



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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**IN THE MATTER OF
HOME CAPITAL GROUP INC., GERALD SOLOWAY,
ROBERT MORTON and MARTIN REID**

SETTLEMENT AGREEMENT

PART I - INTRODUCTION

1. Disclosure is a cornerstone principle of securities regulation. Everyone investing in securities should have equal access to information that may affect their investment decisions. From May 2015 until July 2015 (the “Material Time”), the Respondents engaged in the conduct described below, including failing to provide information to investors.

2. The Ontario Securities Commission (the “Commission”) will issue a Notice of Hearing (the “Notice of Hearing”) to announce that it will hold a hearing (“Settlement Hearing”) to consider whether, pursuant to sections 127 and 127.1 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 make certain orders against Home Capital Group Inc. (“HCG”), Gerald Soloway (“Soloway”), Robert Morton (“Morton”) and Martin Reid (“Reid”) (collectively, the “Respondents”) in respect of the conduct described herein.

PART II - JOINT SETTLEMENT RECOMMENDATION

3. Staff of the Commission (“Staff”) recommend settlement of the proceeding (the “Proceeding”) against the Respondents commenced by the Notice of Hearing dated April 19, 2017, in accordance with the terms and conditions set out in Part V of this Settlement Agreement. The Respondents consent to the making of an order (the “Order”) in the form attached as Schedule “A” to this Settlement Agreement based on the facts set out herein.

4. For the purposes of the Proceeding, and any other regulatory proceeding commenced by a securities regulatory authority, the Respondents agree with the facts set out in Part III of this Settlement Agreement and the conclusion in Part IV of this Settlement Agreement.

PART III - AGREED FACTS

A. OVERVIEW

5. On July 10, 2015, HCG announced that an ongoing review of its business partners had led it to terminate certain brokerages and brokers, causing an immediate drop in the number of new mortgages originated (“Originations”). The next trading day, HCG’s stock price fell 18.9%.

6. Prior to this announcement, from May 2015 until July 2015, HCG misled its shareholders as to the immediate and ongoing causes of the decline in Originations. Internally, HCG knew it had terminated three underwriters, two brokerages and thirty brokers because it had discovered falsified loan applications in its broker channels. The terminated brokerages and brokers had a cumulative total of \$881.4 million in Originations in 2014, representing approximately 10% of HCG’s total 2014 Originations. The termination of brokerages and brokers caused an immediate drop in Originations because certain of these brokers had historically referred significant volumes of business to HCG.

7. HCG also knew that additional changes to its internal control structure would be required largely because falsified loan applications had been discovered. By December 2014, HCG knew that the resulting changes that were being implemented led to some brokers moving their business to other lenders because of increased processing times at HCG. As of May 2015, Reid and Morton both stated in internal documents that the brokerage and broker terminations and remedial process changes had a negative effect on Q1 2015 Originations. Instead of including this material information in its Q1 2015 interim management discussion and analysis (“MD&A”) (together with the Q1 2015 interim financial statements, the “Q1 2015 Interim Filing”), HCG made materially misleading statements by attributing the decline in Originations to other factors such as seasonality, harsh winter, macroeconomic conditions and an “on-going review of its business partners ensuring that quality is within the Company’s risk appetite.”

8. HCG also made materially misleading statements concerning the causes of the drop in Originations on its May 7, 2015 earnings call, again attributing the drop to other factors that affected Originations such as cold weather, macroeconomic conditions and a cautious approach to lending.

9. In July 2015, HCG disclosed additional reasons for the drop in Originations, by way of a news release issued on July 10, 2015 (the “July 10th NR”) and material change report filed on July 17, 2015 (the “July 17th MCR”). Many of the facts disclosed in the July 10th NR were known to HCG by May 6, 2015. HCG had also been aware by May 6, 2015 that significant changes to its internal control structure were required and were being implemented. All of the foregoing constituted a material change in the business or operations of HCG. HCG failed to issue a news release forthwith and a material change report within 10 days of the material change, contrary to subsections 75(1) and (2) of the Act and Part 7 of National Instrument 51-102 - *Continuous Disclosure Obligations* (“NI 51-102”).

10. The disclosures made in the July 10th NR and July 17th MCR were not sufficient to enable a reader to fully appreciate the significance and impact of the material change and therefore did not comply with Form 51-102F3 *Material Change Report* (“51-102F3”) of NI 51-102.

B. BACKGROUND

The Respondents

11. HCG is a reporting issuer in the province of Ontario, as well as all of the other provinces in Canada. Its registered and principal office is located in Toronto, Ontario. The common shares of HCG are listed on the Toronto Stock Exchange. HCG is a holding company the principal business of which is conducted through its wholly owned subsidiary, Home Trust Company, a federally regulated financial institution.

12. Soloway is the founder of HCG and is 79 years old. During the Material Time, Soloway was the Chief Executive Officer (“CEO”) and a director of HCG. Morton was HCG’s Chief Financial Officer (“CFO”) during the Material Time and is 57 years old. Reid was HCG’s President during the Material Time and is 57 years old.

