

State of New York
Banking Department

-----X
In the Matter of

**LEND-MOR MORTGAGE BANKERS CORP.
D/B/A LEND-MOR FUNDING
B500419**

SETTLEMENT AGREEMENT

A Licensed Mortgage Banker Pursuant To
Article XII-D of the New York Banking Law
-----X

This Settlement Agreement ("Agreement") is made and entered into by and between Lend-Mor Mortgage Bankers Corp. D/B/A Lend-Mor Funding ("Lend-Mor") 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 Lend-Mor of New York State General Business Law Article 22-A Sections 349 and 350, Part 38 of the General Regulations of the Banking Board ("GRBB") 3 N.Y.C.R.R. Part 38, and Section 5(a) of the Federal Trade Commission Act (Title 15 U.S.C. Section 45) upon and subject to the terms and conditions hereof.

I.

RECITALS

1. Lend-Mor, headquartered at 30 West Merrick Road, Valley Stream, New York, 11580 was granted a license by the Banking Department on January 11, 1995 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 (the “Superintendent”) may, in a proceeding after notice and a hearing, require a licensed 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. In June 2008, the Banking Department received a letter from a national bank (“ABC Bank 1”) that was addressed to Lend-Mor, in which ABC Bank 1 demanded that Lend-Mor cease and desist from issuing mail solicitations to consumers that imply that they are from ABC Bank 1.

5. Examiners from the Banking Department contacted Lend-Mor and discovered that Lend-Mor sent 11,500 mail solicitations (the “2008 solicitation”) to New York homeowners in 2008. A copy of the 2008 solicitation is annexed as Exhibit A.

6. By letter dated August 8, 2008, the Banking Department advised Lend-Mor that the 2008 mail solicitation violated Part 38.2(e) and advised Lend-Mor that violations of this nature are punishable by license/ registration suspension or revocation and fines of up to \$2,500 for each day during which such violation continues.

7. By letter dated September 4, 2008, Lend-Mor stated that they had discontinued sending out any further solicitations.

8. In January 2009, the Banking Department received a letter from a state-chartered bank (‘ABC Bank 2’) in which ABC Bank 2 states that Lend-Mor sent a mail solicitation to a consumer that it believes is fraudulent, deceitful, and misleading.

9. The Banking Department again contacted Lend-Mor and discovered that Lend-Mor sent 21,600 mail solicitations (the “2009 solicitation”) to New York homeowners in the first quarter of 2009. A copy of the 2009 solicitation is annexed as Exhibit B.

10. The contents of the 2008 solicitation and the 2009 solicitation (collectively, the “solicitation”) are substantially identical.

Misleading Statements

11. The solicitation prominently states “First Notice*”, “RE: ABC Bank”, and “Customer Reference # C-12345” in the space normally occupied by the name and address of the sender of the letter. Lend-Mor’s name is only included on the bottom of the page with no indication that Lend-Mor is the sender of the letter.

12. By failing to identify Lend-Mor as the advertiser and by substituting the phrase “First Notice*”, “RE: ABC Bank” “Customer Reference # C-12345” in the place for Lend-Mor’s legal name and address, the mail solicitation appears to be from the consumer’s mortgage lender, ABC Bank, when in fact, it is not.

13. The solicitation includes the statement “Because of your excellent payment record with ABC Bank your credit score has improved. We have been trying to contact you for some time. Unfortunately our attempts sometimes get confused with those of telemarketers”. The letter does not explain that the consumer is being contacted as part of Lend-Mor’s direct marketing efforts to sell mortgage products.

14. By stating that their telephone calls are being “confused with those of telemarketers”, consumers are misled to believe that Lend-Mor’s telephone calls and the mail solicitation are not from a company that is selling mortgage products using unsolicited telephone marketing calls, which in fact, is not true.

15. Accordingly, both solicitations violate GRBB Part 38 Section 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 therefore.

16. In addition, the solicitations violate Section 5(a) of the Federal Trade Commission Act (Title 15 U.S.C. Section 45), which prohibits unfair or deceptive acts or practices in or affecting commerce, New York State General Business Law Article 22-A Section 349 which declares deceptive practices unlawful, and Section 350, which declares false advertisement unlawful.

