

# SETTLEMENT AGREEMENT

03MBSA0068

by and between

**COPY**

*This original copy  
MUST be returned.*

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

03 JUL 31 PM 12:05

Division of Financial  
Institutions

&

801263  
BANC OHIO MORTGAGE CORPORATION  
66 SOUTH MILLER ROAD  
AKRON, OH 44333

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.



CHECK NO 838218556  
AMOUNT \$1000.00  
DATE 07/31/2003  
REC. BY AUB

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 in the envelope provided no later than FRIDAY, AUGUST 29, 2003:**

- ☐ 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 \$1,000.00, 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 \$1,000.00, your package will be returned and the Settlement Agreement will not be accepted.

# SETTLEMENT AGREEMENT

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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."

&

801263

BANC OHIO MORTGAGE CORPORATION  
66 SOUTH MILLER ROAD  
AKRON, OH 44333

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 held a certificate of registration issued by DFI to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent's mortgage broker certificate of registration expired on April 30, 2003, and Respondent filed an application to renew its certificate; the renewal application remains pending.

Respondent voluntarily enters into this Settlement Agreement being fully informed of its right to representation by counsel, and its right to reject this Settlement Agreement and to proceed to a formal adjudicative hearing, pursuant to R.C. Chapter 119, on the issues considered herein.

## STIPULATIONS AND ADMISSIONS

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

- A. DFI is empowered by R.C. 1322.04(B) to renew an applicant's mortgage broker certificate of registration if DFI finds, among other things, that the applicant's operations manager complied with R.C. 1322.052 by completing a minimum of six (6) hours of approved continuing education ("CE") the prior calendar year.

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DIVISION OF FINANCIAL  
INSTITUTIONS  
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- B. DFI is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew an applicant's mortgage broker certificate of registration if DFI finds that the applicant 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[.]"
- C. R.C. 1322.052 requires every operations manager to complete at least six (6) hours of approved continuing education every calendar year (by December 31<sup>st</sup>).
- D. Because 2002 was the first year in which the law imposed CE requirements on operations managers, DFI extended Respondent's CE deadline into March of 2003.
- E. Respondent's mortgage broker certificate of registration expired on April 30, 2003. In an effort to renew its certificate, Respondent submitted to DFI a renewal application; the renewal application remains pending.
- F. Respondent admits that, despite the extension of time granted to Respondent to comply with the CE requirements, Respondent failed to complete the required CE credit hours by the extended deadline.
- G. DFI's records indicate that Respondent did complete six (6) hours of approved CE AFTER the expiration of the extended deadline.
- H. Because Respondent failed to comply with R.C. 1322.052, DFI has the authority to refuse to renew Respondent's mortgage broker certificate of registration.
- I. DFI enters into this Settlement Agreement in lieu of formal proceedings under R.C. Chapter 119 to deny Respondent's renewal application for a mortgage broker certificate of registration on the basis of Respondent's admitted noncompliance with the OMBA.
- J. 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.

8. 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 it 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 its mortgage broker certificate of registration.
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 it 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.

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:

Coyler C Costanzo - President

SIGNATURE of authorized signor #1:

 7/20/03  
Date

PRINTED Name of authorized signor #2:

Coyler C Costanzo - Secretary

SIGNATURE of authorized signor #2:

 7/30/03  
Date

PRINTED Name of authorized signor #3:

SIGNATURE of authorized signor #3:

Date

PRINTED Name of authorized signor #4:

SIGNATURE of authorized signor #4:

Date

ROBERT M. GRIESER

Deputy Superintendent for Consumer Finance  
Ohio Division of Financial Institutions

8/4/03  
DATE

AMANDA M. AXTELL

Consumer Finance Legal Counsel  
Ohio Division of Financial Institutions

8/4/03  
DATE