

New York State Department  
of Financial Services

\_\_\_\_\_ X  
In the Matter of

**Guaranteed Rate, Inc.**  
**B500887**

**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 Rate, Inc. ("Guaranteed Rate" or "GRI") and the New York State Department of Financial Services (the "Department") (collectively, the "Settling Parties") evidencing an agreement between the Settling Parties to resolve, without a hearing, violations of Part 38 of the General Regulations ("General Regulations"), Article 12-D of the New York Banking Law ("Banking Law"), Sections 202 and 301 of the New York Business Corporation Law and Section 130 of the General Business Law, and subject to the terms and conditions hereof.

**I.**

**RECITALS**

1. GRI, headquartered at 3940 North Ravenswood, Chicago, IL 60613, was granted a license by the Department on July 10, 2008 to engage in the business of a mortgage banker pursuant to Article 12-D of the Banking Law.

2. Section 44 of the Banking Law provides, in part, that the 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. Section 38.8 of the General Regulations, 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.

### **Unauthorized Location Violation**

4. The Department issued a branch license to GRI at 31 West Main Street, 2<sup>nd</sup> floor, Freehold, NJ 07728 ("Freehold, New Jersey") on March 14, 2012.

5. In the normal course of its supervisory efforts, the Department made a visitation to GRI's branch in Freehold, New Jersey on April 16, 2012.

6. The visitation determined that GRI had moved out of 31 West Main Street, 2<sup>nd</sup> floor, Freehold, NJ 07728 and that GRI then operated out of 36 West Main Street, Suite 201, Freehold, NJ 07728.

7. GRI failed to obtain a license from the Department to operate a branch at 36 West Main Street, Suite 201, Freehold, NJ 07728.

8. Section 593 of the Banking Law requires a licensee to forthwith notify the Superintendent of the changed location.

9. Accordingly, GRI's relocation of its activities in Freehold, New Jersey constituted a violation of Section 593 of the Banking Law.

10. Additionally, Section 591(1) of the Banking Law requires that an application for a license contain the name, business address, and residential addresses of the

applicant. Section 591(3) provides that a licensee may apply for authority to open and maintain a branch office by giving the Department advance notice and submitting an application and fee.

11. Accordingly, GRI's relocation of its activities in Freehold, New Jersey also constituted a violation of Section 591 of the Banking Law.

### **Unauthorized Name Violations**

12. GRI also maintained licensed branches in Parsippany, New Jersey, Garden City, New York, and Hammonton, New Jersey.

13. The Department also made a visitation to GRI's licensed branch at Parsippany, New Jersey on April 16, 2012 and determined that the office used the name "Superior Group, Eastern Region" in addition to the name "Guaranteed Rate."

14. In addition, the business cards of the Parsippany, New Jersey location used the names "Superior Group, Eastern Region" and "Superior Mortgage Group" in addition to the name "Guaranteed Rate."

15. At the unlicensed Freehold, New Jersey location, the Department also determined that the office used the names "Superior Group, Eastern Region", and "Superior Mortgage Group" in addition to the name "Guaranteed Rate."

16. Furthermore, the business cards of the Freehold, New Jersey location used the name "Superior Mortgage Group" in addition to the name "Guaranteed Rate."

17. The Department also made a visitation to GRI's licensed branch at Garden City, New York on April 19, 2012 and determined that the office also used the name "Superior Mortgage Group" in addition to the name "Guaranteed Rate" on its office wall and on its business cards.

18. The Department also made a visitation to GRI's licensed branch at Hammonton, New Jersey on April 12, 2012 and discovered that the office used the name "Superior Group, Eastern Region" in addition to the name "Guaranteed Rate."

19. In addition, the business cards of the Hammonton, New Jersey location used the names "Superior Group, Eastern Region" and "Superior Mortgage Group" in addition to the name "Guaranteed Rate."

20. By stating "Superior Group, Eastern Region" and "Superior Mortgage Group" on its office walls and business cards, GRI conducted business as "Superior Group, Eastern Region" and "Superior Mortgage Group" prior to receiving approval from the Department.

21. Section 593 of the Banking Law prohibits a licensee from using a business name other than the name stated on its license without the prior approval of the Superintendent.

22. GRI's use of "Superior Group, Eastern Region" and "Superior Mortgage Group" violated these sections of the Banking Law.

23. General Business Law Sec. 130.1(b) provides that no person shall carry on or conduct or transact business in this state under any name or designation other than his or its real name unless such person shall file in the office of the Secretary of State a certificate setting forth the name or designation under which business is carried on or conducted.

24. Section 202(a)(16)(b) of the New York Business Corporation Law provides that no corporation shall do business in New York state under any name, other than that appearing in its certificate of incorporation, without compliance with the filing provisions of Section 130 of the General Business Law.

25. GRI's use of the terms "Superior Group, Eastern Region" and "Superior Mortgage Group" violated these provisions of the General Business Law.

26. As noted, GRI used the word "mortgage" in the name "Superior Mortgage Group" prior to receiving approval from the Superintendent.

27. New York Business Corporation Law Section 301(a)(5)(B) prohibits the use of the word "mortgage" in the name of a domestic or foreign corporation without receiving approval from the Superintendent.

28. The use of the word "mortgage" by GRI in its name without the approval of the Superintendent also violated Section 301(1)(5)(B) of the Business Corporation Law.

## II.

### **SETTLEMENT TERMS AND CONDITIONS**

GRI is willing to resolve the violations 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:

1. GRI 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, and Part 38 of the General Regulations of the Banking Board;
- b. not conducting or transacting New York regulated mortgage business at any location that has not been approved by the Superintendent;

- c. not conducting or transacting business in this state under any assumed name or designation using any website, domain, or other name that has not been approved by the Superintendent;
- d. ensuring that its staff does not engage in origination activities at unauthorized locations; and
- e. ensuring that it will provide appropriate training for its employees regarding the establishment of or the change of branch locations.

2. GRI has previously provided the Department with its written compliance policies and procedures designed to ensure compliance with all applicable federal and state laws, regulations, supervisory requirements, and guidelines. The Department will review these policies and procedures and provide any comments or a letter of non-objection to GRI within 60 days from the Effective Date of this Agreement.

3. Within thirty (30) days from receipt of non-objection or any comments from the Department, and after incorporation and adoption of all comments, GRI agrees to submit a copy of its final compliance policies and procedures to the Department together with a letter from an authorized officer of GRI indicating his/her approval of such policies and procedures.

4. GRI agrees to pay a fine of \$ 15,000.

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

2. GRI 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 GRI, 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 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, New York 10004

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

Attention:

Victor Francis Ciardelli, III,  
President/CEO  
Guaranteed Rate, Inc.  
3940 North Ravenswood  
Chicago, IL 60613

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.

Guaranteed Rate, Inc.

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

Victor Francis Ciardelli, III,  
President/CEO

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

New York State Department of Financial Services

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

Rholda L. Ricketts  
Deputy Superintendent

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