

SETTLEMENT AGREEMENT

This Settlement Agreement (“Agreement”) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Department of Housing and Urban Development (collectively the "United States"), PHH Corporation, PHH Mortgage Corporation (“PHHMC”), and PHH Home Loans, LLC (“PHHHL”) (collectively “PHH”), and Mary Bozzelli (“Relator”) (together "the Parties"), through their authorized representatives.

RECITALS

A. Between January 1, 2006 and December 31, 2011, PHHMC was a Direct Endorsement Lender approved by the Federal Housing Administration (“FHA”). Between May 9, 2006 and December 31, 2011, PHHHL was a Direct Endorsement Lender approved by the FHA. PHH has its principal place of business in Mount Laurel, New Jersey.

B. On May 28, 2013, Relator filed a *qui tam* action in the United States District Court for the Eastern District of New York captioned *United States ex rel. Mary Bozzelli v. PHH Mortgage Corporation and PHH Corporation* (E.D.N.Y.), 13-cv-3084, pursuant to the *qui tam* provisions of the False Claims Act, 31 U.S.C. § 3730(b) (“the Civil Action”). Relator brought the Civil Action against PHHMC and PHH Corporation. The Civil Action did not name PHHHL as a defendant.

C. PHH agrees that it engaged in certain conduct related to FHA-insured mortgages, as set forth in Attachment A, in connection with PHHMC’s and PHHHL’s origination, underwriting, endorsement, and quality control of single-family residential mortgage loans, excluding origination and/or underwriting of Home Equity Conversion Mortgages under 12 U.S.C. § 1715z-20 and Streamlined Refinances under 12 U.S.C. §

1715n(a)(7), insured by the FHA between January 1, 2006 and December 31, 2011, that resulted in claims for payment submitted to the FHA on or before June 30, 2013 (hereafter referred to as the “Covered Conduct”). The United States contends that it has certain civil claims against PHH based upon the Covered Conduct.

D. This Settlement Agreement relates to the portion of the Civil Action and related claims of the United States pertaining to FHA-insured mortgages. By separate settlement agreement, to be entered into on or about the Effective Date (the “VA/GSE Settlement Agreement”), the United States, PHH Corporation, PHHMC, and Relator are resolving the portion of the Civil Action and related claims of the United States pertaining to mortgage loans insured by the VA and mortgage loans acquired by Fannie Mae and Freddie Mac. By this Settlement Agreement and the VA/GSE Settlement Agreement, the parties are fully and finally resolving the Civil Action as to the Relator and the United States, and the Covered Conduct as defined in this Settlement Agreement and the VA/GSE Settlement Agreement as to the United States.

E. This Settlement Agreement is neither an admission of liability by PHH nor a concession by the United States that its claims are not well founded.

F. Relator claims entitlement under 31 U.S.C. § 3730(d) to a share of the \$45,500,000 settlement amount attributable to PHHMC and to Relator’s reasonable expenses, attorneys’ fees and costs.

To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, and in consideration of the mutual promises and obligations of this Settlement Agreement, the Parties agree and covenant as follows:

TERMS AND CONDITIONS

1. PHH shall pay to the United States a total of \$65,000,000 (Sixty Five Million Dollars) (the “Combined Settlement Amount”) by electronic funds transfer no later than seven (7) days after the Effective Date of this Agreement, pursuant to written instructions provided by the Civil Division of the United States Department of Justice. Of the Combined Settlement Amount, the United States attributes \$45,500,000 (Forty Five Million Five Hundred Thousand Dollars) (the “PHHMC Settlement Amount”) to claims to the FHA on loans endorsed by PHHMC, and \$19,500,000 (Nineteen Million Five Hundred Thousand Dollars) (the “PHHHL Settlement Amount”) to claims to the FHA on loans endorsed by PHHHL.

2. Conditioned upon the United States receiving the Combined Settlement Amount from PHH and as soon as feasible after receipt, the United States shall pay to Relator \$7,507,500 (Seven Million Five Hundred Seven Thousand Five Hundred Dollars) by electronic funds transfer.

3. Subject to the exceptions in Paragraph 5 (concerning excluded claims) below, and conditioned upon PHH’s full payment of the Combined Settlement Amount, the United States releases PHH and its successors from any civil or administrative monetary claim the United States has for the Covered Conduct under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, 12 U.S.C. § 1833a, the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; or the common law theories of breach of contract, breach of fiduciary duty, payment by mistake, unjust enrichment, negligence, fraud, and any other statutory or common law cause of action that the Civil Division of the Department of Justice has

authority to assert and compromise pursuant to 28 C.F.R. § 0.45(d) in connection with the Covered Conduct.

