

STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES

Before the Director of the Department of Insurance and Financial Services

In the matter of:

Fidelity Funding Co., Inc.
dba Fidelity Funding Corporation
License No. FL-0010415
License No. SR-0010416

Enforcement Case No. 19-15682

Respondent.

_____ /

Issued and entered
on January 22, 2020
by Judith Weaver
Senior Deputy Director

ORDER ACCEPTING STIPULATION AND REQUIRING COMPLIANCE AND PAYMENT OF FINES

Based upon the Stipulation to Entry of Order and the files and records of the Department of Insurance and Financial Services (DIFS), the Senior Deputy Director finds and concludes that:

1. The Senior Deputy Director has jurisdiction and authority to adopt and issue this Order Accepting Stipulation and Requiring Compliance and Payment of Fines in this proceeding pursuant to the Michigan Administrative Procedures Act (APA), as amended, MCL 24.201 *et seq.*, the Mortgage Lending Practices Act (MLPA), 1977 PA 135, MCL 445.1601 *et seq.*, the Mortgage Brokers, Lenders and Servicers Licensing Act (MBLSLA), 1987 PA 173, MCL 445.1651 *et seq.*, and the Secondary Mortgage Loan Act, (SMLA), 1981 PA 125, MCL 493.51 *et seq.*
2. All required notices have been issued in this case and the notices and service thereof were appropriate and lawful in all respects.
3. Acceptance of the Stipulation to Entry of Order is reasonable and in the public interest.
4. All applicable provisions of the APA have been met.
5. Respondent violated Section 2(10) of the MLPA, MCL 445.1602(10), and Sections 21(1), 21(3) and 22(a) of the MBLSLA, MCL 445.1671(1), 445.1671(3) and 445.1672(a).

Now therefore, based upon the Stipulation to Entry of Order and the facts surrounding this case, **IT IS ORDERED THAT:**

- A. Respondent shall comply with all terms agreed to in the Stipulation to Entry of Order.

- B. Respondent shall pay to the State of Michigan, through DIFS, administrative and civil fines in the amount of **\$4,500.00**. Respondent shall pay two (2) payments of \$2,250.00 over a 60-day period. Respondent shall pay the fines by the due date, as indicated on the DIFS invoices.
- C. The Senior Deputy Director retains jurisdiction over the matters contained herein and has the authority to issue such further order(s) as shall be deemed just, necessary, and appropriate in accordance with the Act. Failure to abide by the terms and provisions of the Stipulation to Entry of Order and this Order may result in the commencement of additional proceedings.


Judith Weaver
Senior Deputy Director

**STATE OF MICHIGAN
DEPARTMENT OF INSURANCE AND FINANCIAL SERVICES**

Before the Director of the Department of Insurance and Financial Services

In the matter of:

**Fidelity Funding Co., Inc.
dba Fidelity Funding Corporation
License No. FL-0010415
License No. SR-0010416**

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Respondent.
_____ /

**STIPULATION TO ENTRY OF ORDER
REQUIRING COMPLIANCE AND PAYMENT OF CIVIL FINES**

Fidelity Funding Co., Inc. dba Fidelity Funding Corporation (Respondent) hereby stipulates and agrees to the following:

1. In the exercise of its statutory authority and responsibility, the Department of Insurance and Financial Services (DIFS) conducted an examination of Respondent, pursuant to Section 11(2)(c) of the Mortgage Brokers, Lenders and Servicers Licensing Act (MBLSLA), MCL 445.1661(2)(c) and Section 6b(2)(c) of the Secondary Mortgage Licensing Act (SMLA), MCL 493.56b(2)(c). The purpose of the examination was to assess the adequacy of management and review records to determine compliance with findings of previous examinations and applicable state and federal laws.
2. On or about April 22, 2019, an Examination Report was issued by DIFS to Respondent along with a copy of the examiner's conclusions and findings of violations, pursuant to the provisions of the Michigan Administrative Procedures Act (APA), 1969 PA 306, as amended, MCL 24.201 *et seq.*, the MBLSLA, 1987 PA 173, as amended, MCL 445.1651 *et seq.*, and the SMLA, 125 PA 1981, as amended, MCL 493.51 *et seq.*
3. The Examination Report contained allegations that Respondent violated the MLPA (Mortgage Lending Practices Act), MBLSLA, and SMLA and set forth the applicable laws and penalties.
4. Respondent submitted a written response to the allegations raised in the examination.
5. Thereafter, DIFS Staff and Respondent conferred for the purpose of resolving this matter and Respondent has determined to resolve this matter, pursuant to the terms set forth below.
6. At all pertinent times, Respondent was licensed with DIFS as a mortgage broker and lender under the MBLSLA and registered as a mortgage broker and lender under the SMLA.
7. Respondent admits to the following:
 - a. Respondent violated Section 2(10) of the MLPA, 445.1602(10), by failing to make available to prospective applicants a pamphlet or document explaining in general terms the licensee's criteria for the approval or denial of a loan application.

