

Ted Strickland
Governor

STATE OF OHIO
DEPARTMENT OF COMMERCE
Division of Financial Institutions
Consumer Finance

Kimberly A. Zarz
Director

2009 AUG 25 AM 8:32

RECEIVED
DIVISION OF FINANCIAL INSTITUTIONS

In the matter of:

BROOKLINE LENDING GROUP, LLC
1009 Delta Avenue
Cincinnati, Ohio 45208

Case No. M2009-535

SETTLEMENT AND CONSENT ORDER

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, Brookline Lending Group, LLC ("Respondent") is an Ohio limited liability corporation that held certificate of registration MB.803546 issued by the Division to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent's certificate of registration expired and Respondent filed an application to renew its certificate of registration; the renewal application remains pending. Respondent's address of record is 1009 Delta Avenue, Cincinnati, OH 45208; and

WHEREAS, on or about May 18, 2009 the Division issued Respondent a Notice of Intent to Deny 2009 Renewal Application, Impose a Fine & Notice of Opportunity for a Hearing ("Notice"). A hearing was initially scheduled for June 22, 2009 and was continued on the Division's motion to Thursday, August 25, 2009; and

WHEREAS, the Notice contained allegations and findings that:

- A. On or around July 24, 2008, in the District Court of La Plata County, Colorado, Case Number 2008-CV-65, a civil action was filed in the case of *Mariane K. Byrd v. Jeffrey W. Janosick et. al*, which lawsuit involves consumer or real estate lending or brokering.
- B. On or around January 12, 2009, in the United States Bankruptcy Court, Southern District of Ohio, Case Number 1:09-ap-01002, an adversarial proceeding was filed in the case of *Marianne Byrd v. Jeffrey William Janosick*, which lawsuit involves consumer or real estate lending or brokering.
- C. On or around April 1, 2009, Respondent answered "No" when asked in its 2009 mortgage broker certificate of registration renewal application whether the registrant, its operations manager, or any owner or officer had been named in any civil action that involved consumer or real estate lending or brokering.
- D. On or around April 1, 2009, Respondent attested in a sworn statement that information provided in Respondent's mortgage broker certificate of registration renewal application submitted to the Division was complete and truthful when it was not.
- E. On or around April 1, 2009, in an attempt to obtain a mortgage broker certificate of registration, Respondent provided untruthful information to the Division.
- F. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew a mortgage broker certificate of registration if the Division finds that the registrant has violated "or fail[ed] 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[.]"

- G. The Division is authorized by R.C. 1322.10(A)(2) to “[i]mpose a 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.”
- H. R.C. 1322.04(B)(3) provides that a mortgage broker certificate of registration will be renewed annually if the superintendent finds that the applicant meets the conditions set forth in divisions (A)(2) to (10) of R.C. 1322.04.
- I. R.C. 1322.04(A)(6) lists as a condition for obtaining and renewing a mortgage broker certificate of registration that the applicant complies with sections 1322.01 to 1322.12 of the Revised Code.
- J. Respondent’s actions, as listed in paragraphs A through E above, violated R.C. 1322.07(A), which prohibits an applicant for a mortgage broker certificate of registration from “mak[ing] any substantial misrepresentation in any registration or license application[.]”
- K. Respondent’s actions, as listed in paragraphs A through E above, violated R.C. 1322.07(B), which prohibits an applicant for a mortgage broker certificate of registration from “[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statement required by state law[.]”
- L. Respondent’s actions, as listed in paragraphs A through E above, violated R.C. 1322.07(C), which prohibits an applicant for a mortgage broker certificate of registration from “[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings.”
- M. Respondent’s actions, as listed in paragraphs A through E above, show Respondent’s character and general fitness do not command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act. See R.C. 1322.04(A)(10).
- N. Respondent does not meet the renewal requirements set forth in divisions (A)(6) and (10) of R.C. 1322.04, and the Division has the authority to refuse to renew its mortgage broker certificate of registration.
- O. Because Respondent violated R.C. 1322.07(A), (B), and (C), the superintendent has determined that a fine of two thousand dollars (\$2,000.00) is reasonable, appropriate, and necessary.

WHEREAS, Respondent Brookline Lending Group, LLC denies the Division’s allegations, and further, to avoid the cost and uncertainty of litigation Respondent 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. The parties agree that the terms of this Settlement and Consent Order bind the parties hereto, and their successors in interest.

3. Respondent acknowledges lawful service and receipt of the Notice of Intent to Fine Mortgage Broker Registrant and Notice of Opportunity for a Hearing issued to Respondent and stipulates to the jurisdiction of the Division in this matter.
4. 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. Nothing shall prevent the Division, in the future, from taking any administrative or other action against Respondent for matters not addressed in this Order.
5. The Respondent hereby agrees to forego its administrative remedies and waives any and all rights to an administrative hearing as well as any right to appeal this matter or order.
6. Nothing 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 these Notices.
7. This Settlement and Consent Order shall be effective on the date it is signed by the Deputy Superintendent of Consumer Finance and on such date it will become a final order.
8. 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.
9. Respondent releases the Division, its members, employees, agents, officers and representatives jointly and severally from any liability arising from the within matter. Respondent agrees not to seek attorney fees or other costs arising from the within matter.
10. Respondent agrees to pay a fine of two thousand dollars (\$2,000.00). Payment shall be in the form of a cashier's check or money order, made payable to "Consumer Finance Fund," and shall be submitted to the Division with this Settlement and Consent Order.
11. Respondent agrees that as of the date this Settlement and Consent Order becomes a final order, Jeffrey W. Janosick will cease being operations manager for Brookline Lending Group, LLC, and Respondent agrees to replace Mr. Janosick as operations manager in a timely manner as required by R.C. 1322.04(D) and O.A.C. 1301:8-7-12(I).
12. Respondent understands that for this Settlement Agreement to be considered for acceptance by the Division, Respondent must be in compliance with every provision of this Settlement and Consent Order, and that the ORIGINAL properly executed Settlement and Consent Order, with all pages attached must be received in the offices of the Division on or before **August 24, 2009**. Should Respondent fully comply with every provision of this Settlement and Consent Order, DFI agrees to execute the same and agrees that Respondent's mortgage broker certificate of registration shall be renewed pursuant to R.C. 1322.04(B) provided there are no remaining deficiencies with respect to the application that remain to be resolved.

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. *Notice of Intent to Fine*
The Notice of Intent to Fine Mortgage Broker Registrant issued *May 18* ~~April 8~~, 2009 is hereby terminated. *Carroll 8/25/09*
- C. The Respondent is hereby assessed a fine in the amount of Two Thousand Dollars (\$2,000.) Payment shall be made by certified check or money order made payable to the "Consumer Finance Fund" and shall be delivered with this Settlement and Consent Order. *8/25/09*

LEIGH A. WILLIS

Deputy Superintendent for Consumer Finance
Division of Financial Institutions

8/24/09
Date

Approved and Agreed:

~~Tri State Mortgage Company~~

BROOKLINE LENDING GROUP, LLC

By: ck

(Printed Name)

Its: MEMBER

8/21/09
Date

By: 1

(Printed Name)

Its: MEMBER

(Title)

8/21/09
Date

Glen E. Littlejohn, Esq.
Counsel for Respondent

8/25/09
Date