrent effect of the civil money penalty in any Related Consumer Action, Fairway may not argue that Fairway is entitled to, nor may Fairway benefit by, any offset or reduction of any compensatory monetary remedies imposed in the Related Consumer Action because of the civil money penalty paid in this action or because of any payment that the Bureau makes from the Civil Penalty Fund. If the court in any Related Consumer Action offsets or otherwise reduces the amount of compensatory monetary remedies imposed against Fairway based on the civil money penalty paid in this action or based on any payment that the Bureau makes from the Civil Penalty Fund, Fairway must, within 30 days after entry of a final order granting such offset or reduction, notify the Bureau, and pay the amount of the offset or reduction to the U.S. Treasury. Such a payment will not be considered an additional

civil money penalty and will not change the amount of the civil money penalty imposed in this action.

XI

Additional Monetary Provisions

IT IS FURTHER ORDERED that:

44. In the event of any default on Fairway's obligations to make payment under this Order, interest, computed under 28 U.S.C. § 1961, as amended, will accrue on any outstanding amounts not paid from the Effective Date to the date of payment, and will immediately become due and payable.

45. Fairway relinquishes all dominion, control, and title to the funds paid under this Order to the fullest extent permitted by law and no part of the funds may be returned to Fairway.

46. The facts alleged in the Complaint will be taken as true and be given collateral estoppel effect, without further proof, in any subsequent action by the Plaintiffs to enforce the Order or its rights to any payment or monetary judgment under the Order.

47. Fairway acknowledges that its Taxpayer Identification Number (Employment Identification Number), which Fairway previously submitted to the Bureau, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

48. Within 30 days of the entry of a final judgment, order, or settlement in a Related Consumer Action, Fairway must notify Plaintiffs of the final judgment, order, or settlement in writing. That notification must indicate the amount of redress, if any, that Fairway paid or is required to pay to consumers and describe the consumers or classes of consumers to whom that redress has been or will be paid.

COMPLIANCE PROVISIONS

XII

Role of the Board and Executives

IT IS FURTHER ORDERED that:

49. Fairway's Board has the ultimate responsibility for ensuring that Defendant complies with this Order.

50. Fairway's Chief Executive Officer, Chief Financial Officer, Chief Credit Officer, Chief Operations Officer, Chief Compliance Officer, Chief Marketing Officer, and any other chief officer of the Company (collectively, Fairway's Executives), and Fairway's Board must review all plans and reports required by this Order, and any submissions to Plaintiffs prior to such submission.

51. One year after the Effective Date, and each year thereafter, Fairway must submit to Plaintiffs an accurate written compliance progress report (Compliance Report) that has been approved by the Board, the accuracy of which is sworn to under penalty of perjury, and which, at a minimum:

a. describes the steps that Fairway's Board and Executives have taken to reasonably assess whether Defendant is complying with the Remedial Plan and each applicable paragraph and subparagraph of the Order;

b. describes in detail whether and how Fairway has complied with the Remedial Plan and each applicable paragraph and subparagraph of the Order, including the manner of verification of such compliance and any corrective actions taken to remedy potential non-compliance with the applicable requirement, paragraph, or subparagraph;

c. includes the information required under Paragraphs 17 and 38 of this Order;

d. provides a detailed accounting of all funds required to be spent under Sections VI, VII, VIII, and IX in accordance with the data specifications of the Plaintiffs;

e. evaluates the effectiveness of the Loan Subsidy Program under Section VI and Fairway's progress in deploying funds to Qualified Applicants, as well as identifying and summarizing for Plaintiffs' non-objection any proposed changes to the Loan Subsidy Program to better reach Qualified Applicants; and

f. attaches a copy of each Order Acknowledgment obtained under Section XIV, unless previously submitted to the Bureau.

52. Fairway's Board and Executives must:

a. authorize whatever actions are necessary for Fairway to assess whether Fairway is complying with the Remedial Plan and each applicable paragraph and subparagraph of the Order;

b. authorize whatever actions, including corrective actions, are necessary for Fairway to fully comply with the Remedial Plan and each applicable paragraph and subparagraph of the Order; and

c. require timely reporting by management to Fairway's Board and Executives on the status of compliance obligations.