C. DETAILED FACTS

The Importance of Originations to the Business of HCG

13. HCG is in the residential and commercial lending business. HCG's residential mortgage portfolio constitutes approximately 90% of HCG's business. HCG's residential mortgage business consists predominantly of two portfolios: (a) lower margin, prime mortgages ("Accelerator"), which are mostly insured by Canada Mortgage and Housing Corporation; and (b) higher margin, non-prime mortgages ("Classic"), which are not insured. As a lending business whose primary product is non-prime residential mortgages, HCG's growth and performance are measured in part by the number of Originations in any given quarter.

14. HCG had traditionally positioned itself as a growth company and continued to do so through 2014 and into 2015. Analysts and investors considered the number of Originations to be a material metric of HCG's continued growth. HCG itself normally reported on Originations each quarter. In HCG's 2014 Annual Report, Originations are specifically highlighted under the heading "Growing Our Core Business", and again under "Building Our Asset Base" where HCG stated:

Over the course of 2014, we renewed focus on Accelerator, our insured residential mortgage product. As a result of our efforts, originations for this component of our portfolio increased by 76.4% in 2014. This business segment continues to be one of our key offerings and helps to fulfill our mandate to offer a full line of products that meets the needs of borrowers and brokers.

15. Analysts consistently asked questions about Originations and HCG's disclosure regarding Originations on earnings calls.

16. HCG sources borrowers for its lending products through its broker channels and referral channels. HCG's relationships with brokers are integral to Originations and to HCG's business.

Project Trillium and HCG's Internal Understanding of the Findings

17. In June 2014, HCG became aware of irregularities associated with Accelerator applications handled by one of its underwriters. As a result, in August 2014, HCG launched an internal investigation known as Project Trillium to determine the scope, extent and cause of the

issue. HCG discovered that members of its Accelerator underwriting team, including one of its highest volume underwriters, were falsely documenting that they had completed income verification steps when they had not actually done so (“Phantom Ticking”) for a large proportion of mortgages underwritten by those underwriters, and further that employment/income information used to support the mortgage applications had been falsified.

18. Project Trillium revealed that HCG’s lines of defence had failed to detect that its underwriting department was processing fraudulent documentation. It further revealed that HCG’s underwriting policy was being circumvented because of the practice of Phantom Ticking, which was a “learned” or systemic practice by certain members of HCG’s Accelerator underwriting group.

19. As a result of interim findings of Project Trillium, in mid-November 2014, HCG terminated three underwriters and another underwriter resigned.

20. HCG also terminated its relationship with certain brokers and brokerages, which occurred mainly from November 2014 through January 2015. By February 10, 2015, HCG had terminated brokers and brokerages that had generated a cumulative total of \$881.4 million in Originations in 2014, representing approximately 10% of HCG’s total 2014 Originations. The termination of brokerages and brokers caused an immediate drop in Originations because certain of those brokerages and brokers had historically referred significant volumes of business to HCG. Remediation of internal controls also had a negative effect on Originations as they caused HCG’s processing time for mortgage applications to increase, resulting in some brokers sending applications to other lenders. In January 2015, management reported to the Board of Directors (“Board”) that, effective January 1, 2015, insured Originations would undergo a reduction in volume targets of \$100 million per month during the period of remediation of lines of defence (a 50% reduction of original targets). Further, in a presentation by Reid entitled *Project Trillium: Management Remediation Planning*, management of HCG confirmed its understanding of the way ahead by writing, “slower business growth over the next quarter will give us the opportunity to develop and implement fundamental strategic changes to the business.”

21. By February 2015, the following investigative findings, remediation planning and action from Project Trillium were known by the Respondents:

- The Accelerator business was down by 32.5% compared to Q3 2014;
- Effective January 1, 2015, Accelerator volume targets had been temporarily reduced by 50% to \$100 million per month;
- HCG had terminated three underwriters, two brokerages (out of more than 100) and 30 brokers (out of more than 4,000);
- The terminated brokerages and brokers had a cumulative total of \$881.4 million in Originations in 2014, representing approximately 10% of HCG's total 2014 Originations;
- Significant process changes were required to increase the accountability of the front line business, including separating sales from underwriting and implementing an employment income verification team;
- While testing was complete on the Accelerator side of the business, there was a concern that if brokers had supplied falsified employment and income documentation on the insured side of the business, they might be doing the same thing for Classic mortgages. Work continued on the exposure assessment related to the Classic mortgage portfolio. The Corporate Compliance group was re-verifying employment and income information with employers for a sample of mortgages to salaried borrowers;
- Some brokers were moving their business to other lenders because of increased processing times at HCG; and
- Executive compensation was deferred in conjunction with Project Trillium findings, including the compensation of Soloway and Reid.

