

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

In the matter of:)	Case No. M2007-138
)	
XPRESS MORTGAGE)	Settlement and Consent Order
PROCESSING, INC.)	
645 Bank Street)	
Painesville, Ohio 44077)	
)	

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, Xpress Mortgage Processing, Inc. ("Respondent") holds a mortgage broker certificate of registration issued by the Division pursuant to R.C. Chapter 1322. Its business address of record is 645 Bank Street, Painesville, Ohio 44077; and

WHEREAS, on March 27, 2007, the Division issued a Notice of Intent to Revoke Mortgage Broker Registration & Notice of Opportunity for a Hearing ("the Notice") to Xpress Mortgage Processing, Inc. ("Respondent"), and served the Notice upon Respondent via certified mail upon its Statutory Agent and at its business address of record; and

WHEREAS, the Notice contained allegations and findings that:

- A. In accordance with R.C. 1322.10(A)(1)(a), the superintendent of the Division may revoke a mortgage broker certificate of registration if the superintendent finds "a violation of or failure to comply with any provision of sections 1322.01 to 1322.12 of 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. 5733.20 requires the Ohio Secretary of State to cancel a corporation's Articles of Incorporation upon certification by the Ohio Department of Taxation of such corporation's failure to file a return or failure to pay the appropriate tax or fee.
- C. R.C. 5733.20 provides that, upon cancellation, "all the powers, privileges, and franchises conferred upon such corporation by such articles of incorporation or by such certificate of authority shall cease," subject to R.C. 1701.88, which proscribes that the corporation "shall cease to carry on business and shall do only such acts as are required to wind up its affairs, or to obtain reinstatement..."
- D. On or about January 4, 2007, Respondent was notified by the Ohio Secretary of State that the Secretary has cancelled the Articles of Incorporation/Certificate of Authority issued to Respondent, in accordance with R.C. 5733.20, due to Respondent's nonpayment of the corporate franchise tax within the time required by law.
- E. As of the January 4, 2007, Respondent is no longer authorized to conduct business in the State of Ohio.

WHEREAS, Respondent does not admit to the allegations and contentions of the Division set forth in the Division's Notice and as outlined above, but to avoid the cost and uncertainty of litigation, Respondent agrees to enter into this Consent Order for purposes of settlement of the underlying dispute.

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) Respondent agrees to **cease and desist** acting as a mortgage broker in the State of Ohio until Respondent is issued a Certificate of Reinstatement by the Ohio Secretary of State, in consideration of the mutual agreements set forth herein.
- 4) Respondent will apply for and obtain a Certificate of Reinstatement from the Ohio Secretary of State, authorizing it to conduct business in the State of Ohio pursuant to its Articles of Incorporation/Certificate of Authority.
- 5) Respondent will attach a true and accurate copy of the Certificate of Reinstatement to this Settlement and Consent Order, and return them to the Division **no later than April 26, 2007.**
- 6) In exchange for producing a copy of Respondent's Certificate of Reinstatement, the Division agrees to terminate its Notice Of Intent To Revoke Mortgage Broker Registration & Notice of Opportunity for Hearing issued March 27, 2007, 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.
- 7) The Respondent hereby agrees to forego its administrative remedies, and waive any and all rights to an administrative hearing in this matter, as well as any right to appeal this Order. Provided, however, that if the Division takes any subsequent action relative to this Settlement and Consent Order and/or the Notice and/or allegations and/or contentions therein, then Respondent hereby reserves all its administrative remedies and rights.
- 8) Nothing in this Settlement and Consent Order shall be deemed an admission of guilt or liability, or agreement with the allegations set forth in the Notice on the part of Respondent.
- 9) Respondent acknowledges lawful service and receipt of the Notice, and stipulates to the jurisdiction of the Division in this matter.
- 10) The parties agree that the terms of this Settlement and Consent Order bind the parties hereto.
- 11) 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.

- 12) This Settlement and Consent Order shall become effective on the date it is signed by the Superintendent of the Division of Financial Institutions, and on such date it will be effective as a Division Order.

THEREFORE, the Respondent understands that any breach of this Settlement and Consent Order as substantiated in a subsequent hearing, unless the hearing is waived, may result in the reinstitution of administrative proceedings, including suspension or revocation, the imposition of additional fines and any other remedy available to the Division.

IN CONSIDERATION THEREOF,
AGREED BY:

On behalf of
Xpress Mortgage Processing, Inc.

Date

AND,
IN CONSIDERATION THEREOF,
AGREED BY:

Richard F. Keck
Acting Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce

Date