

State of New York
Banking Department

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In the Matter of

**FIRST ROCHESTER MORTGAGE CORP. D/B/A
EASTCAP MORTGAGE
A003680**

SETTLEMENT AGREEMENT

A Registered Mortgage Broker 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 First Rochester Mortgage Corp. D/B/A eastcap mortgage; additional DBA(s): Uni-Source Funding; Centerpointe Mortgage ("First Rochester") 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 First Rochester of Part 38 of the General Regulations of the Banking Board ("GRBB"), 3 N.Y.C.R.R. Part 38, New York Banking Law Article 12-D, New York General Business Law Section 130, and New York Business Corporations Law Section 301, upon and subject to the terms and conditions hereof.

I.

RECITALS

1. First Rochester, headquartered at 2024 West Henrietta Road, Suite 2A Rochester, NY 14623 was granted a registration by the Banking Department on September 1, 1993 to engage in the business of a mortgage broker 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 registered mortgage broker 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 broker 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 broker.

4. On October 6, 2008, the Department received a request from First Rochester for approval from the Banking Department to use the name “eastcap mortgage” with the restricted word “mortgage” within this name.

5. On November 3, 2008, the Department approved First Rochester’s request to change its name from “First Rochester Mortgage Corp. D/B/A Additional DBA(s) Uni-Source Funding; Centerpointe Mortgage” to “First Rochester Mortgage Corp. D/B/A eastcap mortgage; additional DBA(s): Uni-Source Funding; Centerpointe Mortgage”

Unauthorized Use of Assumed Name and Restricted Word

6. Since November 1, 2007, First Rochester advertised its business using the name eastcap mortgage at www.eastcapmortgage.com (the “website advertisement”). A copy of the website advertisement is annexed as **Exhibit A**.

7. The website advertisement, www.eastcapmortgage.com, was created on November 1, 2007. The advertisement prominently states the name “eastcap mortgage” on the top of each webpage.

8. The website advertisement failed to state the name of the mortgage broker,

which was First Rochester Mortgage Corp., or any of the other approved assumed names. Further, prior to October 6, 2008, the Banking Department did not receive a request from, nor grant approval to First Rochester to use the name eastcap mortgage, with the restricted word “mortgage” within the name.

9. Accordingly, the website advertisement violated GRBB Part 38 Section 38.2(b) which provides that any advertisement by a mortgage broker in print or electronic media must indicate the name of the entity.

10. The website advertisement also violated New York Banking Law Article 12-D, Section 593-a which, in general, provides that a mortgage brokerage business cannot be conducted in a name other than that shown on the registration certificate.

11. The website advertisement also violated New York General Business Law Section 130.1(b) which provides in general that no one may carry on, conduct, or transact business in this state under any name or designation other than his or its real name without having filed with the Secretary of State a DBA certificate, and further provides that no corporation shall file a certificate for the use of any name that includes a term (such as “mortgage”) restricted under section 301(a) of the Business Corporation Law without having obtained any consents or approvals which would be required under the Business Corporation Law.

12. The website advertisement also violated New York Business Corporations Law Section 301(a)(5)(B), which in general prohibits the use of the word “mortgage” in the name of a corporation without receiving approval from the superintendent of banks.

Required Legend and Third Party Provider Statement

13. The website advertisement failed to include the legend “Registered Mortgage Broker-NYS Banking Department” and failed to contain a statement to the effect that the

mortgage broker arranges mortgage loans with third party providers.

14. Accordingly, the website advertisement violated GRBB Part 38 Section 38.2(a) which provides that no mortgage broker shall advertise its business in New York in print or electronic media without including the legend “Registered Mortgage Broker-NYS Banking Department.”

15. The website advertisement also violated GRBB Part 38 Section 38.2(d), which provides that any advertisement by a mortgage broker must contain a statement to the effect that the mortgage broker arranges mortgage loans with third party providers.

II

SETTLEMENT TERMS AND CONDITIONS

Without admitting or denying the Department’s findings, First Rochester 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. First Rochester 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 Banking Law, and Part 38 of the General Regulations of the Banking Board; and
 - b. clearly identifying itself by any of the names as stated on the certificate issued to First Rochester on any advertisement for credit in New York State; 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 or conditions of credit using footnotes, asterisks, small print and color contrasts that materially contradict or modify the principal message of its advertisements.

2. First Rochester agrees to develop appropriate written advertisement policies and procedures designed to ensure compliance with all applicable federal and state laws, regulations, supervisory requirements and guidance letters.

3. 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; and (iv) establish a training program to ensure that First Rochester and its employees involved in preparing or approving advertisements understand all applicable federal and state laws, regulations, supervisory requirements and guidance letters.

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

5. Within one hundred twenty (120) days from the effective date of this Agreement, First Rochester 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

First Rochester indicating his/her approval of such policies and procedures. First Rochester further agrees to provide copies of all advertisements run by it for the twelve (12) month period following the effective date of this Agreement.

6. First Rochester agrees to pay a fine of \$ 1,500. First Rochester 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 First Rochester '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 First Rochester's registration to engage in the business of a mortgage broker 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 First Rochester, any of its current or former owners, officers, directors, employees, or insiders, or their successors.

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 First Rochester regarding this Agreement should be sent as follows.

Attention:

Mr. Armando Capuano
First Rochester Mortgage Corp.
2024 West Henrietta Road, Suite 2A
Rochester, NY 14623

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: _____

Armando Capuano
First Rochester Mortgage Corp.

Dated: _____

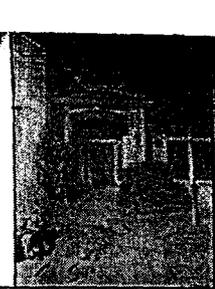
By: _____

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

Dated: _____



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We'll show you the shortest path to the Perfect Loan

eastcap mortgage is proud to be the Rochester area mortgage broker known for integrity and a sincere dedication to quality customer service. The timely, quality results we deliver to our customers are a direct result of the commitment to excellence that is the core value of our organization. Competitive interest rates, a wide variety of innovative loan programs, and a sincere dedication to the success of our customers are the keystones of eastcap mortgage.

Learn More

Some of the many mortgage products we offer are: conventional, fixed and adjustable rate mortgages, jumbos, SONYMA, no-income-no asset financing, FHA, VA and construction draw loans. In addition to providing money for single family homes, townhouses and condominiums, eastcap mortgage provides financing for two to four family residences, second homes and investment properties.

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