Particulars of HCG's Public Disclosure

(a) Misleading Disclosure in May 2015

(i) Q1 2015 Interim Filing

22. HCG filed its Q1 2015 Interim Filing on May 6, 2015. The Q1 2015 Interim Filing stated that "the first quarter was characterized by a traditionally slow real estate market, exacerbated by very harsh winter conditions. The Company has remained cautious in light of continued macroeconomic conditions and continues to perform ongoing reviews of its business partners ensuring that quality is within the Company's risk appetite."

23. One week before HCG filed its Q1 2015 Interim Filing, HCG had knowledge of the negative impact of the termination of brokerages and brokers and remedial actions on Originations. In his "1st Quarter 2015" Report ("President's Report") dated April 29, 2015, Reid

stated that the decrease in Originations for Q1 2015 was mainly due to Project Trillium remedial actions. The President's Report further stated that HCG's "share of the broker channel has deteriorated, mainly as a result of Trillium remediation."

24. HCG was also aware that the terminations and remedial process changes could have a negative effect on Originations beyond Q1 2015. In a memo dated May 4, 2015 (the "May 4 Memo") to the Audit Committee of the Board ("Audit Committee"), Morton advised that a decision had been made to add disclosure in HCG's filings in respect of "the recent impact the de-listing of brokers has had and may have on the results of the Company." Morton advised that the reduction in Originations for Q1 2015 could not be attributed to weather and seasonality alone and that the reduction had the potential to affect more than first quarter Originations numbers. Morton raised a concern about the need to publicly disclose the fact that brokerages and brokers had been terminated. Morton also advised that management had determined that, based on current forecasted information, HCG might not meet its annual financial targets in 2015.

25. HCG consulted its external professional advisors regarding and discussed with them the additional disclosures in the Q1 2015 Interim Filing.

26. In its Q1 2015 Interim Filing, HCG misled investors by attributing the first quarter Originations results to a traditionally slow real estate market, harsh winter, macroeconomics and an "on-going review of its business partners ensuring that quality is within the Company's risk appetite", without referring to the termination of brokers and brokerages. HCG also added a further two sentences to the Operational Risk section of the MD&A, which stated that HCG may encounter a financial loss as a result of an event with a third party service provider and that HCG may change relationships as appropriate. The disclosure was not sufficient to allow an investor to appreciate the reasons for the drop in Originations or the material risk to future growth of HCG that the termination of brokerages and brokers, process changes and remediation represented.

27. Soloway and Morton certified the Q1 2015 Interim Filing as CEO and CFO, respectively.

(ii) May 7, 2015 Earnings Call

28. Soloway, Morton and Reid participated in an earnings call with analysts held on May 7, 2015 following the filing of HCG's Q1 2015 Interim Filing.

29. Soloway was asked:

Q: The first question I have is going back to originations, I totally get how, given what was going on with macro, well, you guys would be more kind of cautious on originations in the traditional business. I'm just trying to understand, I guess, from the prime insured side, are you guys saying that you were also kind of a bit careful there too, this being an insured product? Is that part of the reason why the originations kind of were where they were?

30. Soloway, simply responded - "Yes." The analyst asked further, "Okay. So it was -okay, so it was a little bit of teething pains. But were you guys being a little more cautious on underwriting? I'm just trying to get a sense of, has it been because maybe brokers have been losing some market share, whether or not it's been small competition within the broker channel or to...". Soloway replied, "None of that has changed. I think it's very similar to what it was last year. There isn't a dramatic one quarter change. There's been no new competitor. There's been no new change in brokers. Brokers are exactly the same in my estimate."

31. Specifically, when asked about the decline in Originations for Q1 2015, Soloway attributed the continuing decline in Originations to a range of factors including cold weather, macroeconomic conditions and a cautious approach to lending. Given the information known to Soloway, including as contained in the President's Report and the May 4 Memo, his statements were misleading in a material respect by not identifying all factors contributing to the decline in Originations.

32. On May 7, 2015, HCG and Soloway made statements contrary to subsection 126.2(1) of the Act.

(b) Untimely Disclosure of the Material Change in July 2015

33. The termination of brokerages and brokers and the subsequent remediation arising out of the Project Trillium findings, including changes to HCG's underwriting controls and procedures, constituted a material change in HCG's business or operations. HCG was required to issue and

file a news release with respect to the material change by no later than May 6, 2015. HCG did not issue a news release in relation to this material change until July 10, 2015.

34. On July 13, 2015, the next trading day, HCG's stock price fell 18.9%.

35. On July 17, 2015, HCG filed the July 17 MCR.

36. HCG breached subsections 75(1) and (2) of the Act and Part 7 of NI 51-102 by failing to issue a news release forthwith, and by failing to file a material change report within 10 days.

37. In addition, the July 10th NR and July 17th MCR disclosures were not sufficient for a reader to understand the actual nature of the material change, nor the significance of its impact on immediate and future quarters, and, as such, did not comply with Part 7 of NI 51-102, Item 5 of 51-102F3 and subsection 122(1)(b) of the Act.

