



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF THE *SECURITIES ACT*,
R.S.O. 1990, c. S.5, AS AMENDED (the “Act”)**

- AND -

**IN THE MATTER OF ONTARIO WEALTH MANAGEMENT CORPORATION,
carrying on business as OWEMANCO**

**SETTLEMENT AGREEMENT BETWEEN STAFF AND ONTARIO WEALTH
MANAGEMENT CORPORATION, carrying on business as OWEMANCO**

PART I - INTRODUCTION

1. The Ontario Securities Commission (the “Commission”) will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to section 127 of the *Securities Act*, R.S.O. 1990, c.S-5, as amended (the “Act”), it is in the public interest for the Commission to approve this Settlement Agreement and to make certain orders in respect of Ontario Wealth Management Corporation, carrying on business as OWEMANCO (“OWEMANCO”).

PART II - JOINT SETTLEMENT RECOMMENDATION

2. Staff of the Commission (“Staff”) agrees to recommend settlement of the proceeding initiated by the Notice of Hearing dated February 5, 2015 in respect of OWEMANCO (the “Proceeding”) in accordance with the terms and conditions set out below. OWEMANCO consents to the making of an order in the form attached as Schedule “A” based on the facts set out below.

PART III - AGREED FACTS

A. Background

3. OWEMANCO was incorporated in Ontario on February 20, 2001 and is a registered as a mortgage brokerage and administrator under the *Mortgage Brokerages, Lenders and Administrators Act*, R.S.O (2006), c.29, with the Financial Services Commissions of Ontario.

4. In addition, OWEMANCO trades in units of OWEMANCO Mortgage Trust, a non-investment fund pooled mortgage investment entity. OWEMANCO Mortgage Trust commenced operation on July 9, 2010 under an exchange offering pursuant to an Offering Memorandum whereby existing clients of OWEMANCO holding interests in syndicated mortgage loans originated and administered by OWEMANCO were offered units in the OWEMANCO Mortgage Trust in exchange for their shares in the syndicated mortgages. The syndicated mortgages were then rolled into the OWEMANCO Mortgage Trust.

5. The OWEMANCO Mortgage Trust presently consists of approximately \$103 million invested in 96 mortgages of which 93 are first mortgages, representing approximately 96% of the portfolio by dollar amount. The real estate securing the loans is predominantly commercial in nature. The investment criteria of the OWEMANCO Mortgage Trust limit the loan-to-value ratio to 65%. The net asset value of a unit in OWEMANCO Mortgage Trust has remained at \$1.00 since inception. Subject to notice and other requirements, units in OWEMANCO Mortgage Trust are redeemable by investors.

6. On or about March 30, 2011, OWEMANCO applied to the Commission for registration under the Act as an exempt market dealer (“EMD”).

7. In or about September, 2011, OWEMANCO advised Staff that:

- (a) Warren Morris (“Morris”), a mortgage broker at OWEMANCO and OWEMANCO’s proposed chief compliance officer (“CCO”), would be the firm’s sole dealing representative;
- (b) Jonah Bonn (“Bonn”), OWEMANCO’s chief operating officer, was completing the requisite proficiency requirements to become a dealing representative and that he would apply for registration upon completion of the applicable course(s); and

- (c) Morris was the only individual who would be dealing with investors on behalf of OWEMANCO and that the other members of OWEMANCO did not and would not deal with investors.

8. On or about May 18, 2012, Staff advised OWEMANCO that it was prepared to register OWEMANCO as a dealer in the category of EMD provided that the following undertaking (the “OWEMANCO Undertaking”) be signed by an approved officer of OWEMANCO:

*Within 6 months from the grant of Exempt Market Dealer registration, Ontario Wealth Management Corporation undertakes, with respect to each Person who has since September 14, 2005 purchased securities in **OWEMANCO Mortgage Trust** and continues to hold such securities:*

