



NEW YORK STATE
DEPARTMENT OF FINANCIAL SERVICES
ONE STATE STREET
NEW YORK, NEW YORK 10004

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In the Matter of :
1ST PRIORITY MORTGAGE, INC. :
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AGREEMENT

This Agreement (the “Agreement”) is entered into by and between 1st Priority Mortgage, Inc. (“1st Priority” or the “Company”) and the New York State Department of Financial Services (the “Department”). 1st Priority and the Department are referred to herein individually as a “Party” and collectively as the “Parties.”

WHEREAS, 1st Priority is a New York State licensed mortgage banker pursuant to Article 12-D of the New York Banking Law and is regulated by the Department;

WHEREAS, the Department conducted a review of 1st Priority’s publicly available Home Mortgage Disclosure Act (“HMDA”) data and concluded that there were statistically fewer loans made in majority-minority neighborhoods in Buffalo, Rochester, and Syracuse, New York.

WHEREAS, the Department reviewed 1st Priority’s HMDA data and concluded that, from 2016 through 2019, its lending in majority-minority census tracts was statistically below the average of peers in Buffalo, Rochester, and Syracuse, New York.

WHEREAS, 1st Priority does not agree with the Department’s analysis or conclusions.

WHEREAS, based on its review of 1st Priority’s HMDA data, the Department commenced an investigation, pursuant to the New York Banking Law and related regulations, into 1st Priority’s fair lending practices, procedures, and compliance (hereinafter the “Investigation”);

WHEREAS, the Department reviewed 1st Priority’s fair lending policies, fair lending training materials, marketing and advertising policies, marketing materials, and underwriting and pricing procedures, as well as additional lending data provided by 1st Priority. The Department also took the sworn testimony of members of 1st Priority’s executives and/or management;

WHEREAS, the 1st Priority executives testified that 1st Priority’s relationship with Howard Hanna Real Estate – an affiliated and commonly owned real estate company – eliminates the need for 1st Priority to engage in significant or targeted marketing efforts;

WHEREAS, the 1st Priority executives interviewed by the Department testified that 1st Priority has made an effort to monitor and improve lending to minorities. However, these efforts have not resulted in a significant increase in 1st Priority’s lending to minority borrowers; and

WHEREAS, the Department did not find any evidence of intentional discrimination or misconduct by 1st Priority and its employees. Notwithstanding the Department’s findings, the Parties agree that certain steps can be taken to better identify underserved areas and increase the volume of lending to improve 1st Priority’s lending to minorities and in majority-minority neighborhoods. Such steps may garner more business for 1st Priority and provide more

meaningful access to residential loans and financing for minorities and individuals living in majority-minority neighborhoods around Buffalo, Rochester, and Syracuse, New York.

NOW THEREFORE, in consideration of the mutual covenants and promises set forth in this Agreement, the sufficiency of which each Party acknowledges, it is hereby stipulated and agreed by and between the Parties as follows:

I. Definitions

1. As used in this Agreement, the terms set forth below shall mean as follows:

a. “1st Priority” or the “Company” means 1st Priority Mortgage, Inc.

b. “Agreement” means this Agreement between 1st Priority and the Department.

c. “Buffalo MSA” or “Buffalo-Niagara MSA” means the Buffalo-Niagara Metropolitan Statistical Area, a geographic unit defined by the United States Census Bureau as consisting of the following counties in New York State: Erie, Niagara, and Cattaraugus.

d. “Department” or “DFS” means the New York State Department of Financial Services.

e. “ECOA” means the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.*, a federal law that makes it unlawful for any creditor to discriminate against any applicant, with respect to any aspect of a credit transaction, on the basis of race, color, religion, national origin, sex, marital status, or age (provided the applicant has the capacity to contract).

f. “Effective Date” means the date that this Agreement is signed into effect by an authorized representative of both Parties.

