

New York State Department
of Financial Services

EXECUTED

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In the Matter of

**APPROVED CREDIT SERVICES, INC.
A004050**

SETTLEMENT AGREEMENT

A Registered Mortgage Broker Pursuant To
Article 12-D of the New York Banking Law
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This Settlement Agreement ("Agreement") is made and entered into by and between Approved Credit Services, Inc. ("ACSI") and the New York State Department of Financial Services (the "Department"), and collectively, with ACSI, (the "Parties") to address the violations of Article 12-D of the New York Banking Law ("Banking Law"), Section 591 and Part 38 of the General Regulations of the Superintendent and Parts 410 and 420 of the Superintendent's Regulations.

I.

RECITALS

1. ACSI, headquartered at 2572 Erie Blvd, East Syracuse, New York 13224 was granted a registration by the Department on August 23, 1995 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 ("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. Part 38.8 of the General Regulations of the Superintendent 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.

4. The Department conducted an examination of ACSI's mortgage brokering activities on December 31, 2015 (the "2015 Examination") which disclosed several violations and deficiencies with respect to federal, state laws and regulations as follows:

Failure to Provide the Required Pre-Application Disclosures

5. Pursuant to Part 38.3(a)(1)(vii)(b) of the General Regulations of the Superintendent, a mortgage broker is required to disclose to the applicant in writing or via electronic media, prior to taking an application, the maximum of any fees or points to be paid by the applicant directly to the mortgage broker.

6. A review of ACSI files revealed that ACSI failed to disclose the broker fees to borrowers for 11 mortgage loans prior to taking their applications. Accordingly, ACSI violated Part 38.3(a)(1)(vii)(b) of the General Regulations of the Superintendent.

Unauthorized Domain Name

7. Pursuant to the Department's June 1, 2000 industry letter, the domain name of any website used to conduct mortgage banking activity qualifies as a business address. As such, all domain names of websites require approval prior to usage.

8. The Department has determined that during a period including August 2013, ACSI used the domain name and website, www.approvedcreditny.com, to conduct New York

regulated mortgage activities. The Department's records reveal that ACSI never received approval from the Department to utilize the aforementioned domain name and website to conduct mortgage loan activities relating to properties located in this State. Accordingly, ACSI violated Section 591-a(2) Banking Law which requires a registrant to apply for and receive permission prior to opening and maintaining a specific business address.

Failure to Properly Maintain Books and Records

9. Part 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.

10. During the 2015 Examination, the Department discovered that, in a number of instances, ACSI did not separate the documents for denied and withdrawn applications from approved loans. Documents for denied and withdrawn applications were not maintained as separate files.

11. Accordingly, the Department determined that ACSI violated Part 410.7(a)(1) of the Superintendent's Regulations, which requires a mortgage broker to maintain all rejected mortgage application files which shall contain all documentation relating to the applications.

Failure to Maintain HUD-1 Copies

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

13. A review of 11 loan files also revealed that in at least 9 cases the HUD-1 Settlement Statement was either incomplete or missing from the loan files.

14. Accordingly, the Department has determined that ACSI violated Part 410.7(f) of the

Superintendent's Regulations.

Failure to Maintain Adequate Surety Bond Coverage

15. Part 410.14(a) of the Superintendent's Regulations requires a mortgage broker to maintain adequate surety bond coverage based on its volume of business. Based on the number of application taken in 2012, ACSI was required to maintain a corporate surety bond in an amount of \$75,000. However, ACSI maintained the corporate surety bond in an amount of \$10,000.

16. Accordingly, ACSI violated Part 410.14(a) of the Superintendent's Regulations.

17. Part 420.15(a) of the Superintendent's Regulations requires each Mortgage Loan Originator to maintain a surety bond in accordance with Section 599-k of the Banking Law. In accordance, Part 420.15(b) sets forth the required penal amount of the surety bond to be maintained based on the dollar amount of loans originated.

18. The Department, as a result of the 2015 Examination, determined that Mr. Kousmanidis, who is the President as well as the sole Loan Officer of ASCI, maintained a surety bond in an amount of \$10,000 in 2013 and 2014 respectively.

19. Based on the dollar amount of loans originated by Mr. Kousmanidis in 2013 and 2014, he was required to maintain a surety bond of \$15,000.

20. The Department has determined that the failure to maintain the required penal amount of individual surety bond coverage violated Part 420.15(b) of the Superintendent's Regulations for the time period in question.

II.

