

State of New York
Banking Department

_____ X
In the Matter of

**GUARANTEED HOME MORTGAGE
COMPANY INC.
B500397**

SETTLEMENT AGREEMENT

A Licensed Mortgage Banker Pursuant To
Article XII-D of the New York Banking Law
_____ X

This Settlement Agreement ("Agreement") is made and entered into by and between Guaranteed Home Mortgage Company Inc. ("Guaranteed Home") and the State of New York Banking Department ("Banking Department"), collectively ("the Settling Parties"), evidencing an agreement between the Settling Parties to resolve, without a hearing, the violations cited herein by Guaranteed Home of Part 38 of the General Regulations of the Banking Board, 3 N.Y.C.R.R. Part 38, Section 5(a) of the Federal Trade Commission Act ("FTC Act") (Title 15 U.S.C. Section 45), Title 18 U.S.C. § 709, and New York State General Business Law Article 22-A Sections 349 and 350, upon and subject to the terms and conditions hereof.

I.

RECITALS

1. Guaranteed Home Mortgage Company Inc., headquartered at 108 Corporate Park Drive, Suite 301, White Plains, NY 10604, was granted a license by the Banking Department on May 19, 1994 to engage in the business of a mortgage banker

pursuant to Article XII-D of the New York Banking Law (“Banking Law”).

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 banker 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 Section 38.8 of the General Regulations of the Banking Board (“GRBB”), provides that a mortgage banker may be subject to disciplinary action by the Banking Department for, among other things, violations of Article 12-D of the Banking Law, the regulations promulgated there under, or violations of state or federal law indicating that the entity is unfit to engage in the business of a mortgage banker.

FACTS

4. In the Spring and Summer of 2010, Guaranteed Home sent 25,000 solicitations to New York homeowners (the “solicitation”) promoting reverse mortgages to persons 62 years of age or older (the “solicitation”). A copy of the solicitation is annexed as Exhibit A.

5. The solicitation prominently states “**PUBLIC NOTICE**” and displays a seal of the U.S. Department of Housing and Urban Development (“HUD”).

6. The solicitation also prominently displays a barcode with the recipient’s name and address, and “Client Code: MBH0115503” in the header of the solicitation.

7. The solicitation also begins with stating “Our records indicate that you have not yet called to discuss your eligibility as a homeowner aged 62 or older for your property...”

8. The name Guaranteed Home is only disclosed in small print at the bottom of the letter.

9. By prominently stating “**PUBLIC NOTICE**” and displaying a HUD seal, the mail solicitation appears to be from HUD, a government agency, or from an entity that is sponsored, approved, or endorsed by HUD.

10. The solicitation is misleading in a number of other respects as well.

11. The solicitation represents that the recipient of the solicitation has been specially “selected” for a “new federal program.” In fact, the solicitation is a marketing promotion widely disseminated by Guaranteed Home. In addition, federally insured reverse mortgages are not a new program.

12. The solicitation also touts the benefits of federally insured reverse mortgages without clearly and conspicuously disclosing the limitations and risks. For example, the solicitation states that homeowners can increase their “monthly cash flow TAX FREE” and “Make no payment as long as you live” without disclosing that homeowners with reverse mortgages remain liable for taxes and insurance on their home and may be liable for repayment if they move out of the home (e.g. into a nursing home).

13. The solicitation further states that homeowners “can never be asked to leave” their home, when, in fact, there are certain circumstances, including failure to pay taxes or insurance, moving to a new residence or failing to maintain the property, that will result in the mortgage becoming due and payable.

14. In addition, the solicitation fails to clearly and conspicuously disclose that there may be significant upfront costs and fees for obtaining a reverse mortgage. The fact that such loans may be “subject to payment of points and fees” is stated only in fine print at the bottom of the solicitation.

15. The solicitation also attempts to create a false sense of urgency and

demand by representing that it is “important” that the consumer call “within 10 days of receiving this notice” and that “due to the high volume of calls”, consumers must have their special “Client Code” available when they call.