- g. “FHA” means the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, a federal statute that prohibits discrimination with respect to the sale and rental of residential housing.
- h. “HMDA” means the Home Mortgage Disclosure Act, 12 U.S.C. § 2803, a federal statute that requires lending institutions to publicly report certain loan data related to home mortgages.
- i. “Human Rights Law” means the New York State Human Rights Law, Article 15 of the New York State Executive Law, which prohibits discrimination on the basis of age, race, creed, color, national origin, sexual orientation, military status, sex, marital status or disability in employment, housing, education, credit, and access to public accommodations.
- j. “Howard Hanna” means Howard Hanna Real Estate.
- k. “Majority-minority” means that more than 50% of the population in a geographic area reported a race and/or ethnicity other than Non-Hispanic White, as determined by the 2010 Decennial Census. A list of majority-minority Census tracts in the Buffalo MSA, Rochester MSA, and Syracuse MSA is set forth in Appendix A.
- l. “Neighborhood” refers to a Census tract, which is a geographic unit defined by the United States Census Bureau as a subdivision of a county or equivalent area that generally covers a contiguous area, follows identifiable legal or physical geographic boundaries, and has a population size between 1,200 and 8,000 people.
- m. “Saleable Loans” means loans that 1st Priority originates which meet secondary market investor guidelines and criteria for purchase.

n. “Rochester MSA” means the Rochester Metropolitan Statistical Area, a geographic unit defined by the United States Census Bureau as consisting of the following counties in New York State: Livingston, Monroe, Ontario, Orleans, Wayne, and Yates.

o. “Syracuse MSA” means the Syracuse Metropolitan Statistical Area, a geographic unit defined by the United States Census Bureau as consisting of the following counties in New York State: Onondaga, Oswego, and Madison.

II. Compliance Management Plan

2. Within ninety (90) days of the effective date of this Agreement, the Company, or an independent third party hired by the Company, will conduct a detailed assessment of the Company’s fair lending compliance management system (the “Compliance Assessment”). The Compliance Assessment will include a comprehensive risk assessment as to the following:

- a. Whether any policies or procedures consider a prohibited basis under the ECOA, FHA, or Human Rights Law;
- b. The underwriting and pricing policies and practices of the Company;
- c. The pricing policies and practices of the Company, including any policies that involve matching the rates of competing loan offers;
- d. The marketing policies and practices of the Company; and
- e. The diversity policies and practices of the Company.

3. Within thirty (30) days of the completion of the Compliance Assessment, the Company shall update its Compliance Management Plan, grounded in the findings of the Compliance Assessment. The Compliance Management Plan must be tailored to address, at minimum, the particular risks identified in the Compliance Assessment, and designed to ensure

that the Company is not engaging in any prohibited discrimination by ensuring compliance with the FHA, the ECOA, the Human Rights Law, and related regulations.

4. The Compliance Management Plan shall include, at minimum, the measures contemplated in Paragraphs 7-29 of this Agreement.

5. Once adopted, the Company will advise the Department within 90 days of any implementations of actions, practices or policies it is newly undertaking based upon the substance of the Compliance Management Plan.

6. To the extent the Company has not already done so, the Company agrees to implement the following measures:

Fair Lending Policy and Compliance Procedures

7. The Company agrees to continue to comply fully with the obligations and conditions of the Fair Housing Act, 42 U.S.C. § 3601 *et seq.*, the Equal Credit Opportunity Act, 15 U.S.C. § 1691 *et seq.*, the New York State Human Rights Law, N.Y. Exec. L. § 290 *et seq.*, and related regulations, and that its Fair Lending Policy and Compliance procedures are tailored to the specific needs and risks of the Company and to update its Fair Lending Policy and Compliance procedures to reflect any changes in the policies and procedures instituted by the Company.

Defined Target Areas

8. The Company agrees to update its Fair Lending Policy, and any other applicable policies or summaries of policies, to specifically define the lending areas it will directly target

(the “1st Priority Target Area”).

9. The 1st Priority Target Area shall include, but need not be limited to, the Buffalo-Niagara MSA, the Rochester MSA, and the Syracuse MSA, including the majority-minority neighborhoods located therein.

Marketing

10. The Company will invest Fifty Thousand Dollars (\$50,000.00) in advertising and marketing designed to reach potential applicants who reside in majority-minority census tracts in the 1st Priority Target Area. The marketing efforts contemplated herein shall be performed over a three (3) year period.

