

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

In the matter of:

ALL STATE HOME MORTGAGE, INC.)
26250 Euclid Ave, Suite 901
Euclid, Ohio 44132

)
) Case No. M2009-172

) Case No. M2009-446

) **SETTLEMENT AND CONSENT ORDER**
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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 the Ohio Mortgage Loan Act codified in R.C. Chapter 1321; and

WHEREAS, All State Home Mortgage, Inc. ("Respondent") is a company that held a certificate of registration 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, 2008, and Respondent filed an application to renew its certificate of registration on or before April 30, 2008. Subsequently, Respondent filed a renewal application on or about April 22, 2009. Respondent's 2008 and 2009 mortgage broker renewal applications remain pending. Respondent held a certificate of registration to engage in business under the Ohio Mortgage Loan Act pursuant to R.C. Chapter 1321. Respondent's certificate of registration under the Ohio Mortgage Loan Act expired on June 30, 2008, and Respondent filed an application to renew its certificate of registration on or before June 30, 2009. Respondent's 2008 Ohio Mortgage Loan Act renewal application remains pending. Respondent's business address of record is 26250 Euclid Avenue, Suite 901, Euclid, OH 44132; and

WHEREAS, on or about April 29, 2009 the Division issued Respondent a Notice of Intent to Deny 2008 and 2009 Mortgage Broker Renewal Applications, Impose Fine & Notice of Opportunity for a Hearing ("Notices"). On or about April 29, 2009 the Division issued Respondent a Notice of Intent to Deny OMLA Renewal Application & Notice of Opportunity for a Hearing. A hearing was scheduled on both Notices for May 29, 2009, continued to July 21 and 22, 2009, and continued again to September 30, 2009;

WHEREAS, the Notices contained allegations and findings that:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew an applicant's mortgage broker certificate of registration if the Division finds that the applicant has violated "or failed 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. 1322.02(B) prohibits any person from acting as a "loan officer" without first having obtained a license from the superintendent.
- C. R.C. 1322.01(E) defines "loan officer" as an employee who originates mortgage loans in consideration of direct or indirect gain, profit, fees or charges.
- D. R.C. 1322.07(C) prohibits mortgage brokers, registrants, licensees, or applicants for a certificate of registration or license from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings.

- E. Respondent's records indicate that Jessica Gazella acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 4806 Albertly Avenue, Parma, Ohio 44134 for borrower Susan L. Edmonds which closed on February 12, 2007. Jessica Gazella has never applied for or obtained a license to act as a loan officer under R.C. 1322.
- F. Respondent's records indicate that Jessica Gazella acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 1106 Agler Street, Fremont, Ohio for borrower Steve Bartlett which closed on January 31, 2007. Jessica Gazella has never applied for or obtained a license to act as a loan officer under R.C. 1322.
- G. Respondent's records indicate that John Abilay acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 4629 Bunnell Hill, Lebanon, Ohio 45036 for borrower Melissa Jablonski which closed on January 26, 2007. At this time, John Abilay was not licensed as a loan officer for All State Home Mortgage, Inc.
- H. Respondent's records indicate that John Abilay acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 4077 Giles Road, Chagrin Falls, Ohio borrower James DiCioccio which closed on January 29, 2007. At this time, John Abilay was not licensed as a loan officer for All State Home Mortgage, Inc.
- I. Respondent's records indicate that Ray Ochoa and/ or John Abilay acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 2384 Durbin Drive, Fremont, Ohio 43420 for borrower Daniel Wagner which closed on January 5, 2007. Ray Ochoa has never applied for or obtained a license to act as a loan officer under R.C. 1322.
- J. Respondent's records indicate that Herman Brooks acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 2903 8th Street NW, Canton, Ohio 44708 for borrower Terry Bergmeyer which closed on April 20, 2007. Herman Brooks had applied for but never received a license to act as a loan officer under R.C. 1322.
- K. Some of Respondent's records indicate that Matt Panguitti, a loan officer licensed for Respondent during the applicable time, was the individual that originated a mortgage loan for borrowers Paul and Darlene Sidari secured by real estate located at 6023 Belmere Drive, Parma, Ohio 44129. Matt Panguitti's signature appears on the Loan Application, mortgage broker agreement, and various other letters and disclosures pertaining to the transaction. However, the consumers indicate that they were only in contact with Rob Ansverins from All State Home Mortgage, Inc. regarding their loan. According to Respondent, Matt Panguitti did not receive compensation from this loan. Rob Ansverins did receive compensation as a result of this loan. Rob Ansverins has never applied for or obtained a license to act as a loan officer under R.C. 1322.
- L. R.C. 1322.064(A) prohibits registrants and licensees from failing to timely inform the buyer of any material change in the terms of the loan. R.C. 1322.064(A)(1)(c) includes in the definition of "material change" a change in the interest rate of more than .15%. R.C.

1322.064(B) defines “Timely” disclosures as “the registrant provid[ing] the buyer with the revised information not later than twenty-four hours after the change occurs, or twenty-four hours before the loan is closed, whichever is earlier.”

