

STATE OF NEW YORK BANKING DEPARTMENT

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In the Matter of

**SOMERSET INVESTORS CORP. d/b/a
SOMERSET MORTGAGE BANKERS**

SETTLEMENT AGREEMENT

**A Registered Mortgage Banker Pursuant To
Article XII-D of the New York Banking Law**

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This Settlement Agreement ("Agreement") is made and entered into by and between Somerset Investors Corp. d/b/a Somerset Mortgage Bankers ("Somerset") and the State of New York Banking Department ("Banking Department"), collectively ("the Settling Parties"), evidencing an agreement between the Settling Parties to resolve, without a hearing, the violations cited herein by Somerset of Parts 38 and 82 of the General Regulations of the Banking Board, 3 N.Y.C.R.R. Parts 38 and 82, and Section 226.24 of Regulation Z of the Truth in Lending Act, 12 C.F.R. Section 226.24, upon and subject to the terms and conditions hereof.

I.

RECITALS

1. Somerset, headquartered at 290 Broadhollow Road, Suite 310E, Melville, New York 11747 was granted a license by the Banking Department on April 16, 1992 to engage in the business of a mortgage banker pursuant to Article XII-D of the New York Banking Law ("Banking Law").

2. Section 44 of the Banking Law provides, in part, that the New York Superintendent of Banks (“Superintendent”) may, in a proceeding after notice and a hearing, require a registered mortgage banker to pay to the people of this State a penalty for a violation of the Banking Law and any regulation promulgated thereunder.

3. Part 38 Section 38.8 of the General Regulations of the Banking Board, provides that a mortgage banker may be subject to disciplinary action by the Banking Department for, among other things, violations of Article 12-D of the Banking Law, the regulations promulgated thereunder, or violations of state or federal law indicating that the entity is unfit to engage in the business of a mortgage banker.

4. Somerset placed advertisements for mortgage loans in the New York Daily News and New York Post on numerous occasions from April through October, 2007. Samples of the advertisements are annexed as Exhibit A.

Advertised Teaser Rates and Payments

5. Somerset’s advertisements typically offered loans of \$150,000 to \$1,000,000 with low monthly payments. For example, Somerset’s advertisement in the June 12, 2007 edition of the New York Post prominently represented that a person can borrow \$250,000 and pay only \$862.08 per month, \$750,000 and pay only \$2,588.40 per month, and \$1,000,000 and pay only \$3,451.20 per month. A similar advertisement in the New York Post on

September 10, 2007 represented that a person can borrow \$150,000 and pay only \$535.87 per month, \$250,000 and pay only \$893.11 per month and \$450,000 and pay only \$1,607.60 per month.

6. These advertisements fail to clearly and conspicuously disclose the actual terms of repayment of the loans, including that the advertised low interest rate and low monthly payments are subject to a substantial increase and do not last over the life of the loan. The fact that the rate is subject to change is disclosed only in small print at the bottom of the advertisement.

7. Although the advertisements state in small print that the advertised month payment amounts are based on a 5 year payment option loan and that there is potential for negative amortization if the borrower makes only the minimum monthly payment, the advertisements do not clearly and conspicuously disclose the significance of an option loan and the possible consequences of making only the minimum monthly payment under such a loan, including the risks of negative amortization, the loss of home equity, and the potential for an increase in principal owed, higher monthly payments and/or balloon payments.

8. As such, the advertisements violate Regulation Z under the Truth in Lending Act, Section 226.24(c), which provides: any advertisement stating the amount of any payment shall also state certain specific terms, including the amount or percentage of down payment and the terms of

9. Additionally, the advertisements violate the General Regulations of the Banking Board, Part 38.2(e) which provides that no mortgage banker shall fraudulently or deceitfully advertise a mortgage loan, or misrepresent the terms, conditions or charges incident to a mortgage loan in any advertisement therefor.

Other Advertised Terms

10. Somerset's advertisements also target borrowers with impaired credit. Advertisements include such representations as:

- "No Income/No Documentation,
- "Missed Payments ok"
- "400+ FICO
- "Our Credit Score didn't matter..."

11. These statements represent directly and by implication that all applicants, including those with bad credit, will have unqualified access to the credit advertised without disclosing what material limitations on the availability of credit may exist. In fact, "no income verification" and "no document verification" loans are not products that should be offered to all borrowers, particularly those with bad credit. Prudent underwriting requires a lender to more diligently verify and document a borrower's income and ability to repay when a borrower has bad credit and a higher level of credit risk.

12. Some of Somerset's advertisement also represent that

Somerset offers mortgage loans with “from 10 year to 50 year” terms. This violates the General Regulations of the Banking Board, Part 82.2(d), which, among other things, provides that the term of any mortgage loan given on a one-to-four family owner occupied residence shall not exceed forty years.

13. As such, Somerset’s advertisements violate the General Regulations of the Banking Board, Part 38.2(e), which provides in general that no mortgage banker shall fraudulently or deceitfully advertise a mortgage loan or misrepresent the terms, conditions or charges incident to a mortgage loan in any advertisement therefor and, in particular, in Part 38.2(e)(3), that an advertisement shall be deemed fraudulent, deceitful or misleading if it provides that an applicant will have unqualified access to credit without disclosing what material limitations on the availability of credit may exist.

