

**UNITED STATES OF AMERICA
BUREAU OF CONSUMER FINANCIAL PROTECTION**

ADMINISTRATIVE PROCEEDING File
No. 2020-BCFP- 0004

In the Matter of:

CONSENT ORDER

**HARBOUR PORTFOLIO ADVISORS,
LLC; NATIONAL ASSET ADVISORS,
LLC; and NATIONAL ASSET
MORTGAGE, LLC**

The Bureau of Consumer Financial Protection (Bureau) has reviewed the servicing and consumer-reporting activities of Harbour Portfolio Advisors, LLC; National Asset Advisors, LLC; and National Asset Mortgage, LLC (Respondents, as defined below) and has identified the following law violations: (1) Respondents have misrepresented to consumers how consumers can address disputed entries on their consumer reports, in violation of 12 U.S.C. §§ 5531, 5536; and (2) National Asset Mortgage, LLC has failed to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer-reporting agency, in violation of 12 C.F.R. § 1022.42(a). Under §§ 1053 and 1055 of the

Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5563, 5565, the Bureau issues this Consent Order (Consent Order).

I.

Jurisdiction

1. The Bureau has jurisdiction over this matter under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563 and 5565 and § 621 of the Fair Credit Reporting Act (FCRA), 15 U.S.C. § 1681s(b)(1)(H).

II.

Stipulation

2. Respondents have each executed a “Stipulation and Consent to the Issuance of a Consent Order,” dated June 9, 2020 and June 10, 2020 (Stipulations), which are incorporated by reference and are accepted by the Bureau. By these Stipulations, Respondents have consented to the issuance of this Consent Order by the Bureau under §§ 1053 and 1055 of the CFPA, 12 U.S.C. §§ 5563, 5565, without admitting or denying any of the findings of fact or conclusions of law, except that Respondents admit the facts necessary to establish the Bureau’s jurisdiction over Respondents and the subject matter of this action.

III.

Definitions

3. The following definitions apply to this Consent Order:
 - a. “Effective Date” means the date on which the Consent Order is issued.
 - b. “Enforcement Director” means the Assistant Director of the Office of Enforcement for the Bureau of Consumer Financial Protection, or his or her delegate.
 - c. “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 Respondent based on substantially the same facts as described in Section IV of this Consent Order.
 - d. “Respondents” means collectively Harbour Portfolio Advisors, LLC (Harbour); National Asset Advisors, LLC (NAA); and National Asset Mortgage, LLC (NAM), and their successors and assigns.

IV.

Bureau Findings and Conclusions

The Bureau finds the following:

4. Harbour is a Texas limited-liability company that formerly entered into contracts for deed with consumers. Harbour has now ceased operations and is in the process of dissolution. Under the terms of these contracts,

consumers are obligated to pay a fixed principal over a term of years with an interest rate. These contracts therefore constitute “credit” under § 5481(7) of the CFPB. Harbour is therefore a “covered person” under the CFPB. 12 U.S.C. § 5481(5)(A), (6)(A), (7), (15)(A)(i).

5. NAA was a South Carolina limited-liability company that dissolved in 2018.
6. NAM is a South Carolina limited-liability company.
7. NAA advertised available homes for sale and serviced and maintained the subject properties on behalf of Harbour. NAM arranged for consumers to enter into contracts for deed with Harbour. NAM served as the primary conduit for consumer communications as well as the delivery of information to consumer-reporting agencies. During the last several years of Harbour’s operations, NAM was responsible for fielding consumer inquiries and disputes and for the reporting of information to consumer-reporting agencies regarding consumer inquiries and disputes.
8. NAA and NAM therefore serviced the contracts provided by Harbour and are thus “covered persons” under the CFPB. 12 U.S.C. § 5481(5)(A), (6)(A), (7), (15)(A)(i).
9. By furnishing information about the contracts to a consumer-reporting agency, NAM is a “furnisher” under Regulation V. 12 C.F.R. § 1022.41.

