

SETTLEMENT AGREEMENT

Case No. M2006-9992891

This Settlement Agreement is entered into by and between:

**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”

and

AMERICAN FUNDING AGENCY, INC.

7807 N. Dixie Drive
Dayton, OH 45414

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 an Ohio-registered corporation that held a mortgage broker certificate of registration, which expired on April 30, 2006. Respondent applied to renew its certificate of registration and that application remains pending. On July 13, 2006, DFI issued Respondent a Notice of Intent to Deny Respondent’s 2006 Mortgage Broker Certificate of Registration Renewal Application (“Renewal Application”). Respondent requested a hearing on the matter which was scheduled for October 26, 2006. That hearing has been continued pending settlement discussions.

Respondent voluntarily enters into this 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. 1322.10(A)(1)(a) to refuse to renew a mortgage broker certificate of registration renewal application if DFI 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. 1322.04(A)(7) & (B)(3) provide that a registrant will not be renewed if the registrant, its shareholder, or operations manager, or other specified individuals, has

pleaded guilty to money laundering or any criminal offense involving money or securities. If the registrant or such persons have pleaded guilty to or have been convicted of such an offense, the registrant will not be renewed unless the registrant has proven to the superintendent, by a preponderance of the evidence, that the registrant's or person's activities and employment record since the conviction show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will commit such an offense again.

- C. Respondent submitted its Renewal Application on April 28, 2006; that application remains pending.
- D. Respondent admits that in May 2006, its president and sole shareholder, Glen C. Hurst, pleaded guilty to Conspiracy to Launder Money, in violation of 18 U.S.C. 1956(h), and Attempt to Evade Income Taxes, in violation of 76 U.S.C. 7201, in the United States District Court for the Southern District of Ohio. These crimes were carried out and concealed through Respondent's business.
- E. Respondent admits that in February 2006, its former operations manager, Kimberly McGinnis, pleaded guilty to Conspiracy to Launder Money, in violation of 18 U.S.C. 1956(h), in the United States District Court for the Southern District of Ohio. This crime was carried out through Respondent's business.
- F. Respondent understands that because its owner and former operations manager have pleaded guilty to criminal offenses referenced in R.C. 1322.04(A)(7), DFI has the authority to refuse to renew its mortgage broker certificate of registration pursuant to R.C. 1322.04(B)(3).
- G. DFI enters into this Settlement Agreement in lieu of continuing with formal proceedings under R.C. Chapter 119 to deny Respondent's 2006 mortgage broker certificate of registration renewal application on the basis of the guilty pleas set forth in paragraphs D and E above.
- H. 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 reinstituting formal disciplinary proceedings at this time, Respondent knowingly and voluntarily agrees with DFI to the following terms, conditions and limitations:

- 1. Respondent agrees to cease doing business as a residential mortgage broker in the State of Ohio as such business is regulated by the Ohio Mortgage Broker Act.

2. Respondent agrees to comply with the recordkeeping requirements found in R.C. 1322.06 and OAC 1301:8-7-06 and will attach to this Agreement an addendum providing the location where such records will be maintained and the name, address, and telephone number of the person holding such records. Should the contact person change, Respondent agrees to notify DFI.
3. Respondent withdraws its request for a hearing in this matter.
4. Respondent agrees that DFI has sufficient grounds upon which to deny its Renewal Application.
5. If Respondent properly files this Agreement and fully complies with every provision, DFI agrees to execute the same and agrees to deny Respondent's Renewal Application without further administrative proceedings pursuant to R.C. Chapter 119.
6. Respondent understands and agrees that this 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.
7. The above-described terms, conditions and limitations may be amended or terminated at any time upon the written agreement of both parties.
8. This Settlement Agreement must be received by DFI no later than November 17, 2006.

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 registrant is a sole proprietor; all partners if the licensee 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 licensee 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

ROBERT M. GRIESER Date
Deputy Superintendent for Consumer Finance
Ohio Division of Financial Institutions

ANTHONY D. SICILIANO Date
Consumer Finance General Counsel
Ohio Division of Financial Institutions