

New York State Department  
of Financial Services

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In the Matter of

**NFM, Consultants D/B/A NFM Lending  
In Lieu Of Its True Corporate Name  
NFM, Inc.  
B500851**

**SETTLEMENT AGREEMENT**

A Licensed 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 NFM, Consultants D/B/A NFM Lending in lieu of its true corporate name NFM, Inc. ("NFM" or the "Entity") and the New York State Department of Financial Services (the "Department" collectively with the Entity, the "Settling Parties") evidencing an agreement between the Settling Parties to resolve, without a hearing, violations of Part 38 of the General Regulations of the Superintendent (the "General Regulations"), Section 301(a)(5)(B) of the New York Business Corporation Law ("BCL"), and Article 12-D of the New York Banking Law (the "Banking Law"), cited herein by the Department, upon and subject to the terms and conditions hereof.

**I.**

**RECITALS**

1. The Entity, headquartered at 505 Progress Drive, Suites 100-115, Linthicum, MD 21090 was granted a license by the Department on February 21, 2006 to engage in business as a mortgage banker pursuant to Article 12-D of the Banking Law.

2. Sections 44 and 598 of the Banking Law provide, in part, that 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/or any regulation promulgated thereunder.

3. Section 38.8 of the General Regulations provides that a mortgage banker may be subject to disciplinary action by the 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.

### **Unauthorized Domain Name**

4. Pursuant to the Department's June 1, 2000 industry letter, the domain name of any website used by a licensee or a registrant to conduct mortgage banking or brokering activity qualifies as a business address.

5. The Entity used the domain name and website "nationalfidelitymortgage.net" to solicit New York regulated residential mortgages. A sample of the website is annexed as Exhibit A.

6. The Entity failed to obtain authorization to utilize the domain name "nationalfidelitymortgage.net" to conduct New York regulated mortgage business.

7. Accordingly, the Entity violated Section 591(3) of the Banking Law, which requires licensees to apply for and receive permission prior to using a specific business address.

### **Unauthorized Restricted Word Usage**

8. The Entity utilized the restricted word "mortgage" in the domain name "nationalfidelitymortgage.net."

9. The Entity failed to request or receive approval from the Department to use the restricted word or a derivative of the word “mortgage” in the domain name “nationalfidelitymortgage.net.”

10. Accordingly, the Entity did not comply with BCL Section 301(a)(5)(B), which prohibits the use of the word or a derivative of the word “mortgage” in the name of a corporation without receiving approval from the Superintendent.

### **Prohibited Conduct**

11. NFM created a subdomain name “loan.nfmlending.com” and allowed its licensed mortgage loan originators (“MLO”) to use the subsites of the subdomain name to solicit New York regulated mortgages.

12. Additionally, the subsites under each MLO’s name was structured to accept mortgage loan applications.

13. In effect, by allowing its MLOs to solicit New York regulated mortgages and accept applications using the subsites of loan.nfmlending.com, NFM created unauthorized business addresses to conduct mortgage loan activities in violation of Section 591(3) of the Banking Law, which requires licensees to apply for and receive permission prior to using a specific business address.

## II.

### SETTLEMENT TERMS AND CONDITIONS

NFM 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 with respect to the cited violations. Therefore, in consideration of the promises and covenants set forth herein:

1. The Entity 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 Article 12-D of the Banking Law, and Part 38 of the General Regulations;
- b. not conducting or transacting business in this state under any name, assumed name or designation using any website, domain, or other name that has not been approved by the Superintendent; and
- c. not allowing its licensed MLOs to solicit New York regulated mortgage loans or take applications using the Entity's domain names, subdomain names and websites, when the domain names were not authorized by the Department.

2. The Entity agrees to review and enhance where advisable its written advertising policies and procedures in order to ensure compliance with all applicable federal and state laws, regulations, supervisory requirements and 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 guidance letters; and (ii) establish a training program to ensure that the Entity and its MLO and non-MLO employees understand all applicable federal and state laws, regulations, supervisory requirements and guidance letters.

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

4. Within thirty (30) days of receipt of non-objection or any comments from the Department, and after incorporation and adoption of all comments, the Entity agrees to submit a copy of its final advertisement policies and procedures to the Department together with a letter from an authorized officer of the Entity indicating his/her approval of such advertisement policies and procedures.

5. The Entity agrees to pay a fine of \$ 7,500.

6. The Entity further agrees that such payment will be made in immediately available funds in accordance with the Department's payment instructions.

### **III.**

#### **MISCELLANEOUS TERMS AND CONDITIONS**

1. NFM acknowledges that its failure to comply with any of the settlement terms and conditions of this Agreement may result in the Department taking administrative action against the Entity's license to engage in the business of a mortgage banker under Article 12-D of the Banking Law, including revocation of its license.

2. The Entity acknowledges 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 the Entity,

any of its current or former owners, officers, directors, employees, or insiders, or their successors or assigns with respect to any other matter or matters whether related or not to the violations cited herein.

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.

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

Attention:

Rholda L. Ricketts  
Deputy Superintendent  
New York State Department of Financial Services  
One State Street,  
New York, New York 10004

7. All written communications to the Entity regarding this Agreement should be sent as follows.

Attention:

Moses David Silverman  
Chief Executive Officer  
NFM, Consultants D/B/A NFM Lending  
in lieu of its true corporate name NFM, Inc.  
505 Progress Drive, Suites 100-115  
Linthicum, MD 21090

8. This Agreement is not confidential, and each of the Settling Parties understands that it is available to the public.

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

NFM, Consultants D/B/A NFM Lending  
in lieu of its true corporate name NFM, Inc.

By: \_\_\_\_\_

Moses David Silverman  
Chief Executive Officer

Dated: \_\_\_\_\_

New York State Department of Financial Services

By: \_\_\_\_\_

Rholda L. Ricketts  
Deputy Superintendent

Dated: \_\_\_\_\_