**Findings and Conclusions as to Deceptive Acts or Practices
Regarding Credit Reporting**

10. Beginning in 2010 until at least 2016, Harbour's business plan was to acquire foreclosed properties in bulk, at auction, from entities such as Fannie Mae and Freddie Mac, and resell them to private individuals through cash sales, bank financing, and primarily through seller financing in the form of contracts for deed. NAA and NAM acted as Harbour's agents during the sales, origination, and servicing process.
11. NAM furnished information about consumers' payment histories to a consumer-reporting agency.
12. Between at least 2012 and 2016, when consumers called NAA or NAM to complain about errors on their consumer reports relating to their transactions with Harbour, they told some consumers that the only way for a consumer to get help was to file a dispute with the consumer-reporting agency.
13. When a furnisher represents to a consumer that the only way for consumers to initiate credit disputes is by filing a dispute with a consumer-reporting agency, such representation is inaccurate as a matter of law.
14. Instead, Regulation V requires furnishers of credit information to investigate written disputes it may receive and to contact the applicable consumer-reporting agency in order to resolve any found errors. 12 C.F.R. § 1022.43.

15. Also, furnishers of credit information may investigate a consumer-initiated dispute based solely on a consumer's phone call.
16. When consumers are provided inaccurate information about how they can initiate credit inquiries or disputes, their rights may be impeded in their efforts to ensure that their consumer reports are accurate. The added hurdle of filing a dispute with the consumer-reporting agency could slow the process, leaving the consumer with an inaccurate report for a longer time. In some cases, adding additional burdens on the consumers could discourage consumers from making efforts to try to initiate disputes in the first place.
17. An act or practice is deceptive if it involves a material misrepresentation or omission that is likely to mislead consumers acting reasonably under the circumstances.
18. Information that is material to consumers is information that is likely to affect a consumer's conduct regarding the product or service. Express claims are presumptively material.
19. The information provided to Harbour's consumers described above is material because it was express and because it would likely affect a consumer's conduct regarding how to go about getting consumer-reporting errors resolved.

20. Therefore, Respondents engaged in deceptive acts and practices in violation of the CFPA. 12 U.S.C. § 5536(a)(1)(B).

Findings and Conclusions as to Violations of Regulation V and FCRA for Failing to Establish and Implement Required Policies and Procedures

21. Regulation V requires furnishers to “establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers that it furnishes to a consumer reporting agency.” 12 C.F.R. § 1022.42(a).
22. The policies and procedures must be appropriate to the nature, size, complexity, and scope of the furnisher’s activities and must consider the guidelines contained in Appendix E of the Furnisher Rule. 12 C.F.R. § 1022.42(a)-(b).
23. Appendix E includes guidance to: (1) establish and implement internal controls to ensure the accuracy and integrity of information furnished to consumer-reporting agencies about consumers; (2) train staff that furnish information; (3) provide appropriate and effective oversight of service providers; (4) delete, update, and correct information in the furnisher’s records, as appropriate, to avoid furnishing inaccurate information; (5) design appropriate technology to communicate with consumer-reporting agencies; and (6) conduct a periodic evaluation of its policies and procedures. 12 C.F.R. § 1022, Appendix E.

24. Appendix E also directs furnishers to consider “feedback received from consumer reporting agencies, consumers, or other appropriate parties.” 12 C.F.R. § 1022, Appendix E.
25. NAM has a Quality Control Manual, which contains a section relating to consumer reporting (the Policy).
26. In large part, the Policy summarizes some of FCRA and Regulation V’s requirements, and states that NAM’s servicing manager will conduct “routine FDCPA and FCRA refreshers and seminars.” The Policy does not delineate any specific guidance for complying with FCRA or Regulation V, nor does it lay out any processes regarding the accuracy and integrity of information furnished to consumer-reporting agencies other than stating the person to whom employees should address questions.
27. NAM did not provide adequate training for its staff. Consequently, consumers were, at times, misled about how to resolve consumer-reporting errors. NAM also did not update their policies and procedures in response to the consumer complaints—feedback from consumers discussed in Appendix E—that should have put NAM on notice that its credit reporting may have been inaccurate.
28. NAM therefore violated Regulation V by failing to establish and implement the required reasonable written policies and procedures. 12 C.F.R.

§ 1022.42(a)-(c).

ORDER

V.