SETTLEMENT TERMS AND CONDITIONS

IT IS HEREBY UNDERSTOOD AND AGREED by Registrant and All subsidiaries, affiliates, successors, assigns, agents, representatives and employees, that:

1. ACSI is willing to resolve the violations cited herein by entering into this Agreement and freely and voluntarily waives its right to a hearing under Section 44 of the Banking Law and appeal on such violations.

2. ACSI 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, Part 38 of the General Regulations of the Superintendent, and Parts 410 and 420 of the Superintendent's Regulations;
- b. ensuring that ACSI does not conduct or transact a New York State regulated mortgage brokering business using any website, domain, or other name that has not been approved by the Superintendent; and
- c. ensuring that all documents, books and records for loans secured by 1-4 four family residential property located in New York are accurately maintained and preserved for inspection in compliance with the provisions of applicable laws and regulations. For the purpose of this Agreement, books and records include without limitation paper and electronic records, financial statements and account ledgers.

3. ACSI agrees to develop and implement a Compliance Management Program

("CMP"), designed to ensure compliance with all applicable federal and state laws, regulations, supervisory requirements and guidance letters. The CMP shall, at a minimum: (i) include an enterprise wide risk assessment that adequately identify the inherent risks throughout ACSI's operations; (ii) designate an individual responsible for monitoring compliance with all applicable federal and state laws, regulations, supervisory requirements and guidance letters; and (iii) establish a training program to ensure that ACSI employees are knowledgeable about applicable laws and regulations, supervisory requirements and guidance letters and ACSI's internal policies and procedures governing its mortgage loan origination activities.

4. No later than ten (10) days after the effective date of this Agreement, ACSI shall pay a penalty of \$10,000 to the Department. The payment shall be made by wire transfer in accordance with the Department's payment instructions.

5. Neither ACSI, nor any of its parents, subsidiaries, or affiliates shall, collectively or individually, seek or accept, directly or indirectly, reimbursement or indemnification, including but not limited, to payment made pursuant to any insurance policy, or from any of its parents, subsidiaries, or affiliates, with regard to any or all of the amount payable pursuant to this Agreement.

6. ACSI agrees that it will not claim, assert, or apply for a tax deduction or tax credit with regard to any U.S. federal, state or local tax, directly or indirectly, for any portion of the penalty paid pursuant to this Agreement.

III.

MISCELLANEOUS TERMS AND CONDITIONS

1. ACSI 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 suspend or revoke ACSI's registration to engage in the business of a mortgage broker under Article 12-D of the Banking Law.

2. The Superintendent has agreed to the terms of this Agreement based on the representations made to the Department, or the written materials submitted to the Department, by ACSI – either directly or through its counsel – and the Department's findings. To the extent that the written representations or written submissions, made by ACSI to the Department – either directly or through its counsel – are later found to be materially incomplete or inaccurate, this Agreement is voidable by the Superintendent in her sole discretion.

3. Upon the request of the Department, ACSI shall provide all documentation and information necessary for the Departments to verify full compliance with this Agreement.

4. ACSI represents and warrants, through the signature below, that the terms and conditions of this Agreement were duly approved, and execution is duly authorized.

5. This Agreement and any dispute thereunder shall be governed by the laws of the State of New York without regard to any conflict of law principles.

6. ACSI waives all rights to further notice and hearing in this matter as to any allegations of past violations up to and including the effective date of this Agreement and agrees that no provision of the Agreement is subject to review in any court or tribunal outside of the Department.

7. In the event that one or more provisions contained in this Agreement shall for any reason be held invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or

unenforceability shall not affect any other provision of this Agreement.

8. ACSI 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, or additional, action affecting ACSI, or 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 relating or not to such violations.

9. This Agreement may not be altered, modified or changed unless in writing signed on behalf of all parties to this Agreement.

10. This Agreement shall be enforceable and remain in effect until stayed, modified, suspended or terminated in writing by the Superintendent.

11. This Agreement may be executed in one or more counterparts, and shall become effective when such counterparts have been signed by each of the parties hereto and So Ordered by the Superintendent or her designee.

12. All notices, reports, requests, and other communications to any party pursuant to this Agreement shall be in writing and shall be directed as follows:

Attention:

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

13. All written communications to ACSI regarding this Agreement should be sent as follows:

Attention:

Bill Kousmanidis
President
Approved Credit Services, Inc.
2572 Erie Blvd.
East Syracuse, NY 13224

14. This Agreement is not confidential; therefore, it is available to the public.

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

Approved Credit Services, Inc.

By: _____ / S / _____

Bill Kousmanidis
President

Dated: _____

New York State Department of Financial Services

By: _____ / S / _____

Rholda L. Ricketts
Deputy Superintendent

Dated: _____