

# SETTLEMENT AGREEMENT

**MB# 8802662**

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, 21<sup>st</sup> Floor  
Columbus, OH 43215-6120

and

**RESIDENTIAL FINANCE CORPORATION**

401 N. Front Street, Suite 300  
Columbus, OH 43215

The Division of Financial Institutions (“DFI”) is a state agency charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act (“OMBA”), codified in Chapter 1322 of the Ohio Revised Code (“R.C.”). Residential Finance Corporation (“RFC”) is an Ohio corporation that holds a certificate of registration issued by DFI to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. The registration period ended on April 30, 2009, and RFC filed an application to renew its certificate, which remains pending.

RFC 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 to proceed to a formal adjudicative hearing, pursuant to R.C. Chapter 119 on the issues considered herein.

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. DFI is empowered by R.C. section 1322.04 to renew a certificate of registration if DFI finds, among other things, that the registrant has complied with R.C. sections 1322.01 to 1322.12, the OMBA.
- B. DFI is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew an applicant’s mortgage broker certificate of registration if DFI finds that the applicant has violated “or fail[ed] 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[.]”

- C. Pursuant to R.C. 1322.05(B)(1) and Ohio Administrative Code section 1301:8-7-19(B), within ten days of commencement of the action, a registrant is required to notify DFI 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 the OMBA. For purposes of 1322.05(B)(1), "commencement of the action" means ten days from receipt of the complaint.
- D. On or about November 26, 2008, an action was filed against RFC by Dorothy D. Walton in Hamilton County Court of Common Pleas case number A 0811022. Service of the complaint was completed upon RFC on December 1, 2008. The complaint alleged that RFC violated, among other Ohio statutes, R.C. 1322.07(C) in relation to brokering a residential mortgage loan.
- E. RFC failed to notify the Division of the action *Walton v. Residential Finance Corp.*
- F. R.C. 1322.07(A) prohibits a mortgage broker from making any substantial misrepresentation in any registration application. OAC 1301:8-7-04(G) provides that: "Each question on the renewal registration application is material to the licensing process. Submitting false or incomplete information or omitting information in connection with a renewal registration application is grounds for denial or revocation of the certificate and may subject the applicant and those individuals who signed the application to civil or criminal penalties."
- G. On or about April 27, 2009, RFC filed its OMBA Renewal Application with DFI. Question 7 of the Application asked whether the "Mortgage Broker... [has] been named in any civil action that involved insurance, securities, or consumer/real estate lending/brokering? Include pending actions." RFC answered "NO," thus failing to disclose the civil action *Walton v. Residential Finance Corp.*
- H. Because RFC failed to comply with R.C. 1322.05(B)(1), R.C. 1322.07(A) and (B), and OAC 1301:8-7-19(B), DFI has the authority to refuse to renew RFC's mortgage broker certificate of registration.
- I. DFI enters into this Settlement Agreement in lieu of formal proceedings under R.C. Chapter 119 to deny RFC's 2009 renewal application for a mortgage broker certificate of registration on the basis of RFC's admitted violations and noncompliance with the OMBA.
- J. DFI expressly reserves the right to institute formal proceedings based upon any violation of or noncompliance with any provision of the OMBA not specifically addressed herein, whether occurring before or after the effective date of this Settlement Agreement.

#### **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, RFC knowingly and voluntarily agrees with DFI to the following terms, conditions and limitations:

- 1. As penalty for the violations of law described herein, RFC agrees to pay a fine of five hundred dollars (\$500.00). Payment shall be in the form of a **cashier's check or money order**, made payable to "DFI Consumer Finance," and shall be submitted to DFI with this Settlement Agreement.

2. With respect to the action *Walton v. Residential Finance Corp.*, RFC agrees to execute the "Mortgage Broker/Loan Officer Notification of Action Form" as found on DFI's website and attach said completed Notification to this Settlement Agreement.
3. RFC understands that for this Settlement Agreement to be considered for acceptance by DFI, RFC 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 **June 26, 2009**. Should RFC fully comply with every provision of this Settlement Agreement, DFI agrees to execute the same, and approve RFC's 2009 mortgage broker certificate of registration renewal application provided there are no remaining deficiencies with respect to that application
4. Should DFI discover that RFC has provided DFI with false, fraudulent, misleading, or incomplete information pertaining to this Agreement, RFC agrees that such evidence will firmly establish that RFC's 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 OMBA. RFC further agrees that such discovery is grounds for revocation of its mortgage broker certificate of registration.
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, RFC 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**

RFC 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.

RFC hereby releases DFI, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter. RFC 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 RFC 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 mortgage broker is a sole proprietor; all partners if the registrant 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 registrant 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