

STATE OF OHIO  
DEPARTMENT OF COMMERCE  
DIVISION OF FINANCIAL INSTITUTIONS

77 South High Street, 21<sup>st</sup> Floor  
Columbus, Ohio 43215-6120

RECEIVED  
DIVISION OF FINANCIAL  
INSTITUTIONS

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In the matter of:

**1<sup>st</sup> RESOURCE MORTGAGE, LTD.** ) Case No. 04-0326MBS  
6777 Engle Road, Suite P )  
Middleburg Heights, OH 44130 ) **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, 1<sup>st</sup> Resource Mortgage, Ltd. ("Respondent") is an Ohio limited liability company registered with the Division as a mortgage broker pursuant to R.C. Chapter 1322. The business address of record for Respondent's main office is 6777 Engle Road, Suite P, Middleburg Heights, OH 44130; and

WHEREAS, on March 4, 2004, the Division sent via certified mail a Notice of Intent to Assess Fine and Suspend Mortgage Broker Certificate of Registration and Notice of Opportunity for a Hearing ("the Notice") to 1<sup>st</sup> Resource Mortgage, Ltd. ("Respondent") to its main office business address; and

WHEREAS, the Notice contained allegations and findings that:

(A) In January 2004, the Registrant's office sent out direct mailing letters to potential customers seeking to solicit business. The mailing stated in the top left corner "Form 867-T Delinquent Tax Notification" with the address of Respondent underneath. The letter states: "Our tax records indicate that you are currently delinquent on your property taxes. Did you know that delinquent property taxes can result in the foreclosure of your property?" The letter urges the consumer to contact an 866 number. The letter is structured so as to appear to be an official notification that a consumer's taxes are delinquent.

(B) The letters were sent to Portage County homeowners. The majority of the people who received the letters were not delinquent on their taxes.

(C) The direct mailings at issue that were sent by Registrant's office to solicit business were advertisements pursuant to rules of the Division governing mortgage brokers. (O.A.C. § 1301:8-7-07(B)).

(D) Said direct mailings contained false or misleading statements of material fact; by causing these advertisements containing false or misleading statements to be mailed to consumers 1<sup>st</sup> Resource Mortgage, Ltd. violated R.C. 1322.07(B).

(E) By creating these letters and sending them to consumers, 1<sup>st</sup> Resource Mortgage, Ltd. has engaged in conduct that constitutes improper, fraudulent, or dishonest dealings in violation of R.C. 1322.07(C).

WHEREAS, 1<sup>st</sup> Resource Mortgage, Ltd. 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 Fine and Suspend Mortgage Broker Certificate of Registration and Notice of Opportunity of Hearing issued March 4, 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) Other than set forth herein, 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.

- 6) Respondent acknowledges lawful service and receipt of the Notice, and stipulates to the jurisdiction of the Division in this matter.
- 7) 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.
- 8) 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.
- 9) 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 cease and desist from soliciting business through advertisements, including the use of direct mail that contain false or misleading statements of material fact or that constitute improper, fraudulent, or dishonest dealings in violation of the Ohio Mortgage Broker Act, R.C. § 1322.01 et seq. and the rules thereunder and shall conform its advertisements in the future to all requirements of state law.
- C. The Respondent is hereby assessed a fine in the amount of Ten Thousand (\$10,000), \$5,000 of which shall be suspended upon the Respondent's full compliance with this order during the proceeding five years. Respondent shall pay the unsuspended amount of Five Thousand Dollars (\$5,000) 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.

The Respondent understands that any breach of this Settlement and Consent Order will subject the Respondent to the immediate payment of the suspended portion of the fine set forth

herein and 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.

The signature has been removed for security purposes

\_\_\_\_\_  
F. Scott O'Donnell  
Superintendent of Financial Institutions

3-31-04  
Date

Approved and Agreed

1<sup>st</sup> Resource Mortgage, Ltd.

The signature has been removed for security purposes

By: \_\_\_\_\_  
Its: President

3/30/04  
Date

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