Violations of Law

16. As a result of the foregoing, the solicitation violates the following federal and state laws.

17. The solicitation violates Title 18 U.S.C. § 709 which prohibits usage of the letters “HUD” to convey the false impression that such business has some connection with, authorization from, or is endorsed by HUD.

18. The solicitation also violates GRBB Part 38 Section 38.2(e), which provides that no mortgage banker shall fraudulently or deceitfully advertise a mortgage loan, or misrepresent the terms, conditions or charges incident to a mortgage loan in any advertisement therefor.

19. The solicitation also violates FTC Act Section 5(a) (Title 15 U.S.C. Section 45) which prohibits unfair or deceptive acts or practices in or affecting commerce.

20. Additionally, the solicitation violates New York State General Business Law Article 22-A Section 349, which declares deceptive practices unlawful, and Section 350, which declares false advertisement unlawful.

II.

SETTLEMENT TERMS AND CONDITIONS

Without admitting or denying the Department’s findings, Guaranteed Home is willing to resolve the violation 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, the

Settling Parties agree, as follows:

1. Guaranteed Home 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 the Federal Truth-In-Lending Act and Regulation Z, Title 18 U.S.C. §709, Article 12-D of the Banking Law, and Part 38 of the General Regulations of the Banking Board; and

b. ensuring that its advertisements do not utilize the name or the seal of any government agency, including HUD and FHA, to imply that the advertisements are from or its services or products have some connection with, authorization from, or are endorsed by such government agency; and

c. ensuring that its advertisements do not mislead consumers as to the identity of the party offering credit; and

d. ensuring that its advertisements do not otherwise mislead consumers as to the terms and conditions of credit it is offering and that such advertisements disclose clearly and conspicuously the existence of material terms, conditions, and limitations relating to any advertised offer of credit; and

e. ensuring that it will not advertise terms of credit using footnotes, asterisks, small print and color contrasts that materially contradict or modify the principal message of its advertisements, and will disclose clearly and conspicuously all material information.

2. Guaranteed Home 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) establish a training program to ensure that Guaranteed Home and its employees involved in preparing or approving advertisements understand all applicable federal and state laws, regulations, and truth in advertising guidelines.

3. Within ninety (90) days from the effective date of this Agreement, Guaranteed Home agrees to submit a draft of its advertisement policies and procedures to the Banking Department for non-objection or comment.

4. Within one hundred twenty (120) days from the effective date of this Agreement, Guaranteed Home agrees to submit a copy of its final advertisement policies and procedures to the Banking Department together with a letter from an authorized officer of Guaranteed Home indicating his/her approval of such policies and procedures. Guaranteed Home further agrees to provide copies of all advertisements run by it for the twelve (12) month period following the effective date of this Agreement.

5. Guaranteed Home agrees to pay a penalty of \$ 7,500.

6. Guaranteed Home further agrees that such payment will be made in immediately available funds in accordance with Banking Department payment instructions.

III.

MISCELLANEOUS TERMS AND CONDITIONS

1. The Settling Parties acknowledge that Guaranteed Home 's failure to

comply with any of the settlement terms and conditions of this Agreement may result in the Banking Department taking action to revoke Guaranteed Home 's license to engage in the business of a mortgage banker under Article 12-D of the Banking Law.

2. The Settling Parties acknowledge 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 Guaranteed Home, 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 of Banks for Mortgage Banking.

6. All written communications to the Banking Department regarding this Agreement should be sent as follows.

Attention:

Rholda L. Ricketts
Deputy Superintendent of Banks
Mortgage Banking Division
State of New York Banking Department
One State Street,
New York, New York 10004

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

Attention:

David A. Wind
Guaranteed Home Mortgage Company Inc.
108 Corporate Park Drive, Suite 301
White Plains, NY 10604

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: _____

David A. Wind
Guaranteed Home Mortgage Company Inc.

Dated: _____

By: _____

Rholda L. Ricketts
Deputy Superintendent of Banks
State of New York Banking Department

Dated: _____