Soloway

38. As CEO of HCG, Soloway shared responsibility for HCG's public disclosure and ensuring that investors were provided with the important information about the causes of the decline in Originations they needed in order to make a decision to buy, sell or hold HCG's securities.

39. As the founder and CEO, Soloway had a significant role and influence in managing HCG. He also had experience, expertise and background in relation to the capital markets. Soloway had knowledge of the principal investigative findings, remediation planning and action from Project Trillium and the causes of the decline in Originations as set out in the May 4 Memo and the President's Report.

40. Soloway failed to ensure that HCG properly met its continuous disclosure obligations with respect to the Q1 2015 Interim Filing and instead authorized, permitted or acquiesced in the statements made by HCG in the Q1 2015 Interim Filing that were misleading in a material respect at the time and in light of the circumstances under which they were made.

41. Soloway also made statements on the May 7, 2015 earnings call that were misleading in a material respect by not identifying all factors contributing to the decline in Originations.

42. In addition, Soloway, as one of the certifying officers for HCG, failed to take reasonable steps in his review of the Q1 2015 Interim Filing before certifying that the Q1 2015 Interim Filing contained no misrepresentations.

43. Soloway also failed to ensure that HCG disclosed the material change to its business or operations arising from the findings of Project Trillium forthwith.

Morton

44. As the CFO, Morton was responsible for the oversight of all financial aspects of the affairs of HCG and had responsibility for drafting HCG's Q1 2015 Interim Filing. He was also Chair of HCG's Disclosure Committee.

45. Morton had knowledge of the principal investigative findings, remediation planning and action from Project Trillium. In the May 4 Memo, Morton advised the Audit Committee that a decision had been made to add disclosure in HCG's filings in respect of "the recent impact the de-listing of brokers has had and that have on the results of the Company." Among the reasons provided, Morton advised the Audit Committee that the reduction in Originations for Q1 2015 could not be attributed to weather and seasonality alone and that the reduction had the potential to extend beyond Q1 2015.

46. Morton failed to ensure statements that were made by HCG in its Q1 2015 Interim Filing were not misleading in a material respect at the time and in light of the circumstances under which they were made.

47. In addition, Morton, as one of the certifying officers for HCG, failed to take reasonable steps in his review of the Q1 2015 Interim Filing before certifying that the Q1 2015 Interim Filing contained no misrepresentations.

48. Morton also failed to ensure that HCG disclosed the material change to its business or operations arising from the findings of Project Trillium forthwith.

Reid

49. As President, Reid had a significant role in managing HCG. He was also a member of HCG's Disclosure Committee.

50. With respect to Project Trillium, Reid had knowledge of the principal investigative findings, remediation planning and action items. Further, by the end of April 2015, Reid also had knowledge of the impact of the termination of brokerages and brokers and remedial actions on Originations. The President's Report stated that HCG's "share of broker channel has deteriorated, mainly as a result of Trillium remediation."

51. In addition, Reid failed to ensure that statements made by HCG in its Q1 2015 Interim Filing were not misleading in a material respect at the time and in light of the circumstances under which they were made.

52. Reid also failed to ensure that HCG disclosed the material change to its business or operations arising from the findings of Project Trillium forthwith.

D. MITIGATING FACTORS

53. The Respondents request that the settlement hearing panel consider the following mitigating circumstances. Staff do not object to the mitigating circumstances set out by the Respondents below.

HCG Investigation and Remediation Efforts

54. When HCG and its directors and officers became aware of the irregularities associated with the Accelerator mortgage applications, they took steps to investigate the issue to ensure that the full extent of any wrongdoing was uncovered. HCG conducted an internal investigation, struck an independent committee of the Board, chaired by a former Chair of the Commission, to oversee the investigation and appointed a third party accounting firm to assist with the investigation. HCG consulted its external professional advisors throughout the investigation.

55. HCG also reported the identified irregularities to Canada Mortgage and Housing Corporation, Genworth Canada, as well as the Office of the Superintendent of Financial Institutions and its external auditor and continued to keep them apprised as the investigation continued in a timely manner.

56. As the results of the Project Trillium investigation became clear, HCG remediated the areas of concern identified by the investigation and otherwise. HCG improved its existing processes by reallocating internal resources to ensure that underwriters verified income. HCG completed the segregation of Originations and underwriting in May of 2015 as part of a pilot program which was rolled out throughout the residential lending business thereafter. The company also initiated a review of underwriter compensation to put more of an emphasis on risk mitigation, including an assessment of quality of the loans being originated.

Disclosure Decisions

57. In coming to decisions on disclosure and materiality, HCG's Board acted in good faith by relying on its external professional advisors. HCG's auditor was aware of the Project Trillium investigation, tested Originations and reviewed HCG's processes as part of their audit, and did not raise any concerns about the financial statement disclosure.

