

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

77 South High Street, 21st Floor
Columbus, Ohio 43215-6120

CHECK NO. 8878
AMOUNT \$1,500.-
DATE JAN 24 2005
REC. BY [Signature]

In the matter of:

**BLUEGRASS MORTGAGE
SERVICES, INC.**
dba National Mortgage Funding
7000 Houston Road, Suite 31
Florence, KY 41042

) Case No. 04-0329MBS

) **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, Bluegrass Mortgage Services, Inc. dba National Mortgage Funding ("Respondent") is registered as a foreign corporation in Ohio and holds active mortgage broker certificates of registration issued by the Division pursuant to R.C. Chapter 1322. The business address of record for Respondent's main office is 7000 Houston Road, Suite 31, Florence, KY 41042 which operates under certificate of registration MB# 1390. Respondent has branch offices at 2770 Mack Road, Fairfield, OH 45014 which operates under certificate of registration MB#4322, and 7225 Colerain Avenue, Suite 6, Cincinnati, OH 45239 which operates under certificate of registration MB#4387; and

WHEREAS, on November 29, 2004, the Division sent via certified mail a Notice of Intent to Assess Fine and Suspend Mortgage Broker Certificates of Registration and Notice of Opportunity for a Hearing ("the Notice") to Bluegrass Mortgage Services, Inc. ("Respondent") to its main office business address; and

WHEREAS, the Notice contained allegations and findings that:

1. Respondent Bluegrass Mortgage Services, Inc. dba National Mortgage Funding completed a 2004 Mortgage Broker Certificate of Registration Renewal Application in order to renew its Certificates of Registration. Question 8 of the renewal application states: "Has the registrant or any owner, partner, shareholder, member, officer, director, operations manager been named in any civil or administrative action that involved insurance, securities, or consumer or real estate lending or brokering? Include pending actions"
2. Respondent responded "No" to the above question on the renewal application.

3. This application was signed by Respondent's President, Chris Eubank, on April 22, 2004 and was notarized.
4. Respondent's certificates of registration were renewed by the Division.
5. A civil lawsuit was filed against Respondent, Bluegrass Mortgage Services, Inc. on December 3, 2003 by Sharon Feagin in the Court of Common Pleas of Hamilton County, Ohio, Case No. A0309366. This lawsuit was pending at the time Respondent filed its Renewal Application.
6. Respondent was aware of this pending action, Case No. A0309366, having been served with the complaint on December 11, 2003; and having filed an answer to the complaint on February 6, 2004.
7. This lawsuit alleges that Respondent violated sections of R.C. 1322, the Ohio Mortgage Broker Act.
8. R.C. 1322.07(A) prohibits mortgage brokers, registrants, licensees, and applicants from obtaining a certificate of registration or license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application.
9. R.C. 1322.07(B) prohibits mortgage brokers, registrants, licensees, and applicants from making false or misleading statements of a material fact, omissions of statements required by state law, or false promises regarding a material fact, through advertising or other means, or engage in a continued course of misrepresentations.
10. R.C. 1322.07(C) prohibits mortgage brokers, registrants, licensees, and applicants from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings.
11. R.C. 1322.05(B)(1) requires registrants to give notice to the Superintendent by certified mail of any action that is brought by a buyer against the registrant or loan officer of the registrant alleging injury by a violation of any provision of sections 1322.01 to 1322.12 of the Revised Code. The notice shall provide details sufficient to identify the action, and shall be filed with the superintendent within ten days after the commencement of the action.
12. Respondent made a substantial misrepresentation on its 2004 Mortgage Broker Renewal Application by failing to disclose the above civil lawsuit against it.
13. Respondent failed to notify the Division of the filing of Case No. A0309366 in the Court of Common Pleas of Hamilton County, Ohio within ten days of the commencement of the action or thereafter.

14. Respondent violated 1322.07(A) of the Ohio Mortgage Broker Act by representing on its 2004 Mortgage Broker Renewal Application that the registrant has not been named in any civil lawsuit involving real estate lending or brokering and by making a substantial misrepresentation in its registration application.
15. Respondent violated R.C. 1322.07(B) by making a false or misleading statement of a material fact on its 2004 Mortgage Broker Renewal Application and in engaging in a continued course of misrepresentations by not disclosing to the Division that it was named in a lawsuit with allegations of violations of the Ohio Mortgage Broker Act within 10 days of commencement of the lawsuit.
16. Respondent violated R.C. 1322.07(C) by improperly denying that it was named in a civil lawsuit on its 2004 Mortgage Broker Renewal Application.
17. Respondent violated R.C. 1322.05(B)(1) by failing to notify the Division within ten days of the commencement of Case No. A0309366 in the Hamilton County Court of Common Pleas of the filing of such case.

WHEREAS, Bluegrass Mortgage Services, Inc. admits the allegations of the Division but avers the violation was due to error not intent, 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:

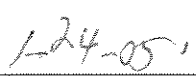
- 1) The parties acknowledge and agree to the accuracy of the foregoing recitals.
- 2) This Settlement and Consent Order represents a compromise between the parties for the full, complete, and final settlement of all of their claims, differences, and causes of action with respect to the allegations contained 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) The Division hereby terminates the Notice of Intent to Assess a Fine and Suspend Mortgage Broker Certificates of Registration and Notice of Opportunity for a Hearing issued November 29, 2004, 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.
- 5) Respondent acknowledges lawful service and receipt of the Notice, and stipulates to the jurisdiction of the Division in this matter.

- 6) 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.
- 7) 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.
- 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.

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

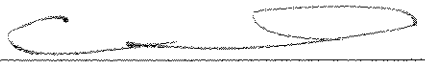
- A. The parties to this Settlement and Consent Order shall abide by the terms of this order as agreed.
- B. The Respondent shall abide in the future to all requirements of the Ohio Mortgage Broker Act, R.C. § 1322.01 et seq., and the rules thereunder and shall submit only accurate and truthful materials to the Division of Financial Institutions, only after performing the requisite research.
- C. The Respondent is hereby assessed a fine in the amount of One Thousand Five Hundred Dollars (\$1,500.00). Respondent shall pay the amount of One Thousand Five Hundred Dollars (\$1,500.00) 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.


Robert M. Grieser
Deputy Superintendent of Consumer Finance


Date

Approved and Agreed

Bluegrass Mortgage Services, Inc.

By: 
Its: President/Chris Eubank


Date

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