- M. Respondent’s records indicate that Respondent assisted Paul and Karen Burris in obtaining a mortgage loan secured by real estate located at 6181 Main Street, Oxford, Ohio 45056. Paul and Karen Burris applied for a mortgage loan with an interest rate of 7.650% on May 2, 2007, and obtained a mortgage loan with an interest rate of 9.175% on May 25, 2007. By failing to timely disclose to the buyers the change in interest rate for the loan in this transaction, Respondent violated R.C. 1322.064(A)(1)(c).
- N. Respondent’s records indicate that Respondent assisted Keith Phillips in obtaining a mortgage loan secured by real estate located at 41 W. Cook Rd., Mansfield, Ohio 44907. Keith Phillips applied for a mortgage loan with an interest rate of 6.125% on May 7, 2007, and obtained a mortgage loan with an interest rate of 9.375% on June 29, 2007. By failing to timely disclose to the buyers the change in interest rate for the loan in this transaction, Respondent violated R.C. 1322.064(A)(1)(c).
- O. Respondent’s records indicate that Respondent assisted Mack Hamilton in obtaining a mortgage loan secured by real estate located at 821 S. Detroit Ave., Toledo, Ohio 43609. Mack Hamilton applied for a mortgage loan with an interest rate of 7.750% on April 27, 2007, and obtained a mortgage loan with an interest rate of 9.9% on July 3, 2007. By failing to timely disclose to the buyers the change in interest rate for the loan in this transaction, Respondent violated R.C. 1322.064(A)(1)(c).
- P. Respondent’s records indicate that Respondent assisted Paul and Darlene Sidari in obtaining a mortgage loan secured by real estate located at 6023 Belmere Drive, Parma, Ohio 44129. Paul and Darlene Sidari applied for a mortgage loan with an interest rate of 8.00% on May 23, 2007, and obtained a mortgage loan with an interest rate of 11.4% on July 16, 2007. By failing to timely disclose to the buyers the change in interest rate for the loan in this transaction, Respondent violated R.C. 1322.064(A)(1)(c).
- Q. R.C. 1322.07(F) prohibits mortgage brokers, registrants, licensees, or applicants for a certificate of registration or license from knowingly instructing, soliciting, proposing, or otherwise causing a buyer to sign in blank a mortgage related document.
- R. Respondent’s records include several mortgage loan origination disclosure statements and a Notice of Escrow of Taxes & Regular Monthly Payment which the consumers signed that included blanks. Consequently, Respondent violated R.C. 1322.07(F) by allowing each buyer to sign these documents.
- S. The Division is authorized by R.C. 1322.10(A)(2) to “[i]mpose of 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.”
- T. As a result of the violations of the Ohio Mortgage Broker Act listed in paragraph T above, Respondent’s character and general fitness do not command the confidence of the public and warrant the belief that its business will be operated honestly and fairly in compliance with the purposes of the OMLA. See R.C. 1321.53(A)(4).

- U. Respondent's actions listed in paragraphs E through K violate R.C. 1322.07(C).
- V. Respondent's actions listed in paragraphs M through P violate R.C. 1322.064(A)(1)(c).
- W. Respondent's actions listed in paragraph R violate R.C. 1322.07(F).
- X. Because Respondent violated R.C. 1322.07(C), R.C. 1322.064(A)(1)(c), and R.C. 1322.07(F), the Division finds 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, thereby failing to meet the prerequisite for certificate of registration renewal found in R.C. 1322.04(B)(3) and R.C. 1322.04(A)(10).
- Y. Because Respondent violated R.C. 1322.07(C), R.C. 1322.064(A)(1)(c), and R.C. 1322.07(F), the Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew Respondent's mortgage broker certificate of registration.
- Z. Because Respondent committed repeated and continued violations of R.C. 1322.064(A)(1)(c) and 1322.07(C), the Division may impose a two thousand dollar (\$2,000.00) fine for each of Respondent's violations. Because Respondent violated R.C. 1322.07(F), the Division may impose a one thousand dollar fine for this violation.
- AA. As a result of the violations of the Ohio Mortgage Broker Act listed in paragraph U through Z above, Respondent's character and general fitness do not command the confidence of the public and warrant the belief that its business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Loan Act. See R.C. 1321.53(A)(4).

WHEREAS, Respondent All State Home Mortgage, Inc. admits to 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 Deny 2008 and 2009 Mortgage Broker Renewal Applications, Impose a Fine, and Notice of Opportunity for a Hearing issued to Respondent and stipulates to the jurisdiction of the Division in this matter. Respondent acknowledges lawful service and receipt of the Notice of Intent to Deny OMLA Renewal Application 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 Notices. 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 that with the execution of this Settlement and Consent Order by the Deputy Superintendent of Consumer Finance, All State Home Mortgage Inc.'s 2008 and 2009 renewal applications under the Ohio Mortgage Broker Act and its renewal application submitted in 2008 under the Ohio Mortgage Loan Act will be denied.
11. Respondent agrees that All State Home Mortgage, Inc. will pay a fine in the amount of \$7,500, which shall be paid on the date All State Home Mortgage, Inc. submits this Settlement and Consent Order to the Division. This Settlement and Consent Order must be received by the Division no later than 5:00 p.m. on September 17, 2009.

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 Settlement and Consent Order as agreed.
- B. All State Home Mortgage, Inc.'s 2008 and 2009 Mortgage Broker Renewal Applications and its 2008 OMLA Renewal Application are hereby denied.
- C. The Notice of Intent to Deny 2008 and 2009 Mortgage Broker Renewal Applications, Impose Fine issued April 29, 2009 and the Notice of Intent to Deny OMLA Renewal Application & Notice of Opportunity for a Hearing issued April 29, 2009 are hereby terminated.
- D. The Respondent is hereby assessed a fine in the amount of Seven Thousand Five Hundred Dollars (\$7,500). Respondent shall pay the fine by certified check or money order made payable to the Consumer Finance Fund and shall be submitted with this Settlement and Consent Order.

LEIGH A. WILLIS

Deputy Superintendent for Consumer Finance
Division of Financial Institutions

Date

Approved and Agreed:

All State Home Mortgage, Inc.

By: _____
(Printed Name)

Its: _____

Date

By: _____
(Printed Name)

Its: _____
(Title)

Date