58. Throughout the Material Time, Soloway, Reid and Morton provided all relevant information bearing on Originations to HCG's Board as it became known.

59. HCG and its directors and officers believed that lost Originations could be replaced from other sources in time.

60. Following the May 7, 2015 earnings call, HCG sought advice from its external professional advisors to determine whether a clarifying public statement was required. In the result, no clarifying statement was issued.

Cooperation of HCG

61. Within days of June 1, 2015, HCG voluntarily reported to the Commission the receipt of a whistleblower memorandum from a Vice President at HCG dated June 1, 2015 entitled, *“Failure to Comply with Timely and Continuous Disclosure Obligations and Related Concerns -- Fraudulent Mortgages”*. HCG, Soloway, Reid and Morton subsequently cooperated with Staff’s information requests and investigation.

Significant Governance and Leadership Renewal at HCG

62. In recent months, HCG has taken significant steps to renew its leadership and governance.

63. On March 27, 2017, HCG announced that it had terminated the employment of Reid as President and CEO, effective immediately and removed him from the Board of HCG’s subsidiaries, including Home Trust Company.

64. On May 5, 2017, HCG announced that Alan Hibben (“Hibben”) had been appointed to the Board effective immediately, replacing Soloway, who had previously announced his pending retirement. Hibben is an experienced director and financial executive.

65. On May 5, 2017, HCG also announced that Robert Blowes would be assuming the role of interim CFO following HCG’s Q1 2017 interim filing, at which time Morton would assume responsibilities for special projects outside the financial reporting group.

66. On May 8, 2017, HCG announced that three leading Canadian businesspeople, Claude Lamoureux, Paul Haggis and Sharon Sallows, had agreed to join the Board immediately. HCG also announced the appointment of Brenda Eprile (“Eprile”), who joined the Board in 2016, to the role of the Chair of the Board and that William Falk would be stepping down from the Board. Eprile has extensive regulatory and compliance experience. The new directors are well known for their track records as executives and in the boardroom, and they bring a wide range of applicable knowledge and experience.

67. On May 18, 2017, HCG announced that James Lisson had been appointed to the Board, bringing extensive experience in financial services law, operational issues, governance, stakeholder relations, and risk and reputation management. HCG also announced that John Marsh was stepping down from the Board.

68. At its Annual Meeting of Shareholders, which will be held on June 29, 2017, shareholders will be asked to support the election of nine directors, six of whom joined the Board subsequent to the Material Time.

69. HCG is currently actively searching for a CEO and a CFO.

PART IV - NON-COMPLIANCE WITH ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

70. During the Material Time:

(a) HCG acknowledges and admits that it:

(i) did not satisfy its continuous disclosure obligations by making statements in its Q1 2015 Interim Filing that in a material respect and at the time and in light of the circumstances under which they were made, were misleading or untrue or did not state a fact that was required to be stated or

that was necessary to make the statement not misleading, contrary to subsection 122(1)(b) of the Act and the requirements of NI 51-102;

- (ii) made statements on the May 7, 2015 earnings call that were misleading in a material respect by not identifying all factors contributing to the decline in Originations and by failing to state facts that were required to be stated or that were necessary to make the statements not misleading, contrary to subsection 126.2(1) of the Act. These statements would reasonably be expected to have a significant effect on the market price or value of HCG's securities;
 - (iii) did not satisfy its continuous disclosure obligations by failing to file a news release forthwith and to file a material change report within 10 days of a material change in the business or operations of HCG, contrary to subsections 75(1) and (2) of the Act and Part 7 of NI 51-102;
 - (iv) made statements in the July 10th NR and the July 17th MCR, which did not contain sufficient disclosure for a reader to appreciate the significance and impact of the material change and were misleading in a material respect, contrary to subsection 122(1)(b) of the Act and Item 5 of 51-102F3 of NI 51-102; and
 - (v) breached the Act and NI 51-102 and acted in a manner contrary to the public interest.
- (b) Soloway acknowledges and admits that he:
- (i) made statements on the May 7, 2015 earnings call that were misleading in a material respect by not identifying all factors contributing to the decline in Originations and by failing to state facts that were required to be stated or that were necessary to make the statements not misleading, contrary to subsection 126.2(1) of the Act. These statements would reasonably be expected to have a significant effect on the market price or value of HCG's securities;

