

State of New York
Banking Department

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In the Matter of

Gardner G. Cummings

SETTLEMENT AGREEMENT

A Licensed Mortgage Loan Originator Pursuant To
Article XII-E of the New York Banking Law

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This Settlement Agreement ("Agreement") is made and entered into by and between Gardner G. Cummings 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 Gardner G. Cummings of Article 12-D of the State of New York Banking Law; Part 420 of the Superintendent's Regulations and Article 22 a Sections 130, 349 and 350 of the General Business Law -, upon and subject to the terms and conditions hereof.

I.

RECITALS

1. Gardner G. Cummings was employed by The Funding Store LLC. ("The Funding Store"), a mortgage broker, headquartered at 368 Broadway, Suite 12, Saratoga Springs, New York 12866 to engage in mortgage loan originator ("MLO") activities pursuant to Article XII-E 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 mortgage loan originator to pay to the people of this State a penalty for a violation of the Banking Law and any regulation promulgated there under.

3. Part 420 Section 420.21 of the Superintendent's Regulations provides that a fine may be imposed against a mortgage loan originator for any violation of the Banking Law, any regulation promulgated there under, any final or temporary order issued pursuant to Section 39 of the Banking Law, any condition imposed by the Superintendent or Banking Board in connection with the grant of any application or request or any written agreement entered into with the Superintendent.

4. During a review of the website www.esgmortgage.com, the Banking Department noted that Gardner G. Cummings was engaged in unlicensed mortgage loan origination activities at 368 Broadway, Suite #11, Saratoga Springs, New York, 12866 under the name of The Funding Store via website www.esgmortgage.com.

5. Additionally, while The Funding Store's name appears on the aforementioned website, it accepted mortgage loan applications under the name of "East Side Group, LLP", a regulated mortgage broker, previously associated with Gardner G. Cummings

6. However, neither Gardner G. Cummings nor The Funding Store is authorized to conduct mortgage loan origination activities at 368 Broadway, Suite #11, Saratoga Springs, New York, 12866 or use the name "East Side Group, LLP".

7. In addition, neither Gardner G. Cumming nor The Funding Store was authorized to use the website www.esgmortgage.com to conduct regulated mortgage activity in New York State.

8. Accordingly, as the owner and controller of the website, Gardner G. Cummings violated Article 12-D, Section 593-a (1) of the New York State Banking Law and Part 420 of the Superintendent's Regulations which prohibits a MLO from conducting business in a

name or at a location other than that shown on the mortgage loan originating entity's license, registration, or branch certificate.

9. Accordingly, Gardner G. Cummings violated Article 9-B, Section 130 of the New York General Business Law, which prohibits anyone from carrying on, conducting or transacting business in this state under any name or designation other than his or its real name without filing a certificate in the office of the secretary of state.

10. Additionally, by using the location 368 Broadway, Suite 11, Saratoga Springs, New York 12866 and "East Side Group LLP" on the website www.esgmortgage.com, Gardner G. Cummings mislead consumers into believing that he and The Funding Store LLC. were authorized to conduct New York regulated mortgage activities at this location and under the name of East Side Group LLP.

11. Accordingly, Gardner G. Cummings violated Article 22-A Section 349 and 350 of the New York General Business Law, which declares deceptive practices unlawful and prohibits false advertising.

II.

SETTLEMENT TERMS AND CONDITIONS

Without admitting or denying the Department's findings, Gardner G. Cummings is willing to resolve the violations cited herein by entering into this Agreement and freely and voluntarily waives his rights to a hearing under New York Banking Law Sections 44 and the Superintendent's Regulation Part 420.21 on such violations. Therefore, in consideration of the promises and covenants set forth herein, the Settling Parties agree, as follows:

1. Mr. Cummings shall not:

- a. Conduct or transact business in this state under any assumed name or designation or using any website, domain, or other name that has not been approved by the Superintendent;
 - b. Conduct or transact business in this state at an location that has not been approved by the Superintendent;
 - c. Engage in any transaction, practice, or course of business that is not in good faith or does not constitute fair dealing as required by the character and fitness requirements of Section 599-d of the Banking Law and Sections 592 and 592-a of the Banking Law;
 - d. Allow any individual or entity, regardless of whether such individual or entity is registered, or licensed pursuant to Article 12-D or 12-E of the Banking Law, to utilize his license or unique identifier to engage in mortgage loan originating activities;
 - e. Misrepresent his license status or represent that he is a licensed or registered with the Banking Department as a mortgage banker or broker; or
 - f. Publish, advertise or display his MLO license in any manner which implies that he is licensed or registered with the Banking Department to engage in mortgage loan originating activities as a mortgage banker or mortgage broker pursuant to Article 12-D of the Banking Law;
 - g. Engage in prohibited conduct outlined in Section 420.20 of the of the Superintendent's Regulations and Part 38 of the General Regulation of the Banking Board
2. Mr. Cummings agrees to take all necessary steps to ensure compliance with all applicable federal and state laws, regulations, and supervisory

requirements relating to mortgage loan origination activities, including, but not limited to:

- a. Complying with the continuing education requirements of Article 12-E Section 599-j of the New York State Banking Law; and
- b. Maintaining the required mortgage loan originator surety bond coverage in accordance with Section 599-k of the Banking Law and Section 420.15 of the Superintendent's Regulations.

3. Mr. Cummings agrees to pay a fine of \$2,500. Mr. Cummings further agrees that such payment will be made in immediately available funds in accordance with Banking Department payment instructions.

4. Mr. Cummings' mortgage origination activities will be subject to examinations semi annually for a twenty-four month period following the execution of this Agreement.

III.

MISCELLANEOUS TERMS AND CONDITIONS

1. 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 Gardner G. Cummings with respect to the violations cited herein, or any other matter whether related or not to such violations. .

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

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

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

5. 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

6. All written communications to The Funding Store regarding this Agreement should be sent as follows.

Attention:

Gardner G. Cummings
31 Concord Drive
Saratoga Springs, New York 12866

7. 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: _____

Gardner G. Cummings

Dated: _____

By: _____

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

Dated: _____