XIII

Reporting Requirements

IT IS FURTHER ORDERED that:

53. Fairway must notify Plaintiffs of any development that may affect compliance obligations arising under this Order, including but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of any bankruptcy or insolvency proceeding by or against Fairway; or a change in Fairway's name or address. Fairway must provide this notice, if practicable, at least 30 days before the development, but in any case no later than 14 days after the development.

54. Within 7 days of the Effective Date, Fairway must:

a. designate at least one telephone number and email, physical, and postal addresses as points of contact that Plaintiffs may use to communicate with Fairway; and

b. designate at least one telephone number and email, physical, and postal addresses as points of contact for consumers with inquiries related to consumer relief under the Order.

55. Fairway must report any change in the information required to be submitted under Paragraph 54 at least 30 days before the change or as soon as practicable after learning about the change, whichever is sooner.

XIV

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that:

56. Within 7 days of the Effective Date, Fairway must submit to Plaintiffs an acknowledgment of receipt of this Order, sworn under penalty of perjury.

57. Within 30 days of the Effective Date, Fairway must deliver a copy of the Complaint and this Order to each of its board members and executive officers, as well as to any managers and employees who have responsibilities related to the subject matter of this Order, including Covered Staff and Officials. Fairway must provide an opportunity for all persons to whom the Complaint and this Order is distributed to ask any questions concerning the Complaint and this Order, and Fairway must provide answers.

58. Fairway must deliver a copy of the Complaint and this Order, with the opportunity to ask questions as discussed in Paragraph 57, to any business entity resulting from any change in structure referred to in Section XIII, any future board members and executive officers, as well as to any managers and employees, who will have responsibilities related to the subject matter of this Order, including Covered Staff and Officials, before they assume their responsibilities.

59. Fairway must secure a signed and dated statement acknowledging receipt of a copy of this Order within 30 days of delivery from all persons receiving a copy of this Order under this Section.

60. Ninety days from the Effective Date, Fairway must submit to Plaintiffs a list of all persons and their titles to whom this Order was delivered under the Section of this Order titled

"Order Distribution and Acknowledgement" and a copy of all signed and dated statements acknowledging receipt of this Order under Paragraph 59.

XV

Recordkeeping

IT IS FURTHER ORDERED that:

61. Fairway must create and retain the following business records:

a. all documents and records necessary to demonstrate full compliance with the Remedial Plan and each provision of this Order, including all submissions to Plaintiffs;

b. all documents and records pertaining to the Credit Needs Assessment and Remedial Plan described in Section II above;

c. the following documents and records pertaining to the Loan Subsidy Program for each loan receiving a subsidy: the amount loaned, amount of subsidy, type of subsidy, Universal Loan Identifier, type of loan, loan purpose, the property address of the collateral, and the applicant race and ethnicity as reported under the Home Mortgage Disclosure Act, 12 U.S.C. §§ 2801-2811, and Regulation C, 12 C.F.R. Part 1003;

d. for each individual borrower who received a loan under the Loan Subsidy Program: the consumer's name, address, phone number, email address, a description of the loan received including describing the loan terms and the subsidies provided under the Loan Subsidy Program, and the date on which the loan closed;

e. copies of all training materials, advertisements, websites, and other marketing

materials required under Section VII or used in the Birmingham MSA, including any such materials used by a third-party on Fairway's behalf, and information about how the materials were distributed or otherwise provided;

f. all consumer complaints and refund requests (whether received directly or indirectly, such as through a third-party), and any responses to those complaints or requests, relating to the offering or provision of loans in the Birmingham MSA;

g. records showing, for each Covered Staff and Official providing services related to the Loan Subsidy Program, that person's name; telephone number; email, physical, and postal addresses; job title or position; dates of service; and, if applicable, the reason for departure or termination; and

h. records showing, for each service provider providing material services relating to the administration of the Loan Subsidy Program, the name of a point of contact, and that person's telephone number; email, physical, and postal address; job title or position; dates of service; and, if applicable, the reason for termination.