- (ii) improperly certified the Q1 2015 Interim Filing by stating that the filing did not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that was necessary to make a statement not misleading in light of the circumstances under which it was made, contrary to subsection 122(1)(b) of the Act and National Instrument 52-109 - *Certification of Disclosure in Issuers' Annual and Interim Filings* ("NI 52-109");
 - (iii) authorized, permitted or acquiesced in the above contraventions of the Act by HCG and is deemed to have not complied with Ontario securities law pursuant to section 129.2 of the Act; and
 - (iv) acted in a manner contrary to the public interest.
- (c) Morton acknowledges and admits that he:
- (i) improperly certified the Q1 2015 Interim Filing by stating that the filing did not contain any untrue statement of a material fact or omit to state a material fact required to be stated or that was necessary to make a statement not misleading in light of the circumstances under which it was made, contrary to subsection 122(1)(b) of the Act and NI 52-109;
 - (ii) authorized, permitted or acquiesced in the above contraventions of the Act by HCG (except those referred to in paragraph 70(a)(ii)) and is deemed to have not complied with Ontario securities law pursuant to section 129.2 of the Act; and
 - (iii) acted in a manner contrary to the public interest.
- (d) Reid acknowledges and admits that he:
- (i) authorized, permitted or acquiesced in the above contraventions of the Act by HCG (except those referred to in paragraph 70(a)(ii)) and is deemed to have not complied with Ontario securities law pursuant to section 129.2 of the Act; and

- (ii) acted in a manner contrary to the public interest.

PART V - TERMS OF SETTLEMENT

71. The Respondents agree to the terms of settlement set forth below.

72. HCG has given an undertaking (the “Undertaking”) to the Commission in the form attached as Schedule “B” to this Settlement Agreement, which includes an undertaking to make a payment, before the commencement of the Settlement Hearing, of \$10,000,000 to Stikeman Elliott LLP in trust for the benefit of the proposed class, other than Excluded Persons¹ (the “Class”) in the putative class action commenced on February 13, 2017 as London, Ontario Court File No. 349/17CP (the “Class Action”).

73. The Respondents consent to the Order, pursuant to which it is ordered that:

- (a) this Settlement Agreement be approved;
- (b) HCG shall:
 - (i) within one year of the date of the Order, conduct a review of and deliver a report to the Board and Staff on its continuous disclosure practices and any changes proposed and/or implemented as a result of its review, pursuant to subsection 127(2) of the Act; and
 - (ii) pay costs in the amount of \$500,000 by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to section 127.1 of the Act;
- (c) Soloway shall:
 - (i) be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

¹ “Excluded Persons” means HCG, the individual defendants in the Class Action (“Individual Defendants”), and the past or present subsidiaries or affiliates, officers, directors, partners, legal representatives, consultants, agents, successors and assigns of HCG, and any member of each of the Individual Defendants’ families, their heirs, successors or assigns.

- (ii) immediately resign any position that he holds as a director or officer of a reporting issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
 - (iii) be prohibited from becoming or acting as a director or officer of any reporting issuer for a period of 4 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act; and
 - (iv) pay an administrative penalty in the amount of \$1 million by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b)(i) or (ii) of the Act;
- (d) Morton shall:
- (i) be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
 - (ii) immediately resign any position that he holds as a director or officer of a reporting issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
 - (iii) be prohibited from becoming or acting as a director or officer of any reporting issuer for a period of 2 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act; and
 - (iv) pay an administrative penalty in the amount of \$500,000 by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b)(i) or (ii) of the Act; and
- (e) Reid shall:
- (i) be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;

- (ii) immediately resign any position that he holds as a director or officer of a reporting issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
- (iii) be prohibited from becoming or acting as a director or officer of any reporting issuer for a period of 2 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act; and
- (iv) pay an administrative penalty in the amount of \$500,000 by wire transfer to the Commission before the commencement of the Settlement Hearing, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b)(i) or (ii) of the Act.

74. The parties acknowledge that Staff will recommend to the Commission that the \$2,000,000 designated for allocation or use under subsection 3.4(2)(b)(i) or (ii) of the Act above be allocated or used as follows: (a) \$1,000,000 for the benefit of HCG investors who comprise the Class (in addition to the \$10 million that will be paid to the Class as a result of this Settlement Agreement as set out in paragraph 72 above) in accordance with subsection 3.4(2)(b)(i) of the Act; and (b) the remaining \$1,000,000 for use by the Commission in accordance with subsection 3.4(2)(b)(i) or (ii) of the Act.

75. The Respondents consent to a regulatory order made by any provincial or territorial securities regulatory authority in Canada containing any or all of the prohibitions set out in subparagraphs 73(c)(iii), (d)(iii), and (e)(iii). These prohibitions may be modified to reflect the provisions of the relevant provincial or territorial securities law.

76. The Respondents acknowledge that this Settlement Agreement and the Order may form the basis for orders of parallel effect in other jurisdictions in Canada. The securities laws of some other Canadian jurisdictions allow orders made in this matter to take effect in those other jurisdictions automatically, without further notice to the Respondents. The Respondents should contact the securities regulator of any other jurisdiction in which the Respondents intend to engage in any securities- or derivatives-related activities, prior to undertaking such activities.

PART VI - FURTHER PROCEEDINGS

77. If the Commission approves this Settlement Agreement and the Respondents fail to comply with any of the terms of the Settlement Agreement or the Undertaking, Staff may bring proceedings against the Respondents. These proceedings may be based on, but need not be limited to, the facts set out in Part III of this Settlement Agreement as well as the breach of the Settlement Agreement or the Undertaking.

