

SETTLEMENT AGREEMENT

03MBSA0055

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

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802309

SWBC MORTGAGE CORPORATION

12950 COUNTRY PARKWAY - SUITE 150

SAN ANTONIO, TX 78216

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DIVISION OF FINANCIAL
INSTITUTIONS

This Settlement Agreement is a legally binding document that affects the rights of your mortgage brokerage company. Read it carefully. If you have any questions, consult an attorney.



CHECK NO # 5039774957

AMOUNT \$ 2000.00

DATE 08/27/2003

REC. BY ALB

If you choose to enter into this Settlement Agreement, you must follow it EXACTLY. If you fail to follow any one filing instruction or any one provision of the Agreement, the Division may reject the Agreement.

All of the following must be completed and RETURNED to the Division in the envelope provided no later than FRIDAY, AUGUST 29, 2003:

- ☒ The person designated as your company's operations manager must pass the operations manager examination. DFI has authorized Experior Assessments, LLC to administer the operations manager examination to the person designated as your company's operations manager. This authorization will expire on Saturday, August 30, 2003. A copy of the examination certificate issued by Experior must be returned with the Settlement Agreement. For testing information contact Experior at 800-741-0934, or on the web at www.experioronline.com.
- ☒ The operations manager must complete six (6) hours of approved CE, and the attendance certificate(s) must be returned with the Settlement Agreement.
- ☒ All pages of this Settlement Agreement, including this cover page, must remain attached.
- ☒ The Settlement Agreement must be signed by: the owner if the mortgage broker registrant 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.
- ☒ A cashier's check or money order in the amount of \$2,000.00, made payable to DFI Consumer Finance, must be enclosed. NO OTHER METHOD OF PAYMENT WILL BE ACCEPTED. If the envelope does not contain a cashier's check or money order in the amount of \$2,000.00, your package will be returned and the Settlement Agreement will not be accepted.

SETTLEMENT AGREEMENT

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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

Hereinafter referred to as "DFI."

&

802309

SWBC MORTGAGE CORPORATION

12950 COUNTRY PARKWAY - SUITE 150

SAN ANTONIO, TX 78216

Hereinafter referred to as "Respondent."

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."). Respondent is a company that held a certificate of registration issued by DFI 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, 2003, and Respondent filed an application to renew its certificate; the renewal application remains pending.

Respondent voluntarily enters into this Settlement Agreement being fully informed of its right to representation by counsel, and its 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.

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. 1322.04(B)(3) to renew an applicant's mortgage broker certificate of registration if DFI finds, among other things, that the applicant has complied with: 1322.04(A)(9), which requires the applicant's operations manager to successfully complete the operations manager examination mandated by R.C. 1322.051(A); and R.C. 1322.052, which requires the applicant's operations manager to complete a minimum of six (6) hours of approved continuing education ("CE") the prior calendar year.

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INSTITUTIONS

- 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. R.C. 1322.051(A) requires every operations manager to successfully complete the operations manager examination.
- D. R.C. 1322.052 requires every operations manager to complete at least six (6) hours of approved continuing education every calendar year.
- E. Respondent's mortgage broker certificate of registration expired on April 30, 2003. In an effort to renew its certificate, Respondent submitted to DFI a renewal application; the renewal application remains pending.
- F. Respondent admits that it failed to comply with the examination requirement of R.C. 1322.051(A).
- G. Respondent admits that it failed to comply with the CE requirement of R.C. 1322.052 for the 2002 calendar year.
- H. Because Respondent failed to comply with R.C. 1322.051(A), DFI has the authority to refuse to renew Respondent's mortgage broker certificate of registration.
- I. Because Respondent failed to comply with R.C. 1322.052, DFI has the authority to refuse to renew Respondent's mortgage broker certificate of registration.
- J. DFI enters into this Settlement Agreement in lieu of formal proceedings under R.C. Chapter 119 to deny Respondent's renewal application for a mortgage broker certificate of registration on the basis of Respondent's admitted noncompliance with the OMBA.
- K. 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 any formal disciplinary proceedings at this time, Respondent knowingly and voluntarily agrees with DFI to the following terms, conditions and limitations:

