

New York State
Department of Financial Services

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In the Matter of

Commonfund Mortgage Corp.
B500128
A Licensed Mortgage Banker Pursuant to
Article 12-D of the New York Banking Law

SETTLEMENT AGREEMENT

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This Settlement Agreement (“Agreement”) is made and entered into by and between Commonfund Mortgage Corp. (“Commonfund” or the “Licensee”) and the New York State Department of Financial Services (the “Department” and collectively with Commonfund, the “Settling Parties”) evidencing an agreement between the Settling Parties to resolve, without a hearing, the violation cited herein of 3 NYCRR Part 38, upon and subject to the terms and conditions hereof.

I.

RECITALS

1. Commonfund, headquartered at 717 Erie Boulevard West, Syracuse, New York 13204, was granted a license by the Department on March 30, 1987, pursuant to Article 12-D of the Banking Law, to engage in business as a mortgage banker.
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 licensed mortgage banker to pay to the people of this State a penalty for any violation of the Banking Law and/or regulation promulgated thereunder.
3. 3 NYCRR Section 38.8 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.

Deceptive Terms

4. Based on information, the Department became aware that during a period, including October 2016, Commonfund utilized an advertisement to solicit and promote residential mortgage loans in New York. A sample of the advertisements is annexed as Exhibit A.

5. Among other things, the advertisement contained Commonfund's name, address and NMLS #53923, and Commonfund's sponsored mortgage loan originator, David Raycraft's NMLS #680400 and contact information.

6. Additionally, the advertisement included the following: "\$0 CLOSING COST!! ...For Buyers in OSWEGO and CORTLAND COUNTIES...If your working with a buyer with a sales price over \$100,000 with a credit score above 680. Stick Built...FHA or VA loan...We are offering a 3.25% fixed rate with no closing costs."

7. The advertisement, which stated that there would be "no closing costs," was likely to mislead applicants into believing that they would get a mortgage loan free of all closing costs including, among others: appraisal, credit report, and legal fees, and other third party fees relating to title insurance that the applicant would be required to pay.

8. Accordingly, the Department has determined that Commonfund violated 3 NYCRR Section 38.2(e), which prohibits a mortgage banker from fraudulently or deceitfully advertise a mortgage loan or misrepresent the terms, conditions or charges incident to a mortgage loan in any advertisement.

II.

SETTLEMENT TERMS AND CONDITIONS

Commonfund is willing to resolve the violations cited herein by entering into this

Agreement and freely and voluntarily waives its right to a hearing under Sections 44 and 598 of the Banking Law on such violation. Therefore, in consideration of the promises and covenants set forth herein:

1. Commonfund 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 and 12-E of the Banking Law, and 3 NYCRR Part 38; and
- b. ensuring that it will provide appropriate training for its employees regarding the utilization of any advertisements to the public.

2. Commonfund agrees to develop appropriate written advertisement and compliance policies and procedures (collectively, "Compliance Policies and Procedures") in order to ensure compliance with all applicable state and federal laws, regulations, supervisory requirements and guidance letters. To the extent that Commonfund may have already developed Compliance Policies and Procedures, Commonfund is required to review and update them so that they appropriately address the issues described herein. The Compliance Policies and Procedures shall, at a minimum: (i) designate an individual responsible for monitoring compliance with all applicable state and federal laws, regulations, supervisory requirements and guidance letters; and (ii) establish a training program to ensure that Commonfund and its employees understand all applicable federal and state laws, regulations, supervisory requirements and guidance letters.

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

- \$500 upon execution of this Agreement;
- \$500 on or before the 15th day of each of the immediately following nine

(9) months.

4. Commonfund 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. Commonfund 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 Commonfund's license to engage in the business of a mortgage banker under Banking Law, Article 12-D.

2. Commonfund 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 Commonfund, 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 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.

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, NY 10004

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

Attention:

Samuel C. Sanford
President
Commonfund Mortgage Corp.
717 Erie Boulevard West
Syracuse, NY 13204

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.

Commonfund Mortgage Corp.

By: _____ / S / _____

Samuel C. Sanford
President

Dated: _____

New York State Department of Financial Services

By: _____ / S / _____

Rholda L. Ricketts
Deputy Superintendent

Dated: _____