11. Marketing efforts shall include, but may not be limited to, efforts focusing on direct-to-consumer advertising in majority-minority neighborhoods and promotions of affordable loan products and products or services created pursuant to this Agreement.

12. Marketing efforts undertaken by the Company shall include, at a minimum, the following components:

a. Outreach – During the pendency of this Agreement, the Company shall hold quarterly outreach events for residents of majority-minority neighborhoods in the 1st Priority Target Area. These events will be geared towards residents of these neighborhoods, as well as real estate brokers and agents, developers and public or private entities engaged in residential real estate-related businesses in majority-minority neighborhoods. The events shall be held for the purpose of informing attendees of the products and services the Company offers, including those made available as part of this Agreement, general advice about preparing to apply for a mortgage and what to expect during the mortgage process, and receive inquiries about potential applicants, to receive

applications, and to develop business relationships and a presence in these communities. These events shall be offered at locations reasonably convenient to the intended attendees.

b. During each year covered by this Agreement the Company will engage in direct-to-consumer marketing in the 1st Priority Target Area including fliers and mailers promoting affordable loan products and the Special Financing Programs.

13. All of the Company's products shall include the statement "Equal Housing Lender" and/or "Equal Lending Opportunity" consistent with the requirements of applicable law. The Company shall make substantial good faith efforts to ensure that persons appearing on 1st Priority marketing materials are of diverse racial and ethnic backgrounds.

14. On a semi-annual basis, the Company will report to the Department on any and all advertising efforts undertaken pursuant to this Agreement.

Complaint Program

15. The Company agrees to continue to maintain its consumer complaint log and to maintain its current policies that provide procedures for collecting, reviewing and responding to complaints and recording all such actions. The Company's complaint procedures shall continue to include a mechanism by which the Board of Directors is updated on any complaints received by the Company on a bi-annual basis.

16. Any complaints received by the Company that relate to fair lending or discrimination, including but not limited to any complaints of violations of the FHA, the ECOA or the Human Rights Law, must be reported to the Department within thirty (30) days of receipt of said complaint.

Special Financing Program.

17. The Company shall establish a special financing program designed to increase the number of loan applications generated, and loans originated in majority-minority neighborhoods in the 1st Priority Target Area (“Special Financial Program”).

18. Through the Special Financing Program, the Company shall provide discounted or subsidized financing on loans to residents of majority-minority neighborhoods in the 1st Priority Target Area. The total amount of discounts and subsidies shall be at least One Hundred Fifty Thousand Dollars (\$150,000.00) over a four (4) year period.

19. The discounts and subsidies provided pursuant to the Special Financing Program may be provided through one or more of the following means: a waiver of fees, lender credits, lender paid discount points in connection with originating a residential mortgage loan, and any other means subject to the review and approval of the Department.

20. If the funds set aside for the Special Financing Program contemplated herein have not been exhausted by the end of the four-year period set out in Paragraph 18, the Company shall pay any amounts remaining to a nonprofit charity with a focus on fair housing. The charity shall be subject to the Department’s approval, not to be unreasonably withheld. Nothing contemplated in Paragraphs 17-20 herein is intended to prevent the Company from issuing Saleable Loans, or otherwise modifying its risk profiles or those required and expected by its warehouse lines and/or investors.

21. The four year period described in paragraph 18 only applies to the term of the Special Financing Program and does not relay to any other obligations, terms or conditions of this Agreement. Further, the parties acknowledge that the failure of 1st Priority to extinguish the Special Financing Program within four (4) years does not in and of itself reflect a breach of this

Agreement, so long as any funds remaining at the end of the four (4) years are appropriately distributed pursuant to Paragraph 20 herein.

Training

22. The Company agrees to continue to provide annual training to all employees and agents with significant involvement in lending operations, including management and executives, to ensure that their activities are conducted in a non-discriminatory manner. The Company agrees to continue the practice of providing the same training to new employees within one (1) month of the employee's start date.