- (a) *to make reasonable inquiry to confirm that a valid prospectus exemption was available for the purchase of such securities, excluding the \$150,000 minimum amount investment exemption, and in the case of Persons seeking to rely on the “accredited investor” exemption contained in National Instrument 45-106 Prospectus and Registration Exemptions, such reasonable inquiry will take the form of obtaining a signed and completed Investor Information Form in the form attached hereto as Schedule A; and*
- (b) *where the inquiry does not reasonably demonstrate that a prospectus exemption was available, require such Person to redeem such securities.*

9. As set out above, pursuant to the OWEMANCO Undertaking, OWEMANCO was required to obtain Investor Information Forms (“IIFs”) from all clients seeking to qualify for an exemption from the prospectus requirement and to ensure that all securities held by non-qualifying unitholders be redeemed. This process, including collecting IIFs in respect of each unitholder and delivering the funds due on redemption to all non-qualifying unitholders, was required to be completed by November 18, 2012.

10. On May 18, 2012, the OWEMANCO Undertaking was signed by Bonn, on behalf of OWEMANCO. On that same day, OWEMANCO was registered with the Commission in the category of EMD and Morris was registered as OWEMANCO’s dealing representative and CCO.

11. Bonn was not registered in any capacity with the Commission until December 19, 2012 when Bonn became registered as a dealing representative of OWEMANCO.

B. The Compliance Review

12. Commencing on or about January 24, 2013, Staff commenced a review of OWEMANCO under section 20 of the Act (the “Compliance Review”) for the review period of January 1, 2012 to December 31, 2012 (the “Review Period”).

13. By means of a compliance field review report delivered to OWEMANCO on or about August 12, 2013 (the “Compliance Report”), Staff advised OWEMANCO that it had identified a number of significant deficiencies during the Compliance Review (“Significant Deficiencies”).

C. The OWEMANCO Undertaking

14. Among the Significant Deficiencies raised in the Compliance Report, Staff noted that OWEMANCO failed to comply with the OWEMANCO Undertaking and/or failed to comply with the OWEMANCO Undertaking by the required deadline of November 18, 2012. In particular, Staff found that:

- (a) Five months after the November 18, 2012 deadline had expired, the procedures set out in the OWEMANCO Undertaking had not yet been performed for 36 clients and, in respect of most of these clients, OWEMANCO had insufficient “know your client” (“KYC”) documentation to demonstrate sufficient information to ascertain whether these clients qualified to purchase prospectus-exempt securities or whether these investments needed to be redeemed;
- (b) In the case of four of the clients referred to in (a) above, IFFs were not obtained as OWEMANCO improperly relied on the “founder, control person and family” prospectus exemption set out in section 2.7 of National Instrument 45-106 – *Prospectus and Registration Exemptions* (“NI 45-106”) in relation to these four clients; and
- (c) In at least two instances, OWEMANCO recommended to clients who were not accredited investors to increase the aggregate amount of their investment up to \$150,000, or to add to the aggregate amount of their investment in increments

smaller than \$150,000 (collectively, “Top-Up Investments”) to meet the “minimum amount exemption” when this exemption, set out in section 2.10 of NI 45-106, did not apply in such circumstances and after Staff advised OWEMANCO during the Compliance Review that this exemption could not be used in this manner.

15. OWEMANCO has since completed the procedures set out in the OWEMANCO Undertaking to Staff’s satisfaction for the 36 clients referred to in subparagraph 14(a) above.

D. OWEMANCO Trading

(i) Improper reliance on Exemptions

16. OWEMANCO, as a registered EMD, could only engage in prospectus-exempt trades.

17. As referred to above, OWEMANCO improperly relied on the “founder, control person and family” prospectus exemption set out in section 2.7 of NI 45-106 in relation to trades with four clients.

18. The “Top-Up Investments” referred to above also did not qualify for the “minimum amount exemption” set out in section 2.10 of NI 45-106, which exemption requires that the \$150,000 be paid in cash at the time of the distribution.

19. In addition, on at least four occasions after the Review Period, OWEMANCO allowed clients who had previously met the “minimum amount exemption” set out in section 2.10 of NI 45-106 to make additional investments in amounts of less than \$150,000. These investors did not otherwise qualify for exemptions from the prospectus requirement.