PART VII - PROCEDURE FOR APPROVAL OF SETTLEMENT

78. The parties will seek approval of this Settlement Agreement at the Settlement Hearing before the Commission, which shall be held on a date determined by the Secretary to the Commission in accordance with this Settlement Agreement and the Commission's *Rules of Procedure* (2014), 37 O.S.C.B. 4168.

79. The Respondents will attend the Settlement Hearing in person.

80. The parties confirm that this Settlement Agreement sets forth all of the agreed facts that will be submitted at the Settlement Hearing, unless the parties agree that additional facts should be submitted at the Settlement Hearing.

81. If the Commission approves this Settlement Agreement:

- (a) the Respondents irrevocably waive all rights to a full hearing, judicial review or appeal of this matter under the Act; and
- (b) the parties will not make any public statement that is inconsistent with this Settlement Agreement or with any additional agreed facts submitted at the Settlement Hearing.

82. Whether or not the Commission approves this Settlement Agreement, the Respondents will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission's jurisdiction, alleged bias, alleged unfairness or any other remedies or challenges that may be available.

83. As set out elsewhere herein a portion of the amounts to be paid herein are to go to the Class, without any deduction for legal fees or expenses, including any expenses related to the distribution of the amounts, which is also being settled, subject to court approval contemporaneously with the execution of this Settlement Agreement. The parties hereto are only prepared to enter into this Settlement Agreement on the basis that the Class Action is also settled at the same time and therefore the orders obtained in the Class Action and from the Commission will reciprocally provide that neither is finally fully effective and binding unless and until the approval from both is obtained and is final. The parties hereto will work together on the timing and sequence of the approvals to ensure that the final approvals are obtained at the earliest practicable time. The rights and evidentiary protections described in paragraphs 4, 84 and 85 herein shall also be made part of the contingent approval order in the approval jurisdiction that proceeds first in the likely event that they are not finally approved at exactly the same time.

PART VIII - DISCLOSURE OF SETTLEMENT AGREEMENT

84. If the Commission does not make the Order:

- (a) this Settlement Agreement and all discussions and negotiations between Staff and the Respondents before the Settlement Hearing will be without prejudice to Staff and the Respondents; and
- (b) Staff and the Respondents will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing on the merits of the allegations contained in the Statement of Allegations dated April 19, 2017 in respect of the Proceeding. Any such proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.

85. The parties will keep the terms of this Settlement Agreement confidential until the Settlement Hearing, unless they agree in writing not to do so or unless otherwise required by law.

PART IX - EXECUTION OF SETTLEMENT AGREEMENT

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

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

DATED at Toronto, Ontario this day of June, 2017.

“Marion C. Soloway”

Witness: Marion C. Soloway

“Gerald Soloway”

GERALD SOLOWAY

“Margaret Kingerski”

Witness: Margaret Kingerski

“Robert Morton”

ROBERT MORTON

“David Hausman”

Witness: David Hausman

“Martin Reid”

MARTIN REID

HOME CAPITAL GROUP INC.

By: “Bonita Then”

Name: Bonita Then

Title: Interim President & CEO

DATED at Toronto, Ontario, this 14th day of June, 2017.

ONTARIO SECURITIES COMMISSION

By: “Jeff Kehoe”

Name: Jeff Kehoe

Title: Director, Enforcement Branch

SCHEDULE “A”



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

P.O. Box 55, 22nd Floor
20 Queen Street West
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20, rue queen ouest
Toronto ON M5H 3S8

**IN THE MATTER OF
HOME CAPITAL GROUP INC., GERALD SOLOWAY,
ROBERT MORTON and MARTIN REID**

[INSERT COMMISSIONERS OF THE PANEL]

June ___, 2017

**ORDER
Sections 127 and 127.1 of the
Securities Act, RSO 1990, c S.5**

THIS APPLICATION, made jointly by Home Capital Group Inc. (“HCG”), Gerald Soloway (“Soloway”), Robert Morton (“Morton”) and Martin Reid (“Reid”) (collectively, the “Respondents”) and Staff of the Commission (“Staff”) for approval of a settlement agreement dated June ___, 2017 (the “Settlement Agreement”), was heard on June ___, 2017 at the offices of the Commission located at 20 Queen Street West, 17th Floor, Toronto, Ontario;

ON READING the Statement of Allegations dated April 19, 2017, and the Settlement Agreement and on hearing the submissions of representatives of each of the parties, and on considering the Undertaking of HCG dated June ___, 2017 to make a payment of \$10,000,000 to Stikeman Elliott LLP in trust for the benefit of the proposed class, other than Excluded Persons² (the “Class”) in the putative class action commenced on February 13, 2017 as London, Ontario Court File No. 349/17CP, and on considering the acknowledgement of the parties that Staff will recommend to the commission that the \$2,000,000 paid pursuant to this Settlement Agreement

