

*New York State*  
*Department of Financial Services*

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In the Matter of

**DOWNS FINANCIAL, INC.**  
**A007094**

**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 Downs Financial, Inc. ("Downs Financial", "Registrant") and the New York State Department of Financial Services (the "Department" together with Downs Financial, collectively defined as the "Settling Parties"), evidencing an agreement between the Settling Parties to resolve, without a hearing, the violations of Section 102.1(c) (1) of Supervisory Procedure MB 102 and Section 1301(a) of the New York Business Corporation Law ("Business Corporation Law"), cited herein by the Department, upon and subject to the terms and conditions hereof.

**I.**

**RECITALS**

1. Downs Financial, headquartered at 650 South Cherry Street, #630, Denver, CO 80246 was granted a registration by the Department on March 5, 2008 to engage in the business of a mortgage broker 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 Superintendent of Financial Services (the "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. Section 38.8 of the General Regulations of the Banking Board 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. Downs Financial received authority to engage in business under the laws of the State of New York as a foreign corporation on July 30, 2002.

5. During a review of Downs Financial's records, the Department noted that the New York Department of State ("Department of State") records indicated that the entity's authority to do business in New York was terminated by proclamation on January 26, 2011.

6. On January 30, 2012, the Department notified the Registrant that as a result of the termination of its authority, the Department no longer considers Downs Financial a registered mortgage broker.

7. For the period that Downs Financial's authority was terminated by the Department of State, Downs Financial maintained an active registration with the Department.

8. Accordingly, Downs Financial violated Section 1301(a) of the Business Corporation Law, which states that a foreign corporation shall not do business in this state unless it is authorized to do so.

9. Furthermore, the Registrant failed to notify the Department of its termination of corporate authority in New York in violation of Section 102.1(c) (1) of Supervisory Procedure MB 102, which specifies that each applicant must certify that the Superintendent will be promptly advised of any changes which may occur in the information furnished in the application subsequent to the date upon which the information was furnished.

10. Downs Financial's failure to notify the Department of the termination resulted in the company remaining on the Roll of Registered Mortgage Brokers.

11. Downs Financial was reinstated with the Department of State, effective February 15, 2012.

## II.

### **SETTLEMENT TERMS AND CONDITIONS**

The Registrant 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, the Settling Parties agree, as follows:

1. The Registrant 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.

2. The Registrant agrees to pay a fine of \$1,500 in three monthly installments, with the first installment of \$500 due upon execution of this Agreement. The remaining two payments of \$500 are due by the 15<sup>th</sup> of each successive month until the fine is fully paid.

3. The Registrant further agrees that such payment will be made in immediately available funds in accordance with Department payment instructions. Failure to make timely payments on any of the installments shall result in immediate revocation of Downs Financial's registration.

## III.

### **MISCELLANEOUS TERMS AND CONDITIONS**

1. The Settling Parties acknowledge that the Registrant's failure to comply with any of the settlement terms and conditions of this Agreement may result in the Department taking action to revoke Downs Financial's registration to engage in the business of a mortgage

broker 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 Downs Financial, 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 and 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 or her designee.

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

Attention:

Shiloe A. Downs  
Vice President  
650 South Cherry Street, #630  
Denver, CO 80246

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: \_\_\_\_\_

Shawn P. Downs  
President  
Downs Financial, Inc.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Shiloe A. Downs  
Vice President  
Downs Financial, Inc.

Dated: \_\_\_\_\_

By: \_\_\_\_\_

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

Dated: \_\_\_\_\_