(ii) Unregistered trading by OWEMANCO representative

20. During the period May 18, 2012 to December 19, 2012, when Bonn was not registered in any capacity with the Commission, Bonn engaged in acts in furtherance of a trade on behalf of OWEMANCO including:

- (a) Meeting with investors to discuss investments in OWEMANCO Mortgage Trust;
- (b) Collecting KYC and other information from clients;

- (c) Providing clients with offering documents (including offering memorandum and subscription agreements);
- (d) Accepting investor funds; and
- (e) Executing trade transactions.

E. OWEMANCO failed to establish and maintain systems of controls and supervision

21. OWEMANCO did not have appropriate systems of controls and supervision in place to ensure that the OWEMANCO Undertaking was complied with and to ensure that OWEMANCO otherwise complied with Ontario securities law. Morris was the CCO of OWEMANCO during the period of the conduct referred to above. In May 2013, Morris advised Staff that while he met with new clients, he did not review any trades made by existing OWEMANCO clients, including investments made by existing clients during the period when Morris was the sole registered dealing representative for OWEMANCO.

F. Undertakings signed by Bonn and Morris regarding Future Registration

22. On May 14, 2014, Bonn surrendered his registration in the category of dealing representative and Morris surrendered his registration in the categories of dealing representative and CCO.

23. As a result of the conduct referred to above, Bonn has provided Staff with a signed undertaking that:

- (a) Bonn will not apply for reinstatement of registration as a dealing representative for a period of two years from the date of the order of the Commission approving this Settlement Agreement;
- (b) Bonn will not apply for reinstatement of registration as a dealing representative until he successfully passes the Conduct and Practices Handbook examination, and until he furnishes Staff with evidence of the successful completion of this examination; and
- (c) Bonn accepts that should he apply for reinstatement of registration as a dealing representative and should that registration be granted, he will be subject to a term and condition on his registration requiring strict supervision of him by his

sponsoring firm for a period of one year, beginning on the date of reinstatement of his registration (the “Bonn Undertaking”).

24. As a result of the conduct referred to above, Morris has provided Staff with a signed undertaking that:

- (a) Morris will not apply for reinstatement of registration as a dealing representative for a period of two years from the date of the order of the Commission approving this Settlement Agreement;
- (b) Morris will not apply for reinstatement of registration as a dealing representative until he successfully passes the Conduct and Practices Handbook examination, and until he furnishes Staff with evidence of the successful completion of this examination;
- (c) Morris accepts that should he apply for reinstatement of registration as a dealing representative and should that registration be granted, he will be subject to a term and condition on his registration requiring strict supervision of him by his sponsoring firm for a period of one year, beginning on the date of reinstatement of his registration; and
- (d) Morris will not apply for reinstatement of registration as a CCO for a period of 5 years from the date of the order of the Commission approving this Settlement Agreement (the “Morris Undertaking”).

G. Mitigating Factors

25. On April 18, 2014, OWEMANCO engaged North Star Compliance and Regulatory Solutions Inc. (the “Consultant”) to design and implement a compliance improvement plan.

26. On May 14, 2014, Bonn and Morris surrendered their respective registration and on February 5, 2015 the signed Bonn and Morris Undertakings were provided to Staff.

27. OWEMANCO has registered a new dealing representative and a new CCO. The new CCO has undertaken to complete the Osgoode Certificate in Regulatory Compliance and Legal Risk

Management for Financial Institutions offered by Osgoode Professional Development by June 2015.

28. OWEMANCO has now completed the procedures set out in the OWEMANCO Undertaking to Staff's satisfaction.

29. OWEMANCO represents to Staff that as of the date hereof:

- (a) no investor has been harmed by the conduct of OWEMANCO described in this Settlement Agreement;
- (b) subject to notice and other requirements, all of the outstanding units of the OWEMANCO Mortgage Trust are redeemable at any time; and
- (c) except for the conduct referred to in this Settlement Agreement, OWEMANCO has not distributed securities of OWEMANCO Mortgage Trust to investors except in compliance with the Act.

