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7 Attorneys for Complainant

8
9 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
10 OF THE STATE OF CALIFORNIA

11 In the Matter of the Accusation of:) OAH CASE No. 2015120913
12 THE COMMISSIONER OF BUSINESS))
13 OVERSIGHT,) CFLL LICENSE No. 603-A922
14 Complainant,) SETTLEMENT AGREEMENT
15 vs.) Hearing Dates: 07/18/17-07/20/17
16) Hearing Time: 9:30 a.m.
17 GOTMORTGAGE.COM, doing business as) Judge: Matthew Goldsby
18 PERFORMANCE CAPITAL GROUP,)
19 Respondent.)
20)

21 In the Matter of the Order to Discontinue)
22 Violations of: THE COMMISSIONER OF)
23 BUSINESS OVERSIGHT,)
24 Complainant,)
25 vs.)
26 GOTMORTGAGE.COM, doing business as)
27 PERFORMANCE CAPITAL GROUP,)
28 Respondent.)

1 This Settlement Agreement is entered into between the Commissioner of Business Oversight
2 (Commissioner), Andrea H. Park, as an individual, and GotMortgage.com, doing business as
3 Performance Capital Group (GotMortgage) (collectively, the Parties) and is made with respect to
4 the following facts:

5 RECITALS

6 A. The Commissioner has jurisdiction over the licensing and regulation of persons
7 engaged in the business of lending mortgage loans under the California Finance Lenders Law
8 (CFL) (Fin. Code, § 22000 et seq.).

9 B. GotMortgage is a CFL mortgage lender licensed by the Commissioner since
10 January 27, 2005 (CFL License No. 603-A922). GotMortgage has its principal place of business
11 located at 17220 Newhope Street, Suite 213, Fountain Valley, California.

12 C. Andrea H. Park (Park) is the president, registered agent, and 100-percent owner of
13 GotMortgage.

14 D. On May 12, 2015, the Commissioner issued against GotMortgage a Statement to
15 Respondent; Notice of Intention to Issue Order Suspending Finance Lenders License; Accusation;
16 Notice of Defense; and an Order to Discontinue Violations under Financial Code section 22712,
17 subdivision (a) (Order to Discontinue Violations) (collectively, the Administrative Pleadings).

18 E. The Commissioner personally served Park with the Administrative Pleadings on June
19 19, 2015.

20 F. GotMortgage timely filed its Notice of Defense and requested a hearing in connection
21 with the Administrative Pleadings on or about June 23, 2015.

22 G. On or about May 26, 2016, the Commissioner filed and served a First Amended
23 Accusation in Support of Notice of Intention to Issue Order Revoking or, in the Alternative,
24 Suspending the Finance Lenders License issued to GotMortgage (First Amended Accusation).

25 H. The Commissioner served GotMortgage's counsel with the First Amended Accusation
26 on June 7, 2016.

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1 I. A three-day hearing is scheduled to begin in this matter on July 18, 2017 before
2 Administrative Law Judge Matthew Goldsby of the Office of Administrative Hearings, Los Angeles
3 (OAH), case number 2015120913.

4 NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set
5 forth herein, the Parties agree as follows:

6 TERMS AND CONDITIONS

7 1. Purpose. It is the intention and desire of the Parties to resolve this matter without the
8 necessity of a hearing or other litigation for the purpose of judicial economy and expediency and to
9 avoid the expense of a hearing and possible further court proceedings. Park and GotMortgage seek
10 to resolve the concerns of the Commissioner by entering into this this Settlement Agreement.

11 2. Waiver of Hearing Rights. GotMortgage agrees that this Settlement Agreement shall
12 have the effect of withdrawing its request for an administrative hearing on the matters set forth
13 herein. GotMortgage acknowledges its right to an administrative hearing under the CFLL in
14 connection with the Order to Discontinue Violations and First Amended Accusation, and hereby
15 waives such hearing rights and to any reconsideration, appeal, or other rights which may be
16 afforded it under the CFLL, the Administrative Procedure Act (APA) (Gov. Code, § 11370 et seq.),
17 the Code of Civil Procedure (CCP) (Code Civ. Proc., § 1 et seq.), or any provision of law in
18 connection with these matters.

19 3. Acknowledgment. GotMortgage acknowledges that the Commissioner issued the
20 Order to Discontinue Violations dated May 12, 2015 and First Amended Accusation dated May 26,
21 2016, in which the Commissioner alleges the company violated certain provisions of the CFLL.

22 4. Order to Discontinue Violations. GotMortgage agrees that the Order to Discontinue
23 Violations issued on May 12, 2015 is final and shall remain in full force and effect.

24 5. Revocation of CFLL Mortgage Lenders License. GotMortgage agrees to the issuance
25 by the Commissioner of an order revoking the finance lenders license issued to GotMortgage under
26 the CFLL. The revocation shall become effective immediately on the effective date of this
27 Settlement Agreement as defined in paragraph 18. A true and correct copy of the Order Revoking
28 Finance Lenders License is attached and incorporated herein as **Exhibit A**.

1 6. Application for CFLL License. Park agrees that she will not reapply for a CFLL
2 license for a period of three years from the effective date of this Settlement Agreement (as defined
3 in paragraph 18.) and in the event Park applies for a CFLL license within the three-year period set
4 forth in this section, such application shall be deemed automatically denied by the Commissioner.
5 Park hereby waives any hearing rights and to any reconsideration, appeal, or other rights which may
6 be afforded her under the CFLL, the Administrative Procedure Act (APA) (Gov. Code, § 11370 et
7 seq.), the Code of Civil Procedure (CCP) (Code Civ. Proc., § 1 et seq.), or any provision of law in
8 connection with this matter.

