

New York State Department  
of Financial Services

-----X

In the Matter of

**MITCHELL FUNDING OF VALLEY STREAM INC.  
A003427**

**SETTLEMENT AGREEMENT**

A Registered Mortgage Broker Pursuant To  
Article XII-D of the New York Banking Law

-----X

This Settlement Agreement ("Agreement") is made and entered into by and between Mitchell Funding of Valley Stream Inc. ("Mitchell Funding") and the New York State Department of Financial Services (the "Department" collectively, with Mitchell Funding, the "Settling Parties") evidencing an agreement between the Settling Parties to resolve, without a hearing, the violation of Article 12-D of the New York Banking Law ("Banking Law"), upon and subject to the terms and conditions hereof.

**I.**

**RECITALS**

1. Mitchell Funding, headquartered at 20 West Lincoln Avenue, Suite 307, Valley Stream, NY 11580, was granted a registration by the Department on June 12, 1992 to engage in business as a mortgage broker pursuant to Article 12-D of the Banking Law.

2. Section 44 of the Banking Law provides, in part, that 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. Section 38.8 of the General Regulations provides that a mortgage broker

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 broker.

### **Unauthorized Domain Names**

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. Mitchell Funding used the domain names and websites "mitchellfundingmortgages.com" and "valleystreamhomemortgageloan.com" to promote and solicit residential mortgage loans relating to properties in New York State. A sample of each website is annexed as Exhibit A and Exhibit B, respectively.

6. Mitchell Funding failed to obtain authorization to utilize the domain names and websites "mitchellfundingmortgages.com" and "valleystreamhomemortgageloan.com" to promote and solicit residential mortgage loans relating to properties in New York State.

7. Accordingly, Mitchell Funding violated Section 591-a(2) of the Banking Law, which requires registrants to apply for and receive permission prior to using a specific business address.

## **II**

### **SETTLEMENT TERMS AND CONDITIONS**

Mitchell Funding is willing to resolve the violation 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:

1. Mitchell Funding 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; and
- 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.

2. Mitchell Funding 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. The advertisement 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 Mitchell Funding and its employees involved in loan origination 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, Mitchell Funding agrees to submit a draft of its advertisement policies and procedures to the Department for review.

4. Within thirty (30) days of receipt of non-objection or any comments from the

Department, and after incorporation and adoption of all comments, Mitchell Funding agrees to submit a copy of its final advertisement policies and procedures to the Department together with a letter from an authorized officer of Mitchell Funding indicating his/her approval of such advertisement policies and procedures.

5. Mitchell Funding agrees to pay a fine of \$ 7,500 payable in twelve (12) equal monthly installments as follows:

- \$625 upon execution of this Agreement, and
- \$625 each on or before the 15<sup>th</sup> day of each consecutive month for the following eleven (11) months.

6. Mitchell Funding 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. Mitchell Funding acknowledges that its failure to comply with any of the settlement terms and conditions of this Agreement may result in the Department taking action to revoke Mitchell Funding's registration to engage in the business of a mortgage broker under Article 12-D of the Banking Law.

2. Mitchell Funding 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 Mitchell Funding, any of its current or former owners, officers, directors, employees, or insiders, or their successors or assigns with respect to the violations cited herein, or any other matter

whether related or not to such violations.

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

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

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

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 Mitchell Funding regarding this Agreement should be sent as follows.

Attention:

Donna M. Mitchell  
President  
Mitchell Funding of Valley Stream Inc.  
20 West Lincoln Avenue, Suite 307  
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.

Mitchell Funding of Valley Stream Inc.

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

Donna M. Mitchell  
President

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

New York State Department of Financial Services

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

Rholda L. Ricketts  
Deputy Superintendent

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