30. OWEMANCO has cooperated with Staff in connection with Staff's investigation of the matters referred to in this Settlement Agreement.

PART IV – CONDUCT CONTRARY TO THE ACT AND THE PUBLIC INTEREST

31. OWEMANCO contravened Ontario securities law, which was contrary to the public interest, in the following ways:

- (a) OWEMANCO improperly purported to rely on the exemptions referred to in Part III D(i) above;
- (b) OWEMANCO engaged in trading without registration contrary to subsection 25(1) of the Act; and
- (c) OWEMANCO failed to establish and maintain systems of controls and supervision to provide reasonable assurance that the firm and each individual acting on its behalf complied with securities legislation, in breach of subsection 32(2) of the Act and section 11.1 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (“NI 31-103”).

32. Further, the failure by OWEMANCO to comply with the OWEMANCO Undertaking was contrary to the public interest.

PART V – TERMS OF SETTLEMENT

33. The Commission will make an order, pursuant to subsection 127(1) of the Act, that:

- (a) the Settlement Agreement is approved;
- (b) The following terms and conditions are placed on OWEMANCO's registration:
 - i. The Consultant shall, at OWEMANCO's own expense:
 - 1. prepare and assist OWEMANCO in implementing a plan (the "Plan") to strengthen OWEMANCO's "compliance system" within the meaning of section 11.1 of NI 31-103 including the expected dates of completion and person(s) responsible for the implementation. In the Plan, the Consultant will examine OWEMANCO's operations, internal policies, practices and procedures and make recommendations for rectifying all identified compliance deficiencies raised in the Compliance Report dated August 12, 2013;
 - 2. review OWEMANCO's progress with respect to implementation of the Plan;
 - 3. submit written progress reports ("Progress Reports") to Staff detailing:
 - a. OWEMANCO's progress with respect to the implementation of the Plan and stating whether the specific recommendations included in the Plan have been appropriately implemented;
 - b. the expected date of completion and person(s) responsible for any recommendations that have not yet been implemented; and

- c. the testing done and the results of such testing, by the Consultant in relation to the recommendations that have been implemented to determine whether OWEMANCO's procedures are working effectively and are being enforced; and
4. submit a letter to Staff attesting that:
 - a. OWEMANCO has implemented the procedures and controls recommended by the Consultant that address each of the deficiencies identified in the Compliance Report and that strengthen OWEMANCO's compliance system;
 - b. OWEMANCO is complying with the new procedures and controls; and
 - c. In his or her capacity as Consultant, the Consultant has tested the procedures and they are working effectively and are being enforced;
- ii. The Consultant shall provide the Plan to Staff for review and approval no later than February 16, 2015;
- iii. The Plan and the Progress Reports must be reviewed and approved by the ultimate designated person ("UDP") and CCO of OWEMANCO and signed by the UDP and CCO of OWEMANCO as evidence of their review and approval;
- iv. The Consultant shall submit the Progress Reports to Staff every 60 days following approval of the Plan by Staff until Staff is satisfied that the Plan has been appropriately implemented and is being enforced;
- v. The Consultant shall remain in place until the letter referred to in subparagraph i(4) above has been delivered to Staff and Staff is satisfied that the Plan has been appropriately implemented and is being enforced;

- vi. OWEMANCO shall immediately submit to the Commission a direction from OWEMANCO giving consent to unrestricted access by Staff to communicate with the Consultant regarding OWEMANCO's progress with respect to the implementation of the Plan or any of its specific recommendations;
 - vii. In the event that the Consultant's relationship with OWEMANCO is terminated for any reason prior to the date referred to in subparagraph v. above, any replacement Consultant put forward by OWEMANCO shall be subject to approval by Staff; and
- (c) Pursuant to clause 9 of subsection 127(1) of the Act, OWEMANCO shall pay the amount of \$100,000 by way of a certified cheque to be delivered to Staff before the commencement of the settlement hearing, for allocation in accordance with subsection 3.4(2)(b) of the Act.