9 7. Full and Final Settlement. The Parties hereby acknowledge and agree that this
10 Settlement Agreement is intended to constitute a full, final, and complete resolution of the matters
11 set forth in the Order to Discontinue Violations and First Amended Accusation. The Commissioner
12 acknowledges that the Department’s investigation of Park and GotMortgage concerning the matters
13 contained in the Order to Discontinue Violations and First Amended Accusation is now closed.

14 8. Commissioner’s Duties. The Parties further acknowledge and agree that nothing in
15 this Settlement Agreement shall limit the Commissioner’s ability to assist any other agency (city,
16 county, state, or federal) with any prosecution, administrative, civil, or criminal, brought by any
17 such agency against GotMortgage or any other person based upon any of the activities alleged in
18 these matters or otherwise.

19 9. Binding. This Settlement Agreement is binding on all heirs, assigns, or successors in
20 interest.

21 10. Notification to OAH. The Commissioner shall cause this Settlement Agreement to be
22 filed with OAH immediately after the effective date of this agreement as defined in paragraph 18.

23 11. Independent Legal Advice. Each of the Parties represents, warrants, and agrees that it
24 has received independent advice from its attorney(s) or representative(s) with respect to the
25 advisability of executing this Settlement Agreement.

26 12. Counterparts. The Parties agree that this Settlement Agreement may be executed in
27 one or more separate counterparts, each of which shall be deemed an original when so executed.
28 Such counterparts shall together constitute and be one and the same instrument.

1 13. Waiver, Modification, and Qualified Integration. The waiver of any provision of this
2 Settlement Agreement shall not operate to waive any other provision set forth herein. No waiver,
3 amendment, or modification of this Settlement Agreement shall be valid or binding to any extent
4 unless it is in writing and signed by all parties affected by it.

5 14. Headings and Governing Law. The headings to the paragraphs of this Settlement
6 Agreement are inserted for convenience only and will not be deemed a part hereof or affect the
7 construction or interpretation of the provisions hereof. This Settlement Agreement shall be
8 construed and enforced in accordance with and governed by California law.

9 15. Full Integration. Each of the Parties represents, warrants, and agrees that in executing
10 this Settlement Agreement it has relied solely on the statements set forth herein and the advice of its
11 own counsel. Each of the Parties further represents, warrants, and agrees that in executing this
12 Settlement Agreement it has placed no reliance on any statement, representation, or promise of any
13 other party, or any other person or entity not expressly set forth herein, or upon the failure of any
14 party or any other person or entity to make any statement, representation, or disclosure of anything
15 whatsoever. The Parties have included this clause (1) to preclude any claim that any party was in
16 any way fraudulently induced to execute this Settlement Agreement and (2) to preclude the
17 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this
18 Settlement Agreement.

19 16. Presumption from Drafting. In that the Parties have had the opportunity to draft,
20 review, and edit the language of this Settlement Agreement, no presumption for or against any party
21 arising out of drafting all or any part of this Settlement Agreement will be applied in any action
22 relating to, connected to, or involving this Settlement Agreement. Accordingly, the Parties waive
23 the benefit of Civil Code section 1654 and any successor or amended statute, providing that in cases
24 of uncertainty, language of a contract should be interpreted most strongly against the party that
25 caused the uncertainty to exist.

26 17. Voluntary Agreement. Park and GotMortgage enter into this Settlement Agreement
27 voluntarily and without coercion and acknowledge that no promises, threats, or assurances have
28 been made by the Commissioner, or any officer or agent thereof, about this Settlement Agreement.

1 18. Effective Date. This Settlement Agreement shall become final and effective when
2 signed by all parties and delivered by the Commissioner's agent via e-mail to GotMortgage's
3 counsel at scho@ckbvienna.com.

4 19. Notice. Any notices required under this Settlement Agreement shall be provided to
5 each party at the following addresses:

6 If to Respondent to: Andrea H. Park, President
7 GotMortgage.com, dba Performance Capital Group
8 17220 Newhope Street, Suite 213
9 Fountain Valley, California 92708

10 If to Andrea H. Park to: Andrea H. Park, as an individual
11 GotMortgage.com, dba Performance Capital Group
12 17220 Newhope Street, Suite 213
13 Fountain Valley, California 92708

14 If to the Commissioner to: Blaine A. Noblett, Senior Counsel
15 Department of Business Oversight
16 320 West 4th Street, Suite 750
17 Los Angeles, California 90013-2344

18 20. Authority to Execute. Each signatory hereto covenants that he/she possesses all
19 necessary capacity and authority to sign and enter into this Settlement Agreement.

20 IN WITNESS WHEREOF, the Parties hereto have approved and executed this Settlement
21 Agreement on the dates set forth opposite their respective signatures.

22 Dated: 7/18/17 JAN LYNN OWEN
23 Commissioner of Business Oversight

24 By _____
25 MARY ANN SMITH
26 Deputy Commissioner
27 Enforcement Division

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GOTMORTGAGE.COM, doing business as
PERFORMANCE CAPITAL GROUP

Dated: 7/17/17

By _____

ANDREA H. PARK, President,
On behalf of GotMortgage.com, doing business as
Performance Capital Group

ANDREA H. PARK, as an individual

Dated: 7/17/17

By _____

ANDREA H. PARK

Approved as to Form and Content

By _____

M. Stephen Cho, Esq.
CKB Vienna, LLP
Attorneys on behalf of GotMortgage.com, doing business as
Performance Capital Group and
Andrea H. Park, as an individual