4. Conditioned upon PHH's full payment of (A) the PHHMC Settlement Amount and (B) the settlement amount described in the VA/GSE Settlement Agreement, Relator, for herself and for her heirs, successors, attorneys, agents, and assigns, releases PHH together with its current and former corporations, predecessor and successor corporations, divisions, affiliates, and direct and indirect subsidiaries, including without limitation PHHMC and PHHHL, and any of their current or former officers, directors, employees, agents, or attorneys, from any and all claims and causes of action of any nature and description, known or unknown, that the Relator has or may have up to and including the Effective Date, including but not limited to claims that the Relator has or has asserted in the Civil Action; provided, however, that nothing in this Agreement shall preclude Relator from seeking to recover her reasonable expenses necessarily incurred or reasonable attorney's fees and costs from PHH pursuant to 31 U.S.C. § 3730(d).

5. Notwithstanding the releases given in paragraphs 3 and 4 of this Agreement, or any other term of this Agreement, the following claims of the United States are specifically reserved and are not released:

- a. Any liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability, including the suspension and debarment rights of any federal agency;

- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon obligations created by this Agreement;
and
- f. Any liability of individuals.

6. Relator and her heirs, successors, attorneys, agents, and assigns shall not object to this Agreement but agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B). Conditioned upon Relator's receipt of (A) the payment described in Paragraph 2 of this Agreement and (B) the payment described in paragraph 2 of the VA/GSE Settlement Agreement, Relator and her heirs, successors, attorneys, agents, and assigns, fully and finally releases, waives, and forever discharges the United States, its agencies, officers, agents, employees, and servants from any claims arising from the filing of the Civil Action or under 31 U.S.C. § 3730, and from any claims to a share of the proceeds of this Agreement and/or the Civil Action up to and including the Effective Date.

7. PHH waives and shall not assert any defenses PHH may have to any criminal prosecution or administrative action relating to the Covered Conduct that may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the

characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

8. PHH fully and finally releases the United States, its agencies, officers, agents, employees, and servants, from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that PHH has asserted, could have asserted, or may assert in the future against the United States, its agencies, officers, agents, employees, and servants, related to the Covered Conduct and the United States' investigation and prosecution thereof.

9. a. Unallowable Costs Defined: All costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47) incurred by or on behalf of PHH, and its present or former officers, directors, employees, shareholders, and agents in connection with:

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil investigation(s) of the matters covered by this Agreement;
- (3) PHH's investigation, defense, and corrective actions undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement;
- (5) the payment PHH makes to the United States pursuant to this Agreement and any payments that PHH may make to Relator, including costs and attorney's fees;

are unallowable costs for government contracting purposes (hereinafter referred Unallowable Costs).

b. Future Treatment of Unallowable Costs: Unallowable Costs will be separately determined and accounted for by PHH, and PHH shall not charge such Unallowable Costs directly or indirectly to any contract with the United States.

c. Treatment of Unallowable Costs Previously Submitted for Payment: Within 90 days of the Effective Date of this Agreement, PHH shall identify and repay by adjustment to future claims for payment or otherwise any Unallowable Costs included in payments previously sought by PHH or any of its subsidiaries or affiliates from the United States. PHH agrees that the United States, at a minimum, shall be entitled to recoup from PHH any overpayment plus applicable interest and penalties as a result of the inclusion of such Unallowable Costs on previously-submitted requests for payment. The United States, including the Department of Justice and/or the affected agencies, reserves its rights to audit, examine, or re-examine PHH's books and records and to disagree with any calculations submitted by PHH or any of its subsidiaries or affiliates regarding any Unallowable Costs included in payments previously sought by PHH, or the effect of any such Unallowable Costs on the amount of such payments.

10. PHH agrees to cooperate fully and truthfully with the United States in any investigation relating to the Covered Conduct of individuals and entities not released in this Agreement. Upon reasonable notice, PHH shall encourage, and agrees not to impair, the cooperation of its directors, officers, and employees, and shall use its best efforts to make available, and encourage, the cooperation of former directors, officers, and employees for interviews and testimony, consistent with the rights and privileges of such

individuals. PHH further agrees to furnish to the United States, upon request, complete and unredacted copies of all non-privileged documents, reports, memoranda of interviews, and records in its possession, custody, or control concerning any investigation of the Covered Conduct that it has undertaken, or that has been performed by another on its behalf.

