



Ohio Department of Commerce

Division of Financial Institutions
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Ted Strickland
Governor

Kimberly A. Zurz
Director

| | | |
|--|---|-----------------------|
| In the matter of: |) | Case No. M2008-52 |
| |) | |
| CONSUMERS REAL ESTATE FINANCE CO. |) | SETTLEMENT AND |
| d/b/a Consumer Real Estate Finance Co. |) | CONSENT ORDER |
| 655 Metro Place South, Suite 380 |) | |
| Dublin, Ohio 43017 |) | |
| |) | |

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, Consumers Real Estate Finance Co. d/b/a Consumer Real Estate Finance Co. ("Respondent") is an Ohio company that applied to renew its mortgage broker certificate of registration pursuant to R.C. Chapter 1322. The Respondent's registered address of record is 655 Metro Place South, Suite 380, Dublin, Ohio 43017; and

WHEREAS, on May 2, 2008, the Division sent via certified mail a Notice of Intent to Deny Mortgage Broker Renewal Application and Impose a Fine and Notice of Opportunity for a Hearing ("the Notice") to Respondent at its registered address of record which mailed Notice was received by and served upon Respondent; and

WHEREAS, the Notice contained allegations and findings that:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew an applicant's mortgage broker certificate of registration if the Division finds that the applicant has violated "or failed to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration[.]"
- B. The Division is authorized by R.C. 1322.10(A)(2) to "[i]mpose of fine of not more than one thousand dollars, for each day a violation of law or rule is committed, repeated or continued. If the registrant or licensee engages in a pattern of repeated violations of law or rule, the Division may impose a fine of not more than two thousand dollars for each day the violation is committed, repeated, or continued."
- C. Respondent permitted Joseph M.D. Jackson to originate mortgage loans without a loan officer license in violation of R.C. 1322.02(B).
- D. Between May 1, 2007 and December 31, 2007, Jackson originated or acted as a loan officer on behalf of Respondent on at least twenty-two (22) loan transactions.

- E. Respondent violated R.C. 1322.02(B) by permitting an unlicensed person to act as a loan officer and to originate mortgage loans for direct or indirect gain, profit, fees or charges.
- F. Respondent violated R.C. 1322.07(C) by holding out an unlicensed individual to the public as a person permitted to act as a loan officer.
- G. Because Respondent committed repeated and continued violations of R.C. 1322.02(B) and 1322.07(C), the Division may impose a two thousand dollar (\$2,000.00) fine for each of Respondent's twenty-two violations.
- H. Because Respondent violated R.C. 1322.02(B) and R.C. 1322.07(C), Respondent's Renewal Application should be denied pursuant to 1322.10 (A)(1)(a) and a fine of eighty-eight thousand dollars (\$88,000.00) should be imposed pursuant to R.C. 1322.10(A)(2).

WHEREAS, Respondent admits the allegations contained within the Division's May 2, 2008 Notice.

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 May 2, 2008 Notice related to the unlicensed loan officer activity of Joseph M.D. Jackson from May 1, 2007 through the effective date of this Settlement and Consent Order. Under the terms of this Settlement and Consent Order, Respondent receives no satisfaction for any other violation of Chapter 1322 and the rules adopted thereunder that is known or unknown to the Division at the time this Settlement and Consent Order becomes effective.
3. The parties agree that the terms of this Settlement and Consent Order bind the parties hereto, and their successors in interest.
4. The parties agree that Respondent shall pay the Division Twenty-six Thousand Dollars (\$26,000.00) as a fine as set forth in this Settlement and Consent Order. In the future, Respondent shall comply with the provisions of Chapter 1322 and the rules adopted thereunder.
5. The Division shall terminate its Notice of Intent to Deny Mortgage Broker Renewal Application and Impose a Fine and Notice of Opportunity of Hearing issued May 2, 2008, 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 the Notice through its administrative process. The Division agrees that it will not initiate or pursue criminal or additional civil liability in any venue as a result of the conduct of Respondent as cited in the allegations and findings. Nothing, however, in this Order shall be deemed to prevent the Division from taking action to enforce any breach of this Order or 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.

6. The Division specifically reserves the right to take action to enforce Chapter 1322 and the rules adopted thereunder against Respondent, Joseph M.D. Jackson or any other loan officer employed by Respondent who originates a mortgage loan without a loan officer license at any time after the effective date of the Settlement and Consent Order.
7. Respondent acknowledges lawful service and receipt of the Notice, and stipulates to the jurisdiction of the Division in this matter.
8. This Settlement and Consent Order shall be effective on the date it is signed by the Superintendent of the Division of Financial Institutions or his designee and on such date it will become a final order.
9. 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. Respondent shall pay a Twenty-six Thousand Dollar (\$26,000.00) fine to the Consumer Finance Fund pursuant to R.C. 1321.21 in accordance with the following schedule:

| <u>Due Date</u> | <u>Amount</u> |
|-------------------|---------------|
| December 31, 2008 | \$7,000.00 |
| February 1, 2009 | \$3,800.00 |
| March 1, 2009 | \$3,800.00 |
| April 1, 2009 | \$3,800.00 |
| May 1, 2009 | \$3,800.00 |
| June 1, 2009 | \$3,800.00 |

Payment shall be made by certified check or money order made payable to the "Consumer Finance Fund" delivered to the Division's counsel. In the event that Respondent fails to pay the fine in full and/or fails to otherwise comply with this Settlement and Consent Order, the Division may initiate an administrative action to revoke Respondent's mortgage broker certificate of registration and/or certify the amount due to the Attorney General's Office for collection pursuant to R.C. 131.02.

- C. The Notice of Intent to Deny Mortgage Broker Renewal Application and Impose a Fine and Notice of Opportunity of Hearing issued May 2, 2008 to the Respondent is hereby terminated. Nothing shall prevent the Division, in the future, from taking any administrative or other action against Respondent for matters not addressed in this order.

Approved and Agreed:

CHAD A. TURNER

President

Consumers Real Estate Finance Co.

d/b/a Consumer Real Estate Finance Co.

Respondent

Date

JOHN K. LIND, ESQ,

Counsel for Consumers Real Estate Finance Co.

d/b/a Consumer Real Estate Finance Co.

Respondent

Date

LEIGH A. WILLIS

Deputy Superintendent for Consumer Finance

Date