

State of New York
Banking Department

-----X
In the Matter of

**M.T.G. CAPITAL
IN LIEU OF ITS TRUE CORPORATE NAME
MORTGAGE CAPITAL ASSOCIATES, INC.
B500884**

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 M.T.G. Capital in lieu of its true corporate name Mortgage Capital Associates, Inc. ("M.T.G.") 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 M.T.G. 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, New York State General Business Law Article 22-A Sections 349 and 350, New York Business Corporation Law Section 301, 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. M.T.G., headquartered at 11150 West Olympic Boulevard, Suite 1160, West Los Angeles, CA, 90064, was granted a license by the Banking Department on

September 12, 2007 to engage in the business of a mortgage banker pursuant to Article 12-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. M.T.G. placed an advertisement promoting New York residential mortgages in the nycmortgage.com website on June 28, 2010. Sample of the advertisement is annexed as **Exhibit A**.

Unauthorized Use of Assumed Name and Restricted Words

5. On September 12, 2007, the Banking Department issued a license to M.T.G. under the name M.T.G. Capital in lieu of its true corporate name Mortgage Capital Associates, Inc.

6. The advertisement promoted New York residential mortgage business using the name Mortgage Capital Associates.

7. The advertisement failed to state the name of the licensed mortgage banker, which is “M.T.G. Capital”. Further, M.T.G., has not requested or received approval from the Banking Department to use the name Mortgage Capital Associates, and did not receive approval from the Banking Department to use the restricted word “mortgage”.

8. Therefore, the advertisement violates GRBB Part 38.2(b), which provides that any advertisement by a mortgage banker in print or electronic media must indicate the name and address of the entity.

9. The advertisement also violates General Business Law Section 130.1(b) which provides that no person or corporation shall carry on or conduct or transact business in this state under any name or designation other than his or its real name without filing a Certificate of Assumed Name with the Secretary of State.

10. The advertisement also violates New York Business Corporation Law Section 301(a)(5)(B), which provides that the name of a domestic or foreign corporation shall not contain the word "mortgage" without the prior approval of the Superintendent of Banks.

11. Additionally, the advertisement violates New York State General Business Law Article 22-A Section 349, which declares deceptive practices unlawful, and Section 350, which declares false advertisement unlawful.

APR Disclosure

12. The advertisement typically offers 30 year, 15 year, and 20 year mortgages with disclosure of the Annual Percentage Rate.

13. The advertisement stated a simple interest rate in bold font in conjunction with the APR, which is in regular font.

14. The advertisement failed to state the APR just as conspicuous as or more conspicuous than the simple interest rate.

15. Therefore, the advertisement violates Regulation Z under the Truth in Lending Act, Section 226.24(c), which provides that, where an advertisement for credit secured by a dwelling states a simple annual rate that is applied to an unpaid balance, it

may be stated in conjunction with, but not more conspicuously than the annual percentage rate.

Other Required Disclosures

16. The advertisement failed to disclose the legend “Licensed Mortgage Banker – NYS Banking Department”.

17. Therefore, the advertisement violates GRBB Part 38 Section 38.2(a) which requires that a mortgage banker advertisement in New York include the legend “Licensed Mortgage Banker – NYS Banking Department” or words to like effect.

18. The advertisement failed to state an address of M.T.G.

19. Therefore, the advertisement violates GRBB Part 38 Section 38.2(b), which provides that any advertisement by a mortgage banker in print or electronic media must indicate the name and address of the entity.

.II

SETTLEMENT TERMS AND CONDITIONS

Without admitting or denying the Department’s findings, M.T.G. 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. M.T.G. 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; and
- c. ensuring that it does not use or conduct business under any name or designation other than its real name or the name that is identified on its mortgage banking license; and
- d. ensuring that it does not use the word “mortgage” in its name without prior approval of the Superintendent; and
- e. clearly identifying itself by the name and address in New York State on any advertisement for credit; and
- f. 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
- g. 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. M.T.G. 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 M.T.G. 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, M.T.G. 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, M.T.G. 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 M.T.G. indicating his/her approval of such policies and procedures. M.T.G. further agrees to provide copies of all advertisements run by it for consumers in New York for the twelve (12) month period following the effective date of this Agreement.

5. M.T.G. agrees to pay a fine of \$ 5,000 payable in ten (10) equal monthly installments as follows:

- \$500 upon execution of this Agreement
- \$500 each on or before the 15th day of each of the immediately following nine (9) months.

6. M.T.G. 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 M.T.G.'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 M.T.G.'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 M.T.G., 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 M.T.G. regarding this Agreement should be sent as follows.

Attention:

Jay M. Steren
M.T.G. Capital in lieu of its true corporate name
Mortgage Capital Associates, Inc.
11150 West Olympic Boulevard, Suite 1160
West Los Angeles, CA 90064

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: _____

Jay M. Steren
M.T.G. Capital in lieu of its
true corporate name
Mortgage Capital Associates, Inc.

Dated: _____

By: _____

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

Dated: _____