Conduct Provisions

IT IS ORDERED, under §§ 1053 and 1055 of the CFPA, that:

29. Respondents and their officers, agents, servants, employees, and attorneys who have actual notice of this Consent Order, whether acting directly or indirectly, in connection with servicing a consumer-financial product or service may not misrepresent or assist others in misrepresenting, expressly or impliedly, how consumers can initiate disputes concerning their consumer reports.
30. Within 30 days of the Effective Date, NAM must establish and implement:
 - a. reasonable written policies and procedures regarding the accuracy and integrity of information that it furnishes to consumer-reporting agencies; and
 - b. a plan to review such policies and procedures periodically to update them as necessary to ensure their continued effectiveness.
31. Within 30 days of the Effective Date, Harbour must complete all steps necessary to register for the Bureau's Company Portal, including providing the information required at www.consumerfinance.gov/company-signup

and in the Bureau's Company Portal Boarding Form (OMB No. 3170-0054). Harbour and NAM, in connection with responding to consumer complaints and inquiries, whether acting directly or indirectly, are each subject to and may not violate § 1034(b) and (c) of the CFPA, 12 U.S.C. § 5534(b) and (c).

VI.

Compliance Plan

IT IS FURTHER ORDERED that:

32. Within 30 days of the Effective Date, NAM must submit to the Enforcement Director for review and determination of non-objection a comprehensive compliance plan designed to ensure that NAM's consumer-reporting policies and procedures comply with all applicable Federal consumer financial laws and the terms of this Consent Order (Compliance Plan). The Compliance Plan must include, at a minimum:
 - a. detailed steps for addressing each action required by this Consent Order; and
 - b. specific timeframes and deadlines for implementation of the steps described above.
33. The Enforcement Director will have the discretion to make a determination of non-objection to the Compliance Plan or direct NAM to revise it. If the

Enforcement Director directs NAM to revise the Compliance Plan, NAM must make the revisions and resubmit the Compliance Plan to the Enforcement Director within 15 days.

34. After receiving notification that the Enforcement Director has made a determination of non-objection to the Compliance Plan, NAM must implement and adhere to the steps, recommendations, deadlines, and timeframes outlined in the Compliance Plan.

VII.

Order to Pay Civil Money Penalties

IT IS FURTHER ORDERED that:

35. Under § 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law described in Section IV of this Consent Order, and taking into account the factors in 12 U.S.C. § 5565(c)(3), Harbour must pay a civil money penalty of \$25,000 to the Bureau.
36. Under § 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law described in Section IV of this Consent Order, and taking into account the factors in 12 U.S.C. § 5565(c)(3), NAA and NAM must pay a civil money penalty of \$10,000 to the Bureau. NAA and NAM are jointly and severally liable for this obligation. NAA and NAM may set forth each party's allocable share among themselves, but such agreement shall not be

binding on the Bureau.

37. Within 10 days of the Effective Date, Harbour must pay the applicable civil money penalty by wire transfer to the Bureau or to the Bureau's agent in compliance with the Bureau's wiring instructions. Within 10 days of the Effective Date or by July 3, 2020, whichever is later, NAA or NAM must pay the applicable civil money penalty by wire transfer to the Bureau or to the Bureau's agent in compliance with the Bureau's wiring instructions.
38. Each civil money penalty paid under this Consent Order will be deposited in the Civil Penalty Fund of the Bureau as required by § 1017(d) of the CFPA, 12 U.S.C. § 5497(d).
39. Each Respondent, for all purposes, must treat any civil money penalty paid under this Consent Order as a penalty paid to the government. Regardless of how the Bureau ultimately uses those funds, Respondents 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 Consent 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 Consent Order.

40. To preserve the deterrent effect of the civil money penalty in any Related Consumer Action, Respondents may not argue that Respondents are entitled to, nor may Respondents 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 a Respondent based on the civil money penalty paid in this action or based on any payment that the Bureau makes from the Civil Penalty Fund, that Respondent 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.

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

42. Respondents must relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law and no part of the funds may be returned to Respondents.
43. Under 31 U.S.C. § 7701, each Respondent, unless it already has done so, must furnish to the Bureau its taxpayer-identifying numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of this Consent Order.
44. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action, every Respondent to this Consent Order that was party to the Related Consumer Action must notify the Enforcement Director of the final judgment, consent order, or settlement in writing. That notification must indicate the amount of redress, if any, that Respondent 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.

VIII.