62. All documents and records must be maintained in their original electronic format for at least 7 years from the Effective Date. Data should be centralized, and maintained in such a way that access, retrieval, auditing and production are not hindered.

63. Fairway must make the documents identified in Paragraph 61 available to Plaintiffs upon either Plaintiff's request.

XVI

Notices

IT IS FURTHER ORDERED that:

64. Unless otherwise directed in writing by the Bureau, Fairway must provide all submissions, requests, communications, or other documents relating to this Order by email with the subject line, "*CFPB and United States v. Fairway Independent Mortgage Corp.*, Case No. 2:24-cv-01405" to Enforcement_Compliance@cfpb.gov addressed as follows:

ATTN: Supervision Director

Consumer Financial Protection Bureau

Office of Supervision

ATTN: Enforcement Director

Consumer Financial Protection Bureau

Office of Enforcement

65. All material required by this Order will be sent to the United States by email to the Department of Justice attorneys assigned to this matter as follows:

Sara L. Niles

Terrence K. Mangan, Jr.

Housing and Civil Enforcement Section

Civil Rights Division, U.S. Department of Justice

150 M Street NE, 8th Floor

Washington, DC 20002

Attn: DJ# 188-1-9

Phone: (202) 514-4713

Fax: (202) 514-1116

Sara.Niles@usdoj.gov

terrence.mangan2@usdoj.gov

XVII

Cooperation with the Bureau

IT IS FURTHER ORDERED that:

66. Fairway must remain registered for the Bureau's Company Portal and in connection with responding to consumer complaints and inquiries on the Company Portal, must comply with the timely response requirements set forth in § 1034(b)(1)-(3) of the CFPA, 12 U.S.C. § 5534(b).

XVIII

Compliance Monitoring

IT IS FURTHER ORDERED that:

67. Within 14 days of receipt of a written request from either Plaintiff, Fairway must submit additional compliance reports or other requested information, which must be made under penalty of perjury; provide sworn testimony; or produce documents.

68. Fairway must permit Plaintiffs' representatives to interview any employee or other person affiliated with Fairway who has agreed to such an interview regarding: (a) the Lawsuit Subject Matter, or (b) compliance with this Order. The person interviewed may have counsel present.

69. Nothing in this Order will limit the Bureau's lawful use of civil investigative demands under 12 C.F.R. § 1080.6 or other compulsory process.

XIX

Administrative Provisions

IT IS FURTHER ORDERED that:

70. Except for Paragraph 6 where this Order expressly provides that its requirements are permanent, all other provisions of this Order will terminate on the later of 5 years from the Effective Date or 5 years from the most recent date that any Plaintiff files a motion seeking to hold Defendant in contempt for any violation of the Order, if such motion is filed within 5 years of the Effective Date. If the court rules that Fairway did not violate any provision of the Order, and the ruling is either not appealed or upheld on appeal, then the Order will terminate as though the contempt motion had never been filed. The Order will remain effective and enforceable until such time, except to the extent that any provisions of this Order have been amended, suspended, waived, or terminated by the Court, or if the Order remains in effect pursuant to Paragraph 71.

71. Notwithstanding Paragraph 70, if, within 5 years of the Effective Date, Fairway has not invested or spent all money required by Sections VI through IX of this Order, the Order will remain in full effect until 3 months after Fairway has invested or spent all money as required and submitted a final report to the Plaintiffs that demonstrates fulfillment of this obligation.

72. Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted. If a deadline under this Order falls on a Saturday, Sunday, or legal holiday, the deadline is extended until the end of the next day that is not a Saturday, Sunday, or legal holiday.

73. Should Fairway seek to transfer or assign all or part of its operations that are subject to this Order, Fairway must, as a condition of the transfer or assignment, obtain the written agreement of the transferee or assignee to comply with all applicable provisions of this

Order.

XX

Retention of Jurisdiction

IT IS FURTHER ORDERED that:

74. The Court will retain jurisdiction of this matter for the purpose of enforcing this Order.

IT IS SO ORDERED.

DONE and **ORDERED** this 3rd day of December, 2024.

ANNA M. MANASCO
UNITED STATES DISTRICT JUDGE