II

SETTLEMENT TERMS AND CONDITIONS

Without admitting or denying the Department's findings, Lend-Mor 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 Sections 44 and 598 on such violations. Therefore, in consideration of the promises and covenants set forth herein, the Settling Parties agree, as follows:

1. Lend-Mor 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 , Article 12-D of the New York Banking Law, and Part 38 of the General Regulations of the Banking Board; and
- b. ensuring that its advertisements and solicitations do not mislead consumers as to the identity of the entity making the offer or the nature of the offer. All advertisements and solicitations will clearly identify Lend-Mor as the source of the advertisement or solicitation; and
- c. 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

- d. 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.

2. Lend-Mor agrees to develop appropriate written advertisement policies and procedures designed to ensure compliance with all applicable federal and state laws, regulations, supervisory requirements, and guidelines. 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 guidelines; (ii) include a listing of all applicable laws, regulations, and truth in advertising guidelines; (iii) establish a mechanism for ensuring that all applicable laws, regulations, and truth in advertising guidelines are met; (iv) establish a training program to ensure that Lend-Mor and its employees involved in preparing or approving advertisements understand all applicable federal and state laws, regulations, and truth in advertising guidelines.

3. Within ninety (90) days from the effective date of this Agreement, Lend-Mor 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, Lend-Mor 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 Lend-Mor indicating his/her approval of such policies and procedures. Lend-Mor further agrees to provide copies of all advertisements run by it for the twelve (12) month period following the effective date of this Agreement.

5. Lend-Mor agrees to pay a fine of \$ 10,000 payable in ten equal monthly installments as follows:

- \$1,000 upon execution of this Agreement.
- \$1,000 on or before the 15th day of each of the immediately following nine months.

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

III.

MISCELLANEOUS TERMS AND CONDITIONS

1. The Settling Parties acknowledge that Lend-Mor '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 Lend-Mor 's license to engage in the business of a mortgage banker under Article 12-D of the Banking Law.

2. 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 Lend-Mor, any of its current or former owners, officers, directors, employees, or insiders, or their successors or assigns.

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

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

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

6. 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

7. All written communications to Lend-Mor regarding this Agreement should be sent as follows.

Attention:

Farhad Bokhour
Lend-Mor Mortgage Bankers Corp.
D/B/A Lend-Mor Funding
30 West Merrick Road
Valley Stream, NY 11580

8. 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: _____

Farhad Bokhour
Lend-Mor Mortgage Bankers Corp.
D/B/A Lend-Mor Funding

Dated: _____

By: _____

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

Dated: _____

First Notice*

RE: ~~Commercial Mortgage~~
Customer Reference # ~~101-10311~~

Handwritten initials
30 West Merrick Road
Valley Stream, NY 11580

Exhibit B

Attention: ~~Commercial Mortgage~~

Because of your excellent payment record with ~~Commercial Mortgage~~ your credit score has improved. We have been trying to reach you for some time. Unfortunately our attempts sometimes get confused with those of telemarketers. We urge you to contact our Mortgage Departments at the number below immediately. Because your credit score has improved you could now qualify for a low cost, 30 year fixed rate loan.

In ~~1997~~ you acquired a mortgage of ~~\$270,000~~ with a very high interest rate. With your improved credit score your new payment could be...

Your New 30 Year Fixed mortgage payment \$1,393.38 (4.50% / 5.00% APR)
Your New 30 Year Fixed payment with \$25,000 CASH OUT \$1,520.06 (4.50% / 5.00% APR)

After reviewing records we have found that your mortgage on your property located at ~~101-10311~~ is in good standing with ~~Commercial Mortgage~~. With your favorable credit history we can now offer you our fixed rate mortgage programs.

Please reference our 30 year fixed loan program. You can substantially reduce your mortgage payment and current interest rate, consolidate any debts and get cash out for any reason.

This is a time-sensitive matter, so please contact your assigned Mortgage Loan Consultant without delay.

Please provide your Customer Reference Number: 101-10311

Andrew Tucker
Senior Mortgage Consultant

Office 1-(888) 475-0001

Handwritten initials

Lead-Mor Mortgage Bankers Corp. 30 West Merrick Road, Valley Stream, NY 11580
Licensed by the Pennsylvania Department of Banking and New Jersey Department of Banking and Insurance.
Licensed by the State of Connecticut Department of Banking and Licensed Mortgage Banker: NYS Banking Department.