² “Excluded Persons” means HCG, the individual defendants in the Class Action (“Individual Defendants”), and the past or present subsidiaries or affiliates, officers, directors, partners, legal representatives, consultants, agents, successors and assigns of HCG, and any member of each of the Individual Defendants' families, their heirs, successors or assigns.

and designated for allocation or use under subsection 3.4(2)(b)(i) or (ii) of the Act be allocated or used as follows: (a) \$1,000,000 for the benefit of HCG investors who comprise the Class in accordance with subsection 3.4(2)(b)(i) of the Act; and (b) the remaining \$1,000,000 for use by the Commission in accordance with subsection 3.4(2)(b)(i) or (ii) of the Act;

IT IS ORDERED THAT:

1. the Settlement Agreement is approved;
2. HCG shall:
 - (i) within one year of the date of the Order, conduct a review of and deliver a report to the Board of Directors and Staff on its continuous disclosure practices and any changes proposed and/or implemented as a result of its review, pursuant to subsection 127(2) of the Act; and
 - (ii) pay costs in the amount of \$500,000 by wire transfer to the Commission, pursuant to section 127.1 of the Act; and
3. Soloway shall:
 - (i) be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
 - (ii) immediately resign any position that he holds as a director or officer of a reporting issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
 - (iii) be prohibited from becoming or acting as a director or officer of any reporting issuer for a period of 4 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act; and
 - (iv) pay an administrative penalty in the amount of \$1,000,000 by wire transfer to the Commission, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b)(i) or (ii) of the Act; and

4. Morton shall:

- (i) be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
- (ii) immediately resign any position that he holds as a director or officer of a reporting issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
- (iii) be prohibited from becoming or acting as a director or officer of any reporting issuer for a period of 2 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act; and
- (iv) pay an administrative penalty in the amount of \$500,000 by wire transfer to the Commission, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b)(i) or (ii) of the Act; and

5. Reid shall:

- (i) be reprimanded, pursuant to paragraph 6 of subsection 127(1) of the Act;
- (ii) immediately resign any position that he holds as a director or officer of a reporting issuer, pursuant to paragraph 7 of subsection 127(1) of the Act;
- (iii) be prohibited from becoming or acting as a director or officer of any reporting issuer for a period of 2 years commencing on the date of the Order, pursuant to paragraph 8 of subsection 127(1) of the Act; and
- (iv) pay an administrative penalty in the amount of \$500,000 by wire transfer to the Commission, pursuant to paragraph 9 of subsection 127(1) of the Act, which amount be designated for allocation or use by the Commission in accordance with subsection 3.4(2)(b)(i) or (ii) of the Act.

Commissioner

Commissioner

Commissioner

SCHEDULE “B”



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

P.O. Box 55, 22nd Floor
20 Queen Street West
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**IN THE MATTER OF
HOME CAPITAL GROUP INC., GERALD SOLOWAY,
ROBERT MORTON and MARTIN REID**

UNDERTAKING TO THE ONTARIO SECURITIES COMMISSION

1. This Undertaking is given in connection with the settlement agreement dated June ____, 2017 between Home Capital Group Inc. (“HCG”), Gerald Soloway, Robert Morton, Martin Reid and Staff of the Commission.

2. HCG undertakes to the Commission to make a payment of \$10,000,000 to Stikeman Elliott LLP in trust for the benefit of the proposed class, other than Excluded Persons³ in the putative class action commenced on February 13, 2017 as London, Ontario Court File No. 349/17CP.

DATED at Toronto, this ____ day of June, 2017.

HOME CAPITAL GROUP INC.

Name:

Title:

³ “Excluded Persons” means HCG, the individual defendants in the Class Action (“Individual Defendants”), and the past or present subsidiaries or affiliates, officers, directors, partners, legal representatives, consultants, agents, successors and assigns of HCG, and any member of each of the Individual Defendants' families, their heirs, successors or assigns.



Ontario
Securities
Commission

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**IN THE MATTER OF
HOME CAPITAL GROUP INC., GERALD SOLOWAY,
ROBERT MORTON and MARTIN REID**

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2. HCG undertakes to the Commission to make a payment of \$10,000,000 to Stikeman Elliott LLP in trust for the benefit of the proposed class, other than Excluded Persons¹ in the putative class action commenced on February 13, 2017 as London, Ontario Court File No. 349/17CP.

DATED at Toronto, this 14th day of June, 2017.

HOME CAPITAL GROUP INC.

“Bonita Then”

Name: Bonita Then

Title: Interim President & CEO

¹ “Excluded Persons” means HCG, the individual defendants in the Class Action (“Individual Defendants”), and the past or present subsidiaries or affiliates, officers, directors, partners, legal representatives, consultants, agents, successors and assigns of HCG, and any member of each of the Individual Defendants' families, their heirs, successors or assigns.