1. As penalty for the violations of law described herein, Respondent agrees to pay a fine of two thousand dollars (\$2,000.00). 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. Prior to submitting this Settlement Agreement, the person designated as Respondent's operations manager must have successfully completed the operations manager examination administered by Experior Assessments, LLC. A copy of the examination certificate must be submitted with this Settlement Agreement.
3. Prior to submitting this Settlement Agreement, the person designated as Respondent's operations manager must have completed six (6) hours of approved CE. Copies of the attendance certificate(s) must be submitted with this Settlement Agreement. Respondent further agrees to write in RED INK on the face of the attendance certificate(s) submitted: "PLEASE APPLY TO 2002 CE REQUIREMENT."
4. Respondent understands and agrees that the CE credits earned and submitted as part of this Settlement Agreement are to be applied only to Respondent's 2002 CE requirement; these credits cannot be applied to Respondent's 2003 CE requirement, which must be completed by December 31, 2003.
5. Respondent understands and agrees that if Respondent fails to follow any term of this Settlement Agreement or any filing instruction, DFI may reject the Settlement Agreement and initiate formal proceedings under R.C. Chapter 119 to deny Respondent's renewal application for a mortgage broker certificate of registration.
6. Respondent understands and agrees that by executing this Settlement Agreement, Respondent admits that it has violated R.C. Sections 1322.051(A) and 1322.052, and that Respondent has been penalized for these violations in the form of a fine.
7. Respondent understands that it must comply with every provision herein, and that to be considered for acceptance by DFI, the ORIGINAL properly executed Settlement Agreement, with all 5 pages attached, must be received in the offices of DFI on or before Friday, August 29, 2003.
8. If Respondent properly files this Agreement and fully complies with every provision, DFI agrees to execute the same, to approve Respondent's renewal application(s), and to issue Respondent a mortgage broker certificate(s) of registration for the period ending April 30, 2004.

9. Should DFI discover that Respondent has provided DFI with false, fraudulent, misleading, or incomplete information pertaining to this Agreement, Respondent agrees that such evidence will firmly establish that Respondent'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. Respondent further agrees that such discovery is grounds for permanent revocation of its mortgage broker certificate of registration.
10. 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, Respondent 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

Respondent 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.

Respondent hereby releases DFI, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter.

This Settlement Agreement shall be considered a public record as that term is used in R.C. 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 Respondent 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 registrant 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 of authorized signor #1:

Susan T. Stewart

SIGNATURE of authorized signor #1:

8-22-03

Date

PRINTED Name of authorized signor #2:

Cinder L. Jorgensen

SIGNATURE of authorized signor #2:

[Signature]

8/20/03

Date

PRINTED Name of authorized signor #3:

SIGNATURE of authorized signor #3:

Date

PRINTED Name of authorized signor #4:

SIGNATURE of authorized signor #4:

Date

8/22/03
ROBERT M. GRIESER
Deputy Superintendent for Consumer Finance
Ohio Division of Financial Institutions

DATE

8/27/03
AMANDA M. AXTELL
Consumer Finance Legal Counsel
Ohio Division of Financial Institutions

DATE

* PLEASE APPLY TO 2002 CE REQUIREMENT

THE MORTGAGE INSTITUTE

THIS IS TO CERTIFY THAT

S. VAN STEWART

HAS COMPLETED THE FOLLOWING COURSE:

WELCOME TO THE REAL ESTATE FINANCE INDUSTRY - 6 HOURS

AND HAS DEMONSTRATED A KNOWLEDGE OF THE LEARNED
SUBJECTS AND HAS EXHIBITED THE ABILITY TO APPLY
THESE SKILLS TO THE PROFESSION OF MORTGAGE
LOAN ORIGINATIONS; AND, HAS SATISFIED THE
OHIO STATE CONTINUING EDUCATION REQUIREMENT.

GIVEN THIS 25TH DAY OF AUGUST, 2003.



DIRECTOR OF TRAINING AND SALES MANAGEMENT