23. The annual training provided shall encompass the fair lending obligations imposed upon mortgage companies and other lending institutions under the FHA, ECOA, and Human Rights Law. Such training will include, but not be limited to, the purpose of the applicable fair lending laws, as well as the prohibitions, liability and penalties articulated therein. The annual training shall also cover the updated practices instituted at the Company as a result of the execution of this Agreement and the Company's compliance with the Compliance Management Plan.

24. The Company shall continue to maintain a record of each employee, including management and executives, who attends and completes the training contemplated herein on an annual basis. Such records will be subject to the Department's review upon request.

Annual Fair Lending and Compliance Audits

25. The Company agrees to maintain its practice of conducting an annual audit of the Company's fair lending practices, general compliance efforts, and compliance with this Agreement for each of the three (3) years following the effective date of this Agreement (the "Annual Audit"). The Annual Audit shall be included as part of the annual risk assessment

currently conducted by the Company.

26. The Annual Audit shall continue to include a review of the following:
 - a. Whether any policies or procedures consider a prohibited basis under the ECOA, FHA, or Human Rights Law;
 - b. The underwriting and pricing policies and practices of the Company;
 - c. The pricing policies and practices of the Company, including rate-matching;
 - d. The marketing policies and practices of the Company; and
 - e. The diversity policies and practices of the Company.

27. The Company agrees that it will continue to present the findings of each Annual Audit to the Board of Directors and update the Company as to any changes in practices or policies that impact the practices and policies identified in Paragraph 26, during the duration of this Agreement.

28. The Company agrees to implement any necessary changes identified in the Annual Audit.

29. Notwithstanding anything to the contrary, nothing in this Agreement (including but not limited to any reporting obligations) requires the Company to obtain the consent or approval of the Department as to any actions it may take or fail to take, except to the extent the Company wants to offer additional applications of the Special Financing Programs set forth in Paragraph 19 herein, and/or as otherwise provided by law.

III. Other Provisions

30. Consistent with applicable law, 1st Priority commits and agrees that it will fully cooperate with the Department regarding the terms of this Agreement.

31. In the event that the Department believes 1st Priority to be in material breach of the Agreement, the Department will provide written notice to 1st Priority, and 1st Priority must, within ten (10) business days of receiving such notice, or on a later date if so determined in the Department's sole discretion, appear before the Department to demonstrate that no material breach has occurred or, to the extent pertinent, that the breach is not material or has been cured.

32. The parties understand and agree that 1st Priority's failure to make the required showing within the designated time period shall be presumptive evidence of 1st Priority's breach. Upon a finding that a breach of this Agreement has occurred, the Department may pursue any and all remedies available under the New York Banking Law and Financial Services Law and may use any evidence available to the Department in any ensuing hearings, notices, or orders.

33. The parties understand and agree that no provision of this Agreement is subject to review in any court, tribunal, or agency outside the Department.

34. This Agreement is binding on the Department and 1st Priority, as well as any parents, subsidiaries, successors and assigns. This Agreement does not bind any federal, state, or local agency, or any law enforcement authority.

35. No further action will be taken by the Department against 1st Priority for the conduct contemplated in this Agreement, provided that 1st Priority fully complies with the terms of this Agreement.

36. Notwithstanding any other provision of this Agreement, the Department may undertake action against 1st Priority for conduct that 1st Priority did not disclose to the

Department in the materials 1st Priority produced to the Department in connection with this matter.

IV. Notices

37. All notices or communications regarding this Agreement shall be sent to:

For the Department:

Terri-Anne S. Caplan
Senior Assistant Deputy Superintendent
New York State Department of Financial Services
One State Street
New York, New York 10004

Cynthia M. Reed
Senior Assistant Deputy Superintendent
New York State Department of Financial Services
One State Street
New York, New York 10004

For 1st Priority:

Brooke Anderson-Tompkins
President
1st Priority Mortgage, Inc.
6000 Sheridan Drive
Williamsville, New York 14221

Ari Karen
Offit Kurman
7501 Wisconsin Ave.
Suite 1000W
Bethesda, MD 20814

V. Miscellaneous.

38. This Agreement may not be amended except by an instrument in writing signed on behalf of all Parties to this Agreement.