Reporting Requirements

IT IS FURTHER ORDERED that:

45. Respondents must notify the Bureau of any development that may affect compliance obligations arising under this Consent 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 Consent Order; the filing of any bankruptcy or insolvency proceeding by or against Respondent; or a change in the Respondent's name or address. The Respondent 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.

46. Within 7 days of the Effective Date, Harbour and NAM must each:
 - a. designate at least one telephone number and email, physical, and postal addresses as points of contact, that the Bureau may use to communicate with Respondent;
 - b. identify all businesses for which Respondent is the majority owner, or that Respondent directly or indirectly controls, by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; and
 - c. describe the activities of each such business, including the products and services offered, and the means of advertising, marketing, and sales.
47. Harbour and NAM must report any change in the information required to be submitted under Paragraph 46 at least 30 days before the change or as soon as practicable after the learning about the change, whichever is sooner.

48. Within 90 days of the Effective Date, and again one year after the Effective Date, Harbour must submit to the Enforcement Director an accurate written compliance progress report (Compliance Report), sworn to under penalty of perjury, which, at a minimum:
- a. lists each applicable paragraph and subparagraph of the Consent Order and describes in detail the manner and form in which Harbour has complied with each such paragraph and subparagraph of the Consent Order; and
 - b. attaches a copy of each Order Acknowledgment obtained under Section IX, unless previously submitted to the Bureau.
49. Within 90 days of the Effective Date and again one year after receiving notice of non-objection to the Compliance Plan, NAM must submit to the Enforcement Director an accurate written compliance progress report (Compliance Report), sworn to under penalty of perjury, which, at a minimum:
- a. lists each applicable paragraph and subparagraph of the Consent Order and describes in detail the manner and form in which NAM has complied with each such paragraph and subparagraph of the Consent Order;
 - b. describes in detail the manner and form in which NAM has complied with the Compliance Plan; and

- c. attaches a copy of each Order Acknowledgment obtained under Section IX, unless previously submitted to the Bureau.

IX.

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that:

- 50. Within 7 days of the Effective Date, each Respondent must submit to the Enforcement Director an acknowledgment of receipt of this Consent Order, sworn under penalty of perjury.
- 51. Within 30 days of the Effective Date, each Respondent must deliver a copy of this Consent Order to each of its executive officers, as well as to any managers, employees, service providers, or other agents and representatives who have responsibilities related to the subject matter of the Consent Order.
- 52. For 5 years from the Effective Date, each Respondent must deliver a copy of this Consent Order to any business entity resulting from any change in structure referred to in Section VIII, any future board members and executive officers, as well as to any managers, employees, service providers, or other agents and representatives who will have responsibilities related to the subject matter of the Consent Order before they assume their responsibilities.
- 53. Each Respondent must secure a signed and dated statement acknowledging

receipt of a copy of this Consent Order, ensuring that any electronic signatures comply with the requirements of the E-Sign Act, 15 U.S.C. § 7001 *et seq.*, within 30 days of delivery, from all persons receiving a copy of this Consent Order under this Section.

X.

Recordkeeping

IT IS FURTHER ORDERED that:

54. Each Respondent must create and retain the following business records:
 - a. all documents and records necessary to demonstrate full compliance with each provision of this Consent Order, including all submissions to the Bureau;
 - b. copies of all written policies and procedures, scripts, letter templates, and training materials, including any such materials used by a third party on a Respondent's behalf, related to communicating with consumers about consumer reporting;
 - c. all consumer complaints related to consumer reporting (whether received directly or indirectly, such as through a third party), and any responses to those complaints;
 - d. records showing, for each employee providing services related to consumer reporting, that person's name, telephone number, email,

- physical, and postal address, job title or position, dates of service, and, if applicable, the reason for termination; and
- e. records showing, for each service provider providing services related to consumer reporting, 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.
55. Each Respondent must make the documents identified in Paragraph 54 available to the Bureau upon the Bureau's request.

XI.

Notices

IT IS FURTHER ORDERED that:

56. Unless otherwise directed in writing by the Bureau, Respondents must provide all submissions, requests, communications, or other documents relating to this Consent Order in writing, with the subject line, "*In re Harbour Portfolio Advisors, LLC, et al.*, File No. 2020-BCFP-0004" and send them by overnight courier or first-class mail to the below address and contemporaneously by email to Enforcement_Compliance@cfpb.gov:

Assistant Director for Enforcement
Bureau of Consumer Financial Protection
ATTENTION: Office of Enforcement
1700 G Street, N.W.
Washington D.C. 20552

XII.

