

# SETTLEMENT AGREEMENT

04-0016-MBR

by and between

THE OHIO DEPARTMENT OF COMMERCE  
DIVISION OF FINANCIAL INSTITUTIONS

Consumer Finance Section

77 South High Street, 21<sup>st</sup> Floor  
Columbus, OH 43215-6120

&

**DAVID J. ZOELLNER**  
**dba – The Money Source**  
**1313 West Bogart Road, Suite A**  
**Sandusky, OH 44870**

This Settlement Agreement is a legally binding document that affects the rights of your mortgage brokerage company. Read it carefully. If you have any questions, consult an attorney.



If you choose to enter into this Settlement Agreement, you must follow it EXACTLY. If you fail to follow any one filing instruction or any one provision of the Agreement, the Division may reject the Agreement.

**All of the following must be completed and RETURNED to the Division no later than DECEMBER 12, 2005:**

- ☐ A copy of a Mortgage Loan Origination Disclosure Statement, compliant with R.C. 1322.062, adopted and utilized by David Zoellner.
- ☐ **All pages of this Settlement Agreement, including this cover page, must remain attached.**
- ☐ The Settlement Agreement must be signed by: the owner if the mortgage broker registrant is a sole proprietor; all partners if the registrant is a partnership; at least one member if a limited liability company; and the president and secretary, as duly authorized by resolution of the board of directors, if the registrant is a corporation. The ORIGINAL, signed Agreement with all pages attached must be returned. Keep a copy for your records.
- ☐ A cashier's check or money order in the amount of \$5,000.00, made payable to DFI Consumer Finance, must be enclosed. NO OTHER METHOD OF PAYMENT WILL BE ACCEPTED. If the envelope does not contain a cashier's check or money order in the amount of \$5,000.00, your package will be returned and the Settlement Agreement will not be accepted.

# SETTLEMENT AGREEMENT

**04-0016-MBR**

This Settlement Agreement is entered into by and between:

THE OHIO DEPARTMENT OF COMMERCE  
DIVISION OF FINANCIAL INSTITUTIONS

Consumer Finance Section

77 South High Street, 21<sup>st</sup> Floor  
Columbus, OH 43215-6120

Hereinafter referred to as "DFI."

&

**DAVID J. ZOELLNER**  
**dba The Money Source**  
**1313 West Bogart Road, Suite A**  
**Sandusky, OH 44870**

Hereinafter referred to as "Respondent."

DFI is a state agency charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act ("OMBA"), codified in Chapter 1322 of the Ohio Revised Code ("R.C."). Respondent is a company that holds a certificate of registration issued by DFI to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. On February 10, 2004, the DFI issued its notice of intent to revoke Respondent's Ohio Mortgage Broker Certificate of Registration for among other reasons that Respondent had failed to cooperate with a DFI investigation in violation of R.C. 1322.072(A). Respondent requested a hearing and a hearing was held on April 20, 2004. A Report and Recommendation was filed with the DFI on March 9, 2005. DFI has not made its final determination with respect to the Report and Recommendation and the matter is still pending.

Respondent voluntarily enters into this Settlement Agreement being fully informed of its right to representation by counsel, and his right to reject this Settlement Agreement and continue with proceedings, pursuant to R.C. Chapter 119, on the issues considered herein.

This Settlement Agreement contains the entire Settlement Agreement between the parties. There is no other Settlement Agreement of any kind, verbal or otherwise, on the issues considered herein, which varies the terms of the Settlement Agreement.

## **STIPULATIONS AND ADMISSIONS**

This Settlement Agreement is entered into on the basis of the following stipulations, admissions and understandings:

- A. DFI is authorized by R.C. 1322.10(A)(1)(a) to revoke a registrant's mortgage broker certificate of registration if DFI 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 under a certificate of registration[.]"
- B. R.C. 1322.072(A) states that "[n]o person, in connection with any examination or investigation conducted by the superintendent of financial institutions under [the Ohio Mortgage Broker Act], shall knowingly \*\*\* [c]ircumvent, interfere with, obstruct, or fail to cooperate[.]"
- C. Respondent admits that he violated R.C. 1322.072(A) by failing to cooperate with a DFI examination.
- D. Because Respondent violated R.C. 1322.072(A), DFI has the authority to revoke Respondent's mortgage broker certificate of registration.
- E. DFI enters into this Settlement Agreement in lieu of continuing with formal proceedings under R.C. Chapter 119 in case no. 04-0016-MBR to revoke Respondent's mortgage broker certificate of registration on the basis of Respondent's admitted violation of the OMBA.
- F. DFI expressly reserves the right to institute formal proceedings based upon any violation of or noncompliance with any provision of the OMBA not specifically addressed herein, whether occurring before or after the effective date of this Settlement Agreement.

