

NEW YORK STATE DEPARTMENT
OF FINANCIAL SERVICES

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In the Matter of

JASON A. BERG (NMLS # 220661)

SETTLEMENT AGREEMENT

A Registered 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 Jason A. Berg and the State of New York Department of Financial Services ("Department of Financial Services "), collectively the ("Settling Parties"), evidencing an agreement between the Settling Parties to resolve, without a hearing, the violations cited herein by Jason A. Berg of New York State Banking Law Article 12-D, and Part 420.20 (a) (4) of the Superintendent's Regulations, upon and subject to the terms and conditions hereof.

I.

RECITALS

1. The State of New Jersey approved Jason A. Berg as branch manager for Odyssey Funding, LLC's branch located at 241 Hudson Street, Suite C, Hackensack, NJ 07601 in January 2011. The branch was authorized by the Department on June 27, 2011. Mr. Berg was approved as an MLO by the State of New Jersey on December 30, 2010 and approved conditionally by the State of New York on May 13, 2011.

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 licensed mortgage loan originator to pay to the people of this State a penalty for a violation of the Banking Law and any regulation promulgated thereunder.

3. Part 39 Section 38.8 of the General Regulations of the Banking Board, provides that a mortgage banker or 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. According to Odyssey Funding President Kahan, the website www.safermortgages.com was operational in October 2010 as soon as the State of New Jersey granted its approval. This website was reviewed for Department authorization in July 2011. This website proclaimed we are “One of the Premier Direct Lenders for Jumbo, Conventional and FHA Mortgage loans in Nassau County, Brooklyn, and Manhattan, Odyssey Funding LLC has opened an office in Hackensack, NJ, the heart of Bergen County.” Therefore, Odyssey Funding was soliciting regulated New York mortgage business before the authorization of its website or approval of the branch, but has failed to produce an applications log.

5. Our records reflect that Jason A. Berg is not authorized to conduct New York regulated mortgage activities using the website www.safermortgages.com or through the unlicensed branch at 241 Hudson Street, Hackensack, NJ.

6. In addition, we noted that the website www.safermortgages.com contains a link to a newsletter specifically designed to advertise and promote MLO Jason A. Berg. In fact, the newsletter invites readers to “View My Website” and, when clicked, the online reader of the newsletter is taken back to www.safermortgages.com. While Mr. Berg’s name is prominently placed in the newsletter, it is not mentioned that Odyssey Funding is licensed as a mortgage banker by the NYS Department of Financial Services.

7. As a result, Mr. Berg is in violation of Part 420.20(a)(4) of the Superintendent's Regulations which states in part that MLOs shall "...not publish, advertise or display his or her MLO authorization in any manner which implies that the MLO is licensed with the State of New York Department of Financial Services to engage in mortgage loans originating activities as a mortgage banker..."

II.

SETTLEMENT TERMS AND CONDITIONS

1. Compliance with Laws and Regulations. Jason A. Berg will adopt policies and procedures designed to ensure compliance with all applicable federal and state laws, regulations, and supervisory requirements relating to his MLO license, including, but not limited to, the following federal and state laws and regulations:

- a. Complying with the advertising requirements of Article 12-D and 12-E of the New York Banking Law, Part 420 of the Superintendent's Regulations, and Part 38 of the General Regulations;
- b. Ensuring that all advertisements and websites utilized by Jason A. Berg comply with the advertising requirements of Part 38.2;
- c. Ensuring that he does not use or conduct business under any name or designation other than his real name or the name that is identified on his MLO license; and
- d. Clearly identifies himself by the name and address in New York State on any advertisement for credit.

2. Jason A. Berg shall not use a website that has not been approved by the Superintendent or transact business in this state at any location that has not been approved by the Superintendent;

3. Jason A. Berg agrees to pay a fine of \$5,000 payable in ten (10) installments as follows:

- \$500 upon execution of this agreement and
- \$500 on or before the 15th day of the (11) successive months.

Jason A. Berg further agrees that such payment will be made in immediately available funds in accordance with Department of Financial Services payment instructions.

4. In conjunction with his employer, Odyssey Funding, Jason A. Berg agrees to develop appropriate written advertisement policies and procedures designed to ensure compliance with all applicable federal and state laws, regulations, supervisory requirements, and guidelines. 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 guidelines; (ii) include a listing of all applicable laws, regulations, and truth in advertising guidelines; (iii) establish a mechanism for ensuring that all applicable laws, regulations, and truth in advertising guidelines are met; (iv) attend training programs to ensure that Jason A. Berg is well versed in preparing or approving advertisements and understands all applicable federal and state laws, regulations, and truth in advertising guidelines.

III.

MISCELLANEOUS TERMS AND CONDITIONS

1. Jason A. Berg acknowledges that his failure to comply with any of the settlement terms and conditions of this Agreement may result in the Department of Financial Services taking action to revoke Jason A. Berg's registration to engage in the business of a mortgage loan originator under Article 12-E of the Banking Law.

2. Jason A. Berg 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 Jason A. Berg, 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 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 of Financial Services regarding this Agreement should be sent as follows.

Attention:

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

7. All written communications to Jason A. Berg regarding this Agreement should be sent as follows.

Attention:

Jason A. Berg
1118 Lambert Road
Teaneck, NJ 07666

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.

By: _____

Jason A. Berg
Mortgage Loan Originator

Dated: _____

By: _____

Rhoda L. Ricketts
Deputy Superintendent of Banks
State of New York Department of Financial
Services

Dated: _____