

SETTLEMENT AGREEMENT

SM# 501622

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, 21st Floor
Columbus, OH 43215-6120

and

MIDWEST MORTGAGE INVESTMENTS, LTD.

5450 Monroe Street, Suite 1
Toledo, OH 43623

The Division of Financial Institutions ("DFI") is a state agency charged with the responsibility of administering and enforcing the Ohio Mortgage Loan Act ("OMLA"), codified in Chapter 1321.51 et seq. of the Ohio Revised Code ("R.C."). Midwest Mortgage Investments, Ltd. is an Ohio limited liability company that held certificate of registration SM.501196 issued by DFI to engage in business as a registrant under the OMLA. The registration period ended on June 30, 2008, and Midwest failed to renew its certificate of registration on or before June 30, 2008. Midwest filed an application for a certificate of registration under the OMLA on November 24, 2008; that application remains pending.

DFI expressly reserves the right to institute formal proceedings based upon any violation of or noncompliance with any provision of the OMLA not specifically addressed herein, whether occurring before or after the effective date of this Settlement Agreement.

Midwest voluntarily enters into this Settlement Agreement being fully informed of the right to representation by counsel, and the right to reject this Settlement Agreement and waives its right to Notice and hearing pursuant to R.C. Chapter 119.

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. Midwest Mortgage Investments, Ltd. ("Midwest") is an Ohio limited liability company that held a certificate of registration issued by DFI to engage in business as a registrant under the OMLA, R.C. Chapter 1321.51, et seq. The registration period ended on June 30, 2008, and Midwest failed to renew its certificate of registration on or before June 30, 2008. Midwest filed an application for a certificate of registration under the OMLA on November 24, 2008; that application remains pending.

- B. DFI is authorized to issue an applicant's certificate of registration under the OMLA if DFI finds that "[t]he financial responsibility, experience, character, and general fitness of the applicant are such as to command the confidence of the public and to warrant the belief that the business will be operated honestly and fairly in compliance with and within the purposes of sections 1321.51 to 1321.60 of the Revised Code[.]" R.C. 1321.53(A)(4).
- C. R.C. 1321.52(A)(1) states: "[n]o person, on that person's own behalf or on behalf of any other person, shall do either of the following without having first obtained a certificate of registration from the division of financial institutions: (a) [a]dvertise, solicit, or hold out that the person is engaged in the business of making loans secured by a mortgage on a borrower's real estate which is other than a first lien on the real estate; (b) [e]ngage in the business of lending or collecting the person's own or another person's money, credit, or choses in action for such loans."
- D. R.C. 1321.52(C) allows a registrant to "make unsecured loans, loans secured by a mortgage on a borrower's real estate which is a first lien or other than a first lien on the real estate, loans secured by other than real estate, and loans secured by any combination of mortgages and security interests, on terms and conditions provided by sections 1321.51 to 1321.60 of the Revised Code."
- E. R.C. 1321.52(D)(1) states: "[i]f a lender that is subject to sections 1321.51 to 1321.60 of the Revised Code makes a loan in violation of (A)(1) of this section, the lender has no right to collect, receive, or retain any interest or charges on that loan."
- F. Midwest states that on September 25, 2008, Midwest made one loan that was secured by a mortgage on a borrower's real estate that was other than a first lien on the real estate and was contracted for at an interest rate higher than the 8% interest rate allowed by R.C. 1343.01. Midwest states that it retained seventy-five dollars (\$75.00) of the application fee of one hundred fifty dollars (\$150.00) in connection with this loan and that the remaining seventy-five dollars (\$75.00) was retained by U.S. Bank Home Mortgage as indicated in the Purchase Schedule. Midwest states that it collected interest in connection with this loan in the amount of three dollars and thirty-six cents (\$3.36) and one payment of twenty-one dollars (\$21.00). During this period, Midwest did not hold a certificate of registration under the OMLA. Midwest states that the loan was sold from Midwest to U.S. Bank Home Mortgage effective October 21, 2008. Further, Midwest states that it had submitted an OMLA renewal application prior to making said loan under the expectation that the renewal application would be approved.
- G. Midwest admits that, under the expectation that its 2008 renewal application would be approved, it advertised, solicited, or held out that it was engaged in the business of making loans secured by a mortgage on the borrower's real estate which is other than a first lien on the real estate during a time period that it did not hold a certificate of registration under the OMLA. Midwest also admits that, under the expectation that its 2008 renewal application would be approved, it was engaged in the business of making loans secured by a mortgage on a borrower's real estate which is other than a first lien on the real estate on terms and conditions provided by sections 1321.51 to 1321.60 of the Revised Code, during a time period that it did not hold a certificate of registration under the OMLA.
- H. Midwest represents that it has made and will make no loans under the authority of the OMLA from September 25, 2008 until it again obtains a certificate of registration under the OMLA.

- I. DFI enters into this Settlement Agreement in lieu of formal proceedings under R.C. Chapter 119 to deny Midwest's 2008 application for a certificate of registration under the OMLA.

AGREED CONDITIONS

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

1. For the violations of law described herein, Midwest agrees to pay a penalty of four hundred dollars (\$400.00). Payment for the fine shall be in the form of a **cashier's check or money order**, made payable to "Consumer Finance Fund," and shall be submitted to DFI with this Settlement Agreement.
2. Midwest agrees, pursuant to R.C. 1321.52(D), that Midwest shall not collect, receive, or retain any interest or charges on the loans it made under the authority of the OMLA from July 1, 2008 through the date it again obtains a certificate of registration under the OMLA which are secured by a mortgage on a borrower's real estate which is other than a first lien on the real estate. Accordingly, Midwest agrees that it will provide proof with this Settlement Agreement that a refund of ninety-nine dollars and thirty-six cents (\$99.36) was made to the borrower of the loan described in paragraph F above for interest and charges and the payment retained by Midwest.
3. Midwest understands that for this Settlement Agreement to be considered for acceptance by DFI, Midwest must be in compliance with every provision of this Settlement Agreement, and that the ORIGINAL properly executed Settlement Agreement, with all pages attached must be received in the offices of DFI on or before **February 27, 2009**. Should Midwest fully comply with every provision of this Agreement, DFI agrees to execute the same and approve Midwest's 2008 mortgage loan act certificate of registration application, provided there are no remaining deficiencies.
4. Should DFI discover that Midwest has provided DFI with false, fraudulent, misleading, or incomplete information pertaining to this Agreement, Midwest agrees that such evidence will firmly establish that Midwest's experience, 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 OMLA. Midwest further agrees that such discovery is grounds for revocation of its mortgage loan act certificate of registration, should it be issued.
5. 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, Midwest 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

Midwest 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 and the entirety of this matter.

Midwest hereby releases DFI, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter. Midwest 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. section 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 Midwest 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 applicant is a sole proprietor; all partners if the applicant 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 applicant is a corporation. **The ORIGINAL, signed Agreement with all pages attached must be returned.** Keep a copy for your records.

PRINTED Name and Title of Authorized Signor #1: _____

SIGNATURE of Authorized Signor #1: _____
Date

PRINTED Name and Title of Authorized Signor #2: _____

SIGNATURE of Authorized Signor #2: _____
Date

LEIGH A. WILLIS Date
Deputy Superintendent for Consumer Finance
Ohio Division of Financial Institutions

ANTHONY D. SICILIANO Date
Consumer Finance General Counsel
Ohio Division of Financial Institution