II

SETTLEMENT TERMS AND CONDITIONS

Without admitting or denying the Department’s findings, Somerset is willing to resolve the violations cited herein by entering into this Agreement and freely and voluntarily waives its right to a hearing under Banking Law Section 595 on such violations. Therefore, in consideration of the promises and covenants set forth herein, the Settling Parties agree, as follows:

1. Somerset agrees to take all necessary steps to ensure its compliance with all applicable federal and state laws, regulations, and

supervisory requirements relating to its mortgage business, including, but not limited to:

- a. Complying with the requirements of the Federal Truth-In-Lending Act and Regulation Z , and Article 12-D of the Banking Law and Parts 38 and 82 of the General Regulations of the Banking Board; and
- b. ensuring that its advertisements do not mislead consumers as to the terms and conditions of credit it is offering and that such advertisements disclose clearly and conspicuously the existence of material terms, conditions, and limitations relating to any advertised offer of credit; and
- c. ensuring that its advertised offers of credit are consistent with prudent lending practices, as reflected in the Banking Department’s May 25, 2007 Industry Letter on Mortgage Lending Standards and its June 30, 2007 Industry Letter on Subprime Mortgage Lending (collectively, the “Guidance Letters”) ; and
- d. ensuring that when it advertises a subprime mortgage product or a nontraditional mortgage product (such as an “interest only” mortgage where a borrower pays no loan principal for the first few years of the loan or a “payment option” adjustable-rate mortgage where a borrower has flexible payment options with

the potential for negative amortization), it will provide clearly and conspicuously information about the costs, terms, features and risks of such loans; and

- e. ensuring that it will not advertise terms of credit using footnotes, asterisks, small print and color contrasts that materially contradict or modify the principal message of its advertisements, and will disclose clearly and conspicuously all material information; and
- f. ensuring that when it advertises an introductory rate or monthly payment amount that may subsequently increase it will disclose clearly and conspicuously: (i) how long the introductory rate is in effect, (ii) the reset or adjustment period, (iii) the maximum reset rate (if there is one); and (iv) if the advertisement contains a monthly payment amount at an introductory start rate, it also will disclose the terms of repayment over the full term of the loan, including the maximum monthly payment amount at the fully indexed rate (taking into consideration the expiration of any negative amortization or interest rate caps, or if there is no interest rate cap, a rate equal to any applicable margin on the loan plus the highest value recorded during the prior ten years for the index used to calculate the interest rate) and any balloon payment;

- g. ensuring that it does not advertise the availability of mortgage terms that exceed 40 years in violation of the General Regulations of the Banking Board, Part 82.2(d).

2. Somerset agrees to develop appropriate written advertisement policies and procedures designed to ensure compliance with all applicable federal and state laws, regulations, supervisory requirements and the Guidance Letters. The policies and procedures shall, at a minimum:

(i) designate an individual responsible for monitoring compliance with all applicable federal and state laws, regulations, supervisory requirements and the Guidance Letters; and (ii) establish a training program to ensure that Somerset and its employees involved in preparing or approving advertisements understand all applicable federal and state laws, regulations, supervisory requirements and the Guidance Letters.

3. Within ninety (90) days from the effective date of this Agreement, Somerset agrees to submit a draft of its advertisement policies and procedures to the Banking Department.

4. Within one hundred twenty (120) days from the effective date of this Agreement, Somerset agrees to submit a copy of its final advertisement policies and procedures to the Banking Department together with a letter from an authorized officer of Somerset indicating his/her approval of such policies and procedures. Somerset further agrees to provide copies of all advertisements run by it for the twelve (12) month period

5. Somerset agrees to pay a fine of \$ 7,500 payable in six equal monthly installments as follows:

- \$1,250 upon execution of this Agreement
- \$1,250 each on or before 15th day of immediately following five months.

6. Somerset further agrees that such payment will be made in immediately available funds in accordance with Banking Department payment instructions.

III.

MISCELLANEOUS TERMS AND CONDITIONS

7. The Settling Parties acknowledge that Somerset's failure to comply with any of the settlement terms and conditions of this Agreement may result in the Banking Department taking action to revoke Somerset's license to engage in the business of a mortgage banker under Article 12-D of the Banking Law.

8. The Settling Parties acknowledge that entering into this Agreement shall not bar, estop, or otherwise prevent the Superintendent, or any state, federal or local agency or department or any prosecutorial authority from taking any other action affecting Somerset, any of its current or former owners, officers, directors, employees, or insiders, or their successors

9. This Agreement may not be altered, modified or changed unless in writing signed by the Superintendent or his designee.

10. This Agreement shall be enforceable and remain in effect unless stayed or terminated in writing by the Superintendent or his designee.

11. This effective date of this Agreement is the date on which it is executed by the Deputy Superintendent of Banks for Mortgage Banking.

12. All written communications to the Banking Department regarding this Agreement should be sent as follows.

Attention:

Rholda L. Ricketts
Deputy Superintendent of Banks
Mortgage Banking Division
State of New York Banking Department
One State Street,
New York, New York 10004

13. All written communications to Somerset regarding this Agreement should be sent as follows.

Attention:

Mr. Randi Marcus
President
Somerset Investors Corp.
290 Broadhollow Road
Melville, NY 11747

14. This Agreement is not confidential; therefore it is available to the public.

WHEREFORE, the Settling Parties hereto have caused this Agreement to be executed.

By: _____

Randi Marcus, President
Somerset Investors Corp.

Dated: _____

By: _____

Rholda L. Ricketts
Deputy Superintendent of Banks
State of New York
Banking Department

Dated: _____