## **AGREED CONDITIONS**

Wherefore, in consideration of the foregoing and mutual promises hereinafter set forth, and in lieu of any continuation formal disciplinary proceedings at this time, Respondent knowingly and voluntarily agrees with DFI to the following terms, conditions and limitations:

- 1. As penalty for the violation of law described herein, Respondent agrees to pay a fine of five thousand dollars (\$5,000.00). Payment shall be in the form of a cashier's check or money order, made payable to "DFI Consumer Finance," and shall be submitted to DFI with this Settlement Agreement.
- 2. Respondent agrees to submit with this Settlement Agreement a copy of a Mortgage Loan Origination Disclosure Statement, compliant with R.C. 1322.062, adopted and utilized by Respondent.

3. Respondent understands and agrees that if Respondent fails to follow any term of this Settlement Agreement or any filing instruction, DFI may reject the Settlement Agreement and continue with formal proceedings under R.C. Chapter 119.
4. Respondent understands and agrees that by executing this Settlement Agreement, Respondent admits that he has violated R.C. 1322.072(A) by failing to cooperate with a DFI examination and that Respondent has been penalized in the form of a fine for this violation.
5. Respondent understands that he must comply with every provision herein, and that to be considered for acceptance by DFI, the ORIGINAL properly executed Settlement Agreement, with all 6 pages attached, must be received in the offices of DFI on or before December 12, 2005.
6. If Respondent properly files this Agreement and fully complies with every provision, DFI agrees to execute the same and terminate its notice of February 10, 2004. DFI further agrees to approve any and all pending **renewal applications** for the main office and branches that held certificates prior to the issuance of the February 10, 2004 notice and issue a mortgage broker certificate of registration and branch certificates that will expire on April 30, 2006. **This settlement agreement does not address any pending branch applications that are not renewal applications.**
7. Should DFI discover that Respondent has provided DFI with false, fraudulent, misleading, or incomplete information pertaining to this Agreement, Respondent agrees that such evidence will firmly establish that Respondent's character and general fitness do not command the confidence of the public and warrant the belief that he will conduct business honestly and fairly in compliance with the purposes of the OMBA. Respondent further agrees that such discovery is grounds for permanent revocation of his mortgage broker certificate of registration.
8. Respondent understands and agrees that should he be found to be in violation of R.C. 1322.072(A) again at any time in the future, the appropriate penalty for that violation will be either the denial of the renewal of his mortgage broker certificate of registration or the revocation thereof.
9. The above-described terms, conditions and limitations may be amended or terminated at any time upon the written agreement of both parties.

#### **FAILURE TO COMPLY**

If, in the discretion of DFI, Respondent appears to have violated or breached any term or condition of this Settlement Agreement, DFI reserves the right to institute formal disciplinary

proceedings for any and all possible violations or breaches, including but not limited to, alleged violations of any law occurring before, on, or after the effective date of this Settlement Agreement.

#### **ACKNOWLEDGMENTS/LIABILITY RELEASE**

Respondent acknowledges that it has been advised by DFI to seek legal counsel if he has any question concerning the terms and/or effect of this Settlement Agreement.

Respondent hereby releases DFI, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter. Respondent shall not seek attorney fees or other costs arising from the within matter.

This Settlement Agreement shall be considered a public record as that term is used in R.C. 149.43, and may be reported to appropriate organizations, data banks, and governmental bodies, or released to the general public.

This Settlement Agreement in no way binds or limits future actions DFI may take with respect to Respondent or any other person, individual, or company, for the same or similar violations.

**EFFECTIVE DATE**

It is expressly understood that this Settlement Agreement shall become effective upon the last date of signature below.

The Settlement Agreement must be signed by: the owner if the mortgage broker registrant is a sole proprietor; all partners if the registrant is a partnership; at least one member if a limited liability company; and the president and secretary, as duly authorized by resolution of the board of directors, if the registrant is a corporation. **The ORIGINAL, signed Agreement with all pages attached must be returned.** Keep a copy for your records.

PRINTED Name of authorized signor #1: \_\_\_\_\_ Date

SIGNATURE of authorized signor #1: \_\_\_\_\_ Date

PRINTED Name of authorized signor #2: \_\_\_\_\_ Date

SIGNATURE of authorized signor #2: \_\_\_\_\_ Date

\_\_\_\_\_  
ROBERT M. GRIESER                      DATE  
Deputy Superintendent for Consumer Finance  
Ohio Division of Financial Institutions

\_\_\_\_\_  
MARK L. RHEA                      DATE  
Consumer Finance Staff Attorney  
Ohio Division of Financial Institutions