

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS
77 South High Street, 21st Floor
Columbus, Ohio 43215-6120

In the matter of:

**ACE MORTGAGE
FUNDING INC.**

**6845 Parkdale Place , Suite D
Indianapolis, IN 46254**

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) Case No. 03-MB-D-07-01
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) **SETTLEMENT AND
CONSENT ORDER**
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WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), is charged with the responsibility of enforcing the Ohio Mortgage Broker Act, codified in Ohio Revised Code ("R.C.") Chapter 1322; and

WHEREAS, Ace Mortgage Funding, Inc. ("Respondent") is an Indiana corporation seeking registration with the Division as a mortgage broker through a pending application to the Division pursuant to R.C. Chapter 1322. The proposed business address of record for Respondent's office in Ohio is 135 Merchant Street, Suite 160, Cincinnati, Ohio 45246. The Registrant's main office is at 6845 Parkdale Place, Suite D, Indianapolis, Indiana 46254; and

WHEREAS, on July 24, 2003, the Division sent via certified mail a Notice of Intent to Assess Fine and Suspend Mortgage Broker Certificate of Registration and Notice of Opportunity for a Hearing ("the Notice") to Ace Mortgage Funding, Inc ("Respondent") to its main office business address; and

WHEREAS, the Notice contained allegations and findings that:

(A) Robert L. Gregory, Jr. is the Co-Owner and Vice-President of Respondent Ace Mortgage Funding Inc., an Indiana corporation headquartered at 6845 Parkdale Place, Suite D, Indianapolis, Indiana 46254.

(B) In connection with its mortgage broker application to the Division in February 2003, Respondent submitted, in accordance with R.C. § 1322.03(A)(7) and the rules thereunder, a disclosure form stating that Robert L. Gregory, Jr. had not been convicted of any criminal offense.

(C) In truth and fact, Robert L. Gregory, Jr. was convicted of a felony count of Robbery in Marion County, Indiana in 1981 and pursuant to a plea agreement was sentenced to three years in a minimum security facility. Mr. Gregory served one year at the Indiana Youth Center and was then given supervised work release. Robbery constitutes a criminal offense involving theft for purposes of R.C. §§ 1322.03(A)(7) and 1322.10(A)(1)(b).

(D) As Co-Owner and Vice President of Ace Mortgage Funding, Inc., Mr. Gregory owns 50% of Respondent's corporate shares. Based on the nature and extent of Mr. Gregory's ownership interest, the Division finds that pursuant to R.C. § 1322.04(A) that Mr. Gregory is a person who must meet the requirements of (A)(7), (A)(8), and (A)(10) of said section. Given Mr. Gregory's position in the company as set forth herein, the Respondent cannot disavow knowledge of his conviction and plea.

(E) In Respondent's application submission, Mr. Gregory attested falsely that he had not been convicted of any criminal offense, which act of false swearing constitutes an improper act in violation of R.C. 1322.07(C).

WHEREAS, Ace Mortgage Funding, Inc. admits to filing a false statement in its application with regard to Mr. Gregory's past criminal record but contends that it was done in error and without intent to deceive, and otherwise denies the allegations and contentions of the Division set forth in the Division's Notice and as outlined above, but to avoid the cost and uncertainty of litigation agrees to enter into this Consent Order for purposes of settlement.

NOW THEREFORE, in consideration of the foregoing and the mutual promises set forth herein, the parties agree to the following:

- 1) The parties acknowledge and agree to the accuracy of the foregoing recitals.
- 2) This Settlement and Consent Order represents a compromise between the parties for the full, complete, and final settlement of all of their claims, differences, and causes of action with respect to the allegations contained in the Notice.
- 3) The parties agree that the terms of this Settlement and Consent Order bind the parties hereto, and their shareholders, partners, members, assigns, and successors in interest.
- 4) Respondent in consideration of the mutual agreements set forth herein, and for purposes of settlement, agrees to pay the fine as set forth herein.
- 5) The Division hereby terminates its Notice of Intent to Deny Mortgage Broker Certificate of Registration and Notice of Opportunity of Hearing issued July 24, 2003, and agrees that it shall not, as long as Respondent is in compliance with this Settlement and Consent Order pursue the matters set forth in such Notice through its administrative process. Nothing, however, in this order shall be deemed to prevent the Division or its employees, agents, or assigns from participating in, as a witness or otherwise, any lawful action by another, or obeying any lawful court order, arising out of or related to the matters set forth in the Notice.

- 6) Except as set forth herein nothing in this Settlement and Consent Order shall be deemed an admission of guilt or liability, or agreement with the allegations set forth in the Notice on the part of Respondent.
- 7) Respondent acknowledges lawful service and receipt of the Notice, and stipulates to the jurisdiction of the Division in this matter.
- 8) The Respondent hereby agrees to forego its administrative remedies, and waive any and all rights to an administrative hearing, as well as any right to appeal this matter or order.
- 9) This Settlement and Consent Order shall be effective on the date it is signed by the Superintendent of the Division of Financial Institutions and on such date it will become a final order.
- 10) This Settlement and Consent Order contains the entire agreement between the parties as to the matters set forth herein and no promises, conditions or obligations, either expressed or implied, other than those set forth herein, shall be binding on either party.

For purposes of effecting this Settlement and Consent Order, it is hereby ORDERED and DECREED that:

- A. The parties to this Settlement and Consent Order shall abide by the terms of this order as agreed.
- B. The Respondent shall comply with the requirements of the Ohio Mortgage Broker Act, R.C. § 1322.01 et seq. and adopt procedures of review so as to reasonably prevent any filing of false or erroneous information with the Division in the future.
- C. The Respondent is hereby assessed a fine in the amount of Five Thousand Dollars (\$5,000). Respondent shall pay said amount to the Consumer Finance Fund pursuant to R.C. § 1322.21 within ten days of the effective date of this Settlement and Consent Order. Payment shall be made by certified check or money order made payable to the Ohio Division of Financial Institutions delivered to the Division's counsel.

The Respondent understands that any breach of this Settlement and Consent Order may result in the reinstitution of administrative proceedings, including suspension or revocation, the imposition of additional fines and any other remedy available to the Division.

The signature has been removed for security purposes

F. Scott O'Donnell
Superintendent of Financial Institutions

10-10-03
Date

Approved and Agreed

Ace Mortgage Funding, Inc.

The signature has been removed for security purposes

By: _____

Its: _____

Vice President

10/7/03
Date

Ace Mortgage Funding, Inc.
777 Beachway Drive, Suite 300
Indianapolis, IN 46224