34. OWEMANCO undertakes to consent to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the terms and conditions set out in paragraph 33 above. The terms and conditions may be modified to reflect the provisions of the relevant provincial or territorial securities laws.

PART VI - STAFF COMMITMENT

35. If this Settlement Agreement is approved by the Commission, Staff will not initiate any other proceeding under the Act against OWEMANCO in relation to the facts set out in Part III herein, subject to the provisions of paragraph 36 below.

36. If this Settlement Agreement is approved by the Commission, and at any subsequent time OWEMANCO fails to honour the terms of the Settlement Agreement, Staff reserve the right to bring proceedings under Ontario securities law against OWEMANCO based on, but not limited to, the facts set out in Part III herein as well as the breach of the Settlement Agreement.

PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT

37. Approval of this Settlement Agreement will be sought at a hearing of the Commission scheduled on a date to be determined by the Secretary to the Commission, or such other date as

may be agreed to by Staff and OWEMANCO for the scheduling of the hearing to consider the Settlement Agreement.

38. Staff and OWEMANCO agree that this Settlement Agreement will constitute the entirety of the agreed facts to be submitted at the settlement hearing regarding OWEMANCO's conduct, unless the parties agree that further facts should be submitted at the settlement hearing.

39. If this Settlement Agreement is approved by the Commission, OWEMANCO agrees to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

40. If this Settlement Agreement is approved by the Commission, no party will make any public statement that is inconsistent with this Settlement Agreement or inconsistent with any additional agreed facts submitted at the settlement hearing.

41. Whether or not this Settlement Agreement is approved by the Commission, OWEMANCO agrees that it will not, in any proceeding, refer to or rely upon this Settlement Agreement or the settlement negotiations as the basis of any attack on the Commission's jurisdiction, alleged bias or appearance of bias, alleged unfairness or any other remedies or challenges that may otherwise be available.

PART VIII - DISCLOSURE OF SETTLEMENT AGREEMENT

42. If, for any reason whatsoever, this Settlement Agreement is not approved by the Commission or the order attached as Schedule "A" is not made by the Commission:

- (a) this Settlement Agreement and its terms, including all settlement negotiations between Staff and OWEMANCO leading up to its presentation at the settlement hearing, shall be without prejudice to Staff and OWEMANCO; and
- (b) Staff and OWEMANCO shall be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations in the Notice of Hearing and Statement of Allegations of Staff, unaffected by the Settlement Agreement or the settlement discussions/negotiations.

43. The terms of this Settlement Agreement will be treated as confidential by all parties hereto but such obligations of confidentiality shall terminate upon the commencement of the public

hearing to obtain approval of this Settlement Agreement by the Commission. The terms of the Settlement Agreement will be treated as confidential forever if the Settlement Agreement is not approved for any reason whatsoever by the Commission, except with the written consent of OWEMANCO and Staff or as may be required by law.

PART IX - EXECUTION OF SETTLEMENT AGREEMENT

44. This Settlement Agreement may be signed in one or more counterparts which together will constitute a binding agreement.

45. A facsimile or electronic copy of any signature will be as effective as an original signature.

Dated this “4th” day of February, 2015.

Signed in the presence of:

Ontario Wealth Management Inc.

“Graham Tobe”

Per: “Jonah Bonn”

Witness

STAFF OF THE ONTARIO SECURITIES COMMISSION

“Tom Atkinson”

Tom Atkinson
Director, Enforcement Branch

Dated this “5th” day of February, 2015.

SCHEDULE "A"



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IN THE MATTER OF THE *SECURITIES ACT* R.S.O. 1990, c.S.5, AS AMENDED

- AND -

IN THE MATTER OF ONTARIO WEALTH MANAGEMENT CORPORATION, carrying on business as OWEMANCO

ORDER (Subsection 127(1))

WHEREAS on February 4, 2015, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing (the "Notice of Hearing") pursuant to sections 127 and 127.1 of the *Securities Act*, R.S.O. 1990, c.S.5, as amended (the "Act") in relation to the Statement of Allegations (the "Statement of Allegations") filed by Staff of the Commission ("Staff") on February 4, 2015 in respect of Ontario Wealth Management Corporation carrying on business as OWEMANCO ("OWEMANCO");

