

NEW YORK STATE DEPARTMENT
OF FINANCIAL SERVICES

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In the Matter of

Superior Mortgage Co., Inc.
A000043

SETTLEMENT AGREEMENT

A Licensed 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 Superior Mortgage Co., Inc. ("Superior") and the New York State Department of Financial Services (the "Department" and collectively with Superior, the "Settling Parties") evidencing an agreement between the Settling Parties to resolve, without a hearing, the violations by Superior of Parts 410 and 420 of the Superintendent's Regulations and Section 380-b of the New York General Business Law (Fair Credit Reporting Act), upon and subject to the terms and conditions hereof.

I.

RECITALS

1. Superior headquartered at 578 Route 32, Highland Mills, New York 10930, was granted a registration by the Department on April 29, 1987 to engage in business as a mortgage broker pursuant to Article 12-D of the Banking Law.

2. Sections 44 and 598 of the Banking Law provide, in part, that the Superintendent of Financial Services may, in a proceeding after notice and a hearing, require a licensed mortgage broker to pay to the people of this State a penalty for any violation of the Banking Law and/or regulation promulgated thereunder.

3. Section 38.8 of the General Regulation of the Superintendent provides that a mortgage broker may be subject to disciplinary action by the Department for, among other things, violations of Articles 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. The Department conducted an examination of Superior's mortgage business activities as of close of business December 31, 2015 (the "2015 Examination"), which disclosed a number of violations and deficiencies of state and federal laws and regulations.

Failure to Maintain an Accurate Application Log

5. Section 410.7(a) of the Superintendent's Regulations requires that every mortgage broker keep its books and records in a manner that will allow the Superintendent to determine whether the mortgage broker is complying with Article 12-D of the Banking Law.

6. During the 2015 Examination, the Department discovered that in a number of instances, Superior's application log failed to include accurate loan application dates, loan amounts, loan officers names and disposition dates.

7. Accordingly, the Department determined that Superior violated Sections 410.7(a)(4)(i) and (vii) of the Superintendent's Regulations, which require every mortgage broker to establish and maintain a log, which include among other things, the date the application was received and the date of final disposition of the application, as part of its daily updated log.

Failure to Maintain HUD-1 Copies

8. Additionally, Section 410.7(f) of the Superintendent's Regulations requires each mortgage broker to maintain a copy of the HUD-1 in each loan file.

9. A review of 88 loan files also revealed that in at least 5 cases the signed page of the

HUD-1 or the Closing Disclosure, as applicable, was missing from the loan files.

10. Accordingly, the Department has determined that Superior violated Section 410.7(f) of the Superintendent's Regulations.

Failure to Adequately Monitor and Supervise Its MLO's Loan Originating Activities

11. The Department has determined that during 2015, a mortgage loan originator ("MLO") employed by Superior maintained a surety bond in an amount of \$50,000.00.

12. Based on the dollar amount of loans originated by this individual in 2014, the MLO was required to maintain a surety bond in an amount of \$75,000.00.

13. The Department has determined that the failure to maintain the required penal amount of individual surety bond coverage violated 3 NYCRR Section 420.15(b) for the time period in question.

14. Accordingly, the Department has concluded that Superior by failing to monitor its MLO to ensure that this individual maintained the required bond amount in compliance with the Department's Regulations, has violated Part 420.18(a)(2) of the Superintendent's Regulations, which requires a registrant to determine that as a condition of employment, the MLOs working for the firm have the fitness to "engage in mortgage loan originating honestly, fairly and efficiently."

Failure to Provide Proper Disclosures

15. A review of 88 loan files revealed that Superior failed to provide the Fair Credit Reporting Act disclosure to 11 applicants prior to ordering credit reports.

16. Accordingly, the Department has determined that Superior violated Section 380-b(b) of the New York General Business Law (NY Fair Credit Reporting Act), which provides, *inter alia*, that no persons shall request a consumer report unless the applicant is first informed in

writing or in the same manner in which the application is made, of certain prescribed information, including that a credit report would be requested.

II.

SETTLEMENT TERMS AND CONDITIONS

Superior 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:

1. Superior 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 provisions of Parts 410 and 420 of the Superintendent's Regulations;
- b. maintaining an updated application log with all required information;
- c. ensuring adequate surety bond coverage for its MLOs;
- d. complying with Section 380-b(b) of the New York General Business Law and informing applicants prior to ordering a credit report of their rights and maintain a copy of such disclosure in their loan files.

2. Superior agrees to develop written compliance policies and procedures ("Compliance P&P"), designed to ensure compliance with all applicable federal and state laws, regulations, supervisory requirements and guidance letters. If it already has developed Compliance P&P, it is required to review and update them so that they address the aforementioned concerns. The Compliance P&P 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 Superior and its MLO and non-MLO employees understand all applicable federal and state laws, regulations, supervisory requirements and guidance letters.

3. Superior agrees to pay a fine of \$2,500 upon execution of this Agreement.

4. Superior 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. Superior 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 Superior's registration to engage in the business of a mortgage broker under Article 12-D of the Banking Law.

2. Superior 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 Superior, 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 or matters 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 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 Superior regarding this Agreement should be sent as follows.

Attention:

Lisa Ferrara
President
Superior Mortgage Co., Inc.
578 Route 32
Highland Mills, NY 10930

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.

Superior Mortgage Co., Inc.

By:

Lisa Ferrara
President

Dated: _____ / S / _____

New York State Department of Financial Services

By: _____

Rholda L. Ricketts
Deputy Superintendent

Dated: _____ / S / _____