- b. Respondent violated Section 21(1) of the MBLSLA, 445.1671(1), by failing to provide a complete list of its Michigan mortgage loan applications taken within the past two years.
 - c. Respondent violated Section 21(3) of the MBLSLA, MCL 445.1671(3), by failing to accurately report activity on its quarterly Mortgage Call Reports/Annual Report.
 - d. Respondent violated Section 22(a) of the MBLSLA, MCL 445.1672(a), as follows:
 - i. Section 1002.9(a)(2) of Regulation B by providing applicants with an adverse action notice that failed to include the FTC name and address.
 - ii. Section 1022.82(c) of Regulation V by failing to have a policy or procedures regarding address discrepancies.
 - iii. Section 1026.25(c) of Regulation Z by failing to maintain records to show all compensation paid to its loan originators and providing compensation agreements that were not dated or signed.
 - iv. Section 1026.36(d)(1)(i) of Regulation Z by varying its compensation by providing the borrower with pricing concessions.
 - v. 16 CFR 314.3 by failing to develop and implement a written information security program.
 - e. Respondent was cited for the same violations in the 2012 and/or the 2015 report of examination and failed to implement corrective actions.
8. For the violations of the MLPA, MBLSLA, and SMLA admitted by Respondent, Respondent agrees to the imposition of civil fines in the amount of **\$4,500.00**. Respondents shall pay two (2) payments of \$2,250.00 over a 60-day period. Respondent shall pay the fines by the due date, as indicated on the DIFS invoice. The amount of the civil fines takes into account that Respondent demonstrated an understanding of the violations cited in the examination report, and undertook administrative actions to ensure future violations will not occur.
 9. Respondent agrees that it shall cease and desist from any and all violations of the statutes, rules, and regulations identified in paragraph 7 of this Stipulation.
 10. Respondent agrees that the procedural requirements of the APA, MLPA, MBLSLA, and SMLA have been met in all respects by both parties.
 11. Respondent has had an opportunity to review this Stipulation and the accompanying Order Requiring Compliance and Payment of Civil Fines and have the same reviewed by legal counsel.
 12. Respondent understands and agrees that this Stipulation will be presented to the Senior Deputy Director for approval. The Senior Deputy Director may, in her sole discretion, decide to accept or reject the Stipulation and Order. If the Senior Deputy Director accepts the Stipulation and Order, Respondent waives the right to a hearing in this matter and consents to the entry of the Order. If the Senior Deputy Director does not accept the Stipulation and Order, Respondent waives any objection to the Director holding a formal administrative hearing and making a decision after such hearing.

13. Respondent understands and agrees that the failure to abide by and fully comply with the terms and conditions of this Stipulation and Order may, at the discretion of the Senior Deputy Director, result in further administrative compliance actions.

14. Respondent understands and agrees that the amount of the civil fines has been negotiated in return for the avoidance of further proceedings and certain promises and conditions, one of which is the timely payment of civil fines. Should Respondent fail to timely pay the fine, Respondent agrees that a failure to timely pay the \$4,500.00 civil fine is a violation of this Stipulation and Order and will result in DIFS commencing an enforcement action against Respondent's license and registration under the MBLSLA and SMLA.

Fidelity Funding Co., Inc.
dba Fidelity Funding Corporation
License No. FL-0010415
License No. SR-0010416



Authorized Representative of Fidelity Funding Co., Inc.
dba Fidelity Funding Corporation

1-17-2020

Dated

Jenny STOTTSIDES

Print Name and Title

DIFS Staff approve this Stipulation and recommend that the Senior Deputy Director issue an Order Requiring Compliance and Payment of Civil Fines.



William R. Peattie (P48004)
DIFS Staff Attorney

1/21/2020

Dated