11. This Agreement is intended to be for the benefit of the Parties only.

12. Upon receipt of (A) the Combined Settlement Amount described in Paragraph 1 above and (B) the settlement amount described in the VA/GSE Settlement Agreement, the United States and Relator shall promptly sign and file in the Civil Action a stipulation of dismissal pursuant to Fed. R. Civ. P. 41(a)(1). The stipulation shall be with prejudice as to any claims of the Relator (except with respect to her claim for attorney's fees and costs pursuant to 31 U.S.C. § 3730(d)); with prejudice as to the United States with respect to the Covered Conduct; and otherwise be without prejudice as to the United States.

13. Except as otherwise provided in this Agreement, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

14. Each Party and signatory to this Agreement represents that it freely and voluntarily enters in to this Agreement without any degree of duress or compulsion.

15. This Agreement is governed by the laws of the United States. The exclusive jurisdiction and venue for any dispute relating to this Agreement is the United States District Court for the District of Minnesota; provided, however, that any dispute between PHH and the Relator with respect to attorney's fees shall be heard in the United States District Court for the Eastern District of New York. For purposes of construing this

Agreement, this Agreement shall be deemed to have been drafted by all Parties to this Agreement and shall not, therefore, be construed against any Party for that reason in any subsequent dispute.

16. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

17. The undersigned counsel represent and warrant that they are fully authorized to execute this Agreement on behalf of the persons and entities indicated below.

18. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

19. This Agreement is binding on PHH's successors, transferees, heirs, and assigns.

20. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

21. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

22. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

THE UNITED STATES OF AMERICA

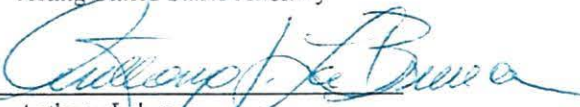
GREGORY G. BROOKER
Acting United States Attorney

DATED: 8/3/2017


BY: 
Ann M. Bildtsen
Assistant United States Attorney
District of Minnesota

WILLIAM E. FITZPATRICK
Acting United States Attorney

DATED: 8/4/2017

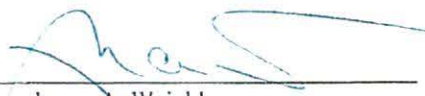
BY: 
Anthony Labruna
Assistant United States Attorney
District of New Jersey

DATED: 8/4/2017


BY: 
Mark Orłowski
Assistant United States Attorney
District of New Jersey

BENJAMIN G. GREENBERG
Acting United States Attorney


DATED: 8/3/2017

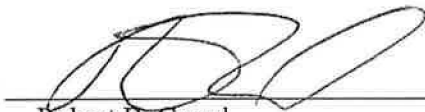
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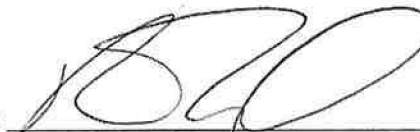
DATED: 8/4/17

BY: 
Christopher Reimer
Trial Attorney
Civil Division, Commercial Litigation Branch
United States Department of Justice

PHH CORPORATION, PHH MORTGAGE CORPORATION,
AND PHH HOME LOANS, LLC

DATED: 8-7-2017 BY: 
Andrew W. Schilling
Kathryn L. Ryan
Thomas A. Dowell
Buckley Sandler LLP
Counsel for PHH Corporation, PHH Mortgage
Corporation, and PHH Home Loans, LLC

DATED: 8-7-2017 BY: 
Robert B. Crowl
President and Chief Executive Officer
PHH Corporation and PHH Mortgage Corporation

DATED: 8-7-2017 BY: 
Robert B. Crowl
President
PHH Home Loans, LLC

DATED: 8/31/17

RELATOR

BY: Mary Bozzelli^o
Mary Bozzelli
Relator

DATED: _____

BY: _____
Michael J. Lingle
J. Nelson Thomas
Jonathan W. Ferris
Thomas & Solomon LLP
Counsel for Relator

RELATOR

DATED: _____

BY: _____

Mary Bozzelli
Relator

DATED: 8/4/17

BY: 

Michael J. Lingle
J. Nelson Thomas
Jonathan W. Ferris
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