39. Except as otherwise provided herein, each provision of this Agreement will remain in effect for three (3) years from the effective date herein, or until stayed, modified, terminated or suspended in writing by the Department.

40. No promise, assurance, representation or understanding other than those contained in this Agreement has been made to induce any party to agree to the provisions of this Agreement.

41. The Company shall, upon request of the Department, provide all documentation and information reasonably necessary for the Department to verify compliance with the Agreement.

42. This Agreement may be executed in one or more counterparts, and shall become effective when such counterparts have been signed by each of the Parties thereto.

(Remainder of this page intentionally left blank)

IN WITNESS WHEREOF, the parties have caused this Agreement to be signed in this 22 day of March, 2021.

NEW YORK STATE
DEPARTMENT OF FINANCIAL
SERVICES

1ST PRIORITY MORTGAGE, INC.

By: /s Madeline W. Murphy
MADELINE W. MURPHY
Assistant Deputy Superintendent
Consumer Protection & Financial
Enforcement Division

By: /s Brooke Anderson-Tompkins
Brooke Anderson-Tompkins
President
1ST Priority Mortgage, Inc.

By: /s Kevin R. Puvalowski
KEVIN R. PUVALOWSKI
Senior Deputy Superintendent
Consumer Protection & Financial
Enforcement Division

By: /s Katherine A. Lemire
KATHERINE A. LEMIRE
Executive Deputy Superintendent
Consumer Protection & Financial
Enforcement Division

By: /s Linda A. Lacewell
LINDA A. LACEWELL
Superintendent of Financial Services

APPENDIX A

Buffalo MSA Majority-Minority Tracts

State	County	State Code	County Code	Tract Code
NY	ERIE	36	029	0014.02
NY	ERIE	36	029	0015.00
NY	ERIE	36	029	0016.00
NY	ERIE	36	029	0025.02
NY	ERIE	36	029	0027.02
NY	ERIE	36	029	0028.00
NY	ERIE	36	029	0029.00
NY	ERIE	36	029	0030.00
NY	ERIE	36	029	0031.00
NY	ERIE	36	029	0033.01
NY	ERIE	36	029	0033.02
NY	ERIE	36	029	0034.00
NY	ERIE	36	029	0035.00
NY	ERIE	36	029	0036.00
NY	ERIE	36	029	0037.00
NY	ERIE	36	029	0038.00
NY	ERIE	36	029	0039.01
NY	ERIE	36	029	0040.01
NY	ERIE	36	029	0041.00
NY	ERIE	36	029	0042.00
NY	ERIE	36	029	0043.00
NY	ERIE	36	029	0044.01
NY	ERIE	36	029	0044.02
NY	ERIE	36	029	0047.00
NY	ERIE	36	029	0052.02
NY	ERIE	36	029	0055.00
NY	ERIE	36	029	0056.00
NY	ERIE	36	029	0057.00
NY	ERIE	36	029	0058.02
NY	ERIE	36	029	0059.00
NY	ERIE	36	029	0061.00
NY	ERIE	36	029	0069.01
NY	ERIE	36	029	0069.02
NY	ERIE	36	029	0070.00
NY	ERIE	36	029	0071.01
NY	ERIE	36	029	0071.02
NY	ERIE	36	029	0072.02
NY	ERIE	36	029	0102.02
NY	ERIE	36	029	0103.00
NY	ERIE	36	029	0164.00
NY	ERIE	36	029	0166.00

NY	ERIE	36	029	0168.00
NY	ERIE	36	029	0170.00
NY	ERIE	36	029	0171.00
NY	ERIE	36	029	0174.00
NY	ERIE	36	029	9400.00
NY	NIAGARA	36	063	0202.00
NY	NIAGARA	36	063	0204.00
NY	NIAGARA	36	063	0206.00
NY	NIAGARA	36	063	0209.00
NY	NIAGARA	36	063	0211.00
NY	NIAGARA	36	063	9400.01