Compliance Monitoring

IT IS FURTHER ORDERED that:

57. Within 14 days of receipt of a written request from the Bureau, each Respondent must submit additional Compliance Reports or other requested non-privileged information, related to requirements of this Consent Order, which must be made under penalty of perjury; provide sworn testimony related to requirements of this Consent Order and Respondents' compliance with those requirements; or produce non-privileged documents related to requirements of this Consent Order and Respondents' compliance with those requirements.
58. Each Respondent must permit Bureau representatives to interview about the requirements of this Consent Order and Respondents' compliance with those requirements any employee or other person affiliated with any Respondent who has agreed to such an interview. The person interviewed may have counsel present.
59. Nothing in this Consent Order will limit the Bureau's lawful use of civil investigative demands under 12 C.F.R. § 1080.6 or other compulsory process.

XIII.

Modifications to Non-Material Requirements

IT IS FURTHER ORDERED that:

60. Any Respondent may seek a modification to non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) by submitting a written request to the Enforcement Director.
61. The Enforcement Director may, in his or her discretion, modify any non-material requirements of this Consent Order (*e.g.*, reasonable extensions of time and changes to reporting requirements) if the Enforcement Director determines good cause justifies the modification. Any such modification by the Enforcement Director must be in writing.

XIV.

Administrative Provisions

IT IS FURTHER ORDERED that:

62. The provisions of this Consent Order do not bar, estop, or otherwise prevent the Bureau from taking any other action against any Respondent, except as described in Paragraph 63. Further, for the avoidance of doubt, the provisions of this Consent Order do not bar, estop, or otherwise prevent any other person or governmental agency from taking any action against any

Respondent.

63. The Bureau releases and discharges Respondents from all potential liability for law violations that the Bureau has or might have asserted based on the practices described in Section IV of this Consent Order, to the extent such practices occurred before the Effective Date and the Bureau knows about them as of the Effective Date. The Bureau may use the practices described in this Consent Order in future enforcement actions against any Respondent and its affiliates, including, without limitation, to establish a pattern or practice of violations or the continuation of a pattern or practice of violations or to calculate the amount of any penalty. This release does not preclude or affect any right of the Bureau to determine and ensure compliance with the Consent Order, or to seek penalties for any violations of the Consent Order.
64. This Consent Order is intended to be, and will be construed as, a final Consent Order issued under § 1053 of the CFPA, 12 U.S.C. § 5563, and expressly does not form, and may not be construed to form, a contract binding the Bureau or the United States.
65. This Consent Order will terminate 5 years from the Effective Date. The Consent Order will remain effective and enforceable until such time, except to the extent that any provisions of this Consent Order have been amended, suspended, waived, or terminated in writing by the Bureau or its designated

agent.

66. Calculation of time limitations will run from the Effective Date and be based on calendar days, unless otherwise noted.
67. Should any Respondent seek to transfer or assign all or part of its operations that are subject to this Consent Order, that Respondent must, as a condition of sale, obtain the written agreement of the transferee or assignee to comply with all applicable provisions of this Consent Order.
68. The provisions of this Consent Order will be enforceable by the Bureau. For any violation of this Consent Order, the Bureau may impose the maximum amount of civil money penalties allowed under § 1055(c) of the CFPA, 12 U.S.C. § 5565(c). In connection with any attempt by the Bureau to enforce this Consent Order in federal district court, the Bureau may serve Respondents wherever Respondents may be found and Respondents may not contest that court's personal jurisdiction over Respondents.
69. This Consent Order and the accompanying Stipulations contain the complete agreement between the parties. The parties have made no promises, representations, or warranties other than what is contained in this Consent Order and the accompanying Stipulations. This Consent Order and the accompanying Stipulations supersede any prior oral or written communications, discussions, or understandings.

70. Nothing in this Consent Order or the accompanying Stipulations may be construed as allowing any Respondent, or its officers or employees to violate any law, rule, or regulation.

IT IS SO ORDERED, this 19th day of June, 2020.


Kathleen L. Kraninger
Director
Bureau of Consumer Financial Protection