AND WHEREAS OWEMANCO entered into a Settlement Agreement with Staff dated February 4, 2015 (the "Settlement Agreement") in which OWEMANCO and Staff agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing, subject to the approval of the Commission;

AND WHEREAS the Notice of Hearing dated February 4, 2015 also announced that the Commission proposed to hold a hearing to consider whether it is in the public interest to approve the Settlement Agreement;

AND WHEREAS on April 18, 2014, OWEMANCO engaged North Star Compliance and Regulatory Solutions Inc. (the “Consultant”) to design and implement a compliance improvement plan;

AND UPON reviewing the Notice of Hearing, the Statement of Allegations and the Settlement Agreement and upon hearing submissions from OWEMANCO and Staff;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this Order;

IT IS HEREBY ORDERED THAT:

- (a) the Settlement Agreement is approved;
- (b) Pursuant to paragraph 1 of subsection 127(1) of the Act, the following terms and conditions are placed on OWEMANCO’s registration:
 - i. The Consultant shall, at OWEMANCO’s own expense,:
 - 1. prepare and assist OWEMANCO in implementing a plan (the “Plan”) to strengthen OWEMANCO’s “compliance system” within the meaning of section 11.1 of NI 31-103 including the expected dates of completion and person(s) responsible for the implementation. In the Plan, the Consultant will examine OWEMANCO’s operations, internal policies, practices and procedures and make recommendations for rectifying all identified compliance deficiencies raised in a Compliance Report dated August 12, 2013;
 - 2. review OWEMANCO’s progress with respect to implementation of the Plan;
 - 3. submit written progress reports (“Progress Reports”) to Staff detailing:

- a. OWEMANCO's progress with respect to the implementation of the Plan and stating whether the specific recommendations included in the Plan have been appropriately implemented;
 - b. the expected date of completion and person(s) responsible for any recommendations that have not yet been implemented; and
 - c. the testing done and the results of such testing, by the Consultant in relation to the recommendations that have been implemented to determine whether OWEMANCO's procedures are working effectively and are being enforced; and
4. submit a letter to Staff attesting that:
- a. OWEMANCO has implemented the procedures and controls recommended by the Consultant that address each of the deficiencies identified in the Compliance Report and that strengthen OWEMANCO's compliance system;
 - b. OWEMANCO is complying with the new procedures and controls; and
 - c. In his or her capacity as Consultant, the Consultant has tested the procedures and they are working effectively and are being enforced;
- ii. The Consultant shall provide the Plan to Staff for review and approval no later than February 16, 2015;
 - iii. The Plan and the Progress Reports must be reviewed and approved by the ultimate designated person ("UDP") and CCO of OWEMANCO and signed by the UDP and CCO of OWEMANCO as evidence of their review and approval;
 - iv. The Consultant shall submit the Progress Reports to Staff every 60 days following approval of the Plan by Staff until Staff is satisfied that the Plan has been appropriately implemented and is being enforced;

- v. The Consultant shall remain in place until the letter referred to in subparagraph ii(4) above has been delivered to Staff and Staff is satisfied that the Plan has been appropriately implemented and is being enforced;
 - vi. OWEMANCO shall immediately submit to the Commission a direction from OWEMANCO giving consent to unrestricted access by Staff to communicate with the Consultant regarding OWEMANCO's progress with respect to the implementation of the Plan or any of its specific recommendations; and
 - vii. In the event that the Consultant's relationship with OWEMANCO is terminated for any reason prior to the date referred to in subparagraph v above, any replacement Consultant put forward by OWEMANCO shall be subject to approval by Staff; and
- (c) Pursuant to paragraph 9 of subsection 127(1) of the Act, OWEMANCO shall pay the amount of \$100,000 by way of a certified cheque to be delivered to Staff before the commencement of the settlement hearing, for allocation in accordance with subsection 3.4(2)(b) of the Act.

DATED AT TORONTO this day of February, 2015.