Rochester Majority-Minority Tracts

State	County	State Code	County Code	Tract Code
NY	MONROE	36	055	0002.00
NY	MONROE	36	055	0007.00
NY	MONROE	36	055	0013.00
NY	MONROE	36	055	0015.00
NY	MONROE	36	055	0019.00
NY	MONROE	36	055	0020.00
NY	MONROE	36	055	0021.00
NY	MONROE	36	055	0022.00
NY	MONROE	36	055	0023.00
NY	MONROE	36	055	0024.00
NY	MONROE	36	055	0027.00
NY	MONROE	36	055	0032.00
NY	MONROE	36	055	0039.00
NY	MONROE	36	055	0040.00
NY	MONROE	36	055	0041.00
NY	MONROE	36	055	0046.02
NY	MONROE	36	055	0047.01
NY	MONROE	36	055	0047.02
NY	MONROE	36	055	0048.00
NY	MONROE	36	055	0049.00
NY	MONROE	36	055	0050.00
NY	MONROE	36	055	0051.00
NY	MONROE	36	055	0052.00
NY	MONROE	36	055	0053.00
NY	MONROE	36	055	0054.00
NY	MONROE	36	055	0055.00
NY	MONROE	36	055	0056.00
NY	MONROE	36	055	0057.00
NY	MONROE	36	055	0058.00
NY	MONROE	36	055	0059.00
NY	MONROE	36	055	0062.00
NY	MONROE	36	055	0063.00
NY	MONROE	36	055	0064.00
NY	MONROE	36	055	0065.00
NY	MONROE	36	055	0066.00
NY	MONROE	36	055	0067.00
NY	MONROE	36	055	0068.00
NY	MONROE	36	055	0069.00
NY	MONROE	36	055	0070.00
NY	MONROE	36	055	0071.00
NY	MONROE	36	055	0075.00

NY	MONROE	36	055	0079.00
NY	MONROE	36	055	0080.00
NY	MONROE	36	055	0081.00
NY	MONROE	36	055	0082.00
NY	MONROE	36	055	0083.01
NY	MONROE	36	055	0084.00
NY	MONROE	36	055	0087.01
NY	MONROE	36	055	0087.02
NY	MONROE	36	055	0088.00
NY	MONROE	36	055	0092.00
NY	MONROE	36	055	0093.01
NY	MONROE	36	055	0094.00
NY	MONROE	36	055	0095.00
NY	MONROE	36	055	0096.01
NY	MONROE	36	055	0096.02
NY	MONROE	36	055	0096.03
NY	MONROE	36	055	0096.04
NY	MONROE	36	055	0109.01

Syracuse Majority-Minority Tracts

State	County	State Code	County Code	Tract Code
NY	ONONDAGA	36	067	0005.01
NY	ONONDAGA	36	067	0006.00
NY	ONONDAGA	36	067	0007.00
NY	ONONDAGA	36	067	0008.00
NY	ONONDAGA	36	067	0014.00
NY	ONONDAGA	36	067	0015.00
NY	ONONDAGA	36	067	0023.00
NY	ONONDAGA	36	067	0024.00
NY	ONONDAGA	36	067	0030.00
NY	ONONDAGA	36	067	0032.00
NY	ONONDAGA	36	067	0034.00
NY	ONONDAGA	36	067	0035.00
NY	ONONDAGA	36	067	0036.01
NY	ONONDAGA	36	067	0036.02
NY	ONONDAGA	36	067	0038.00
NY	ONONDAGA	36	067	0039.00
NY	ONONDAGA	36	067	0040.00
NY	ONONDAGA	36	067	0042.00
NY	ONONDAGA	36	067	0051.00
NY	ONONDAGA	36	067	0052.00
NY	ONONDAGA	36	067	0053.00
NY	ONONDAGA	36	067	0054.00
NY	ONONDAGA	36	067	0055.00
NY	ONONDAGA	36	067	0057.00
NY	ONONDAGA	36	067	0058.00
NY	ONONDAGA	36	067	0059.00
NY	ONONDAGA	36	067	0060.00
NY	ONONDAGA	36	067	0061.01