



Ohio Department of Commerce

Division of Financial Institutions
77 South High Street • 21st Floor
Columbus, OH 43215-6120

Ted Strickland
Governor

Kimberly A. Zurz
Director

In the matter of:

**AMERICAN MORTGAGE
& LOAN, LLC.**
41436 Griswold Road
Elyria, Ohio 44035

)
) Case No. M2009-113
)
) **SETTLEMENT AND CONSENT ORDER**
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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, American Mortgage & Loan, LLC. ("Respondent") is a corporation that holds a mortgage broker certificate of registration ("license") issued by the Division pursuant to the Ohio Mortgage Broker Act. The business address of record for Respondent is 41436 Griswold Road, Elyria, Ohio 44035; and

WHEREAS, on April 30, 2009, the Division issued Respondent a Notice of Intent to Revoke Mortgage Broker Certificate of Registration and Notice of Opportunity for a Hearing; and

WHEREAS, the Notice contained allegations and findings that:

- A. Respondent holds certificate of registration number MB.803711.
- B. R.C. 1322.04(D) requires a registrant to designate another person to serve as operations manager whenever the person designated as operations manager is no longer the operations manager.
- C. Pursuant to Ohio Admin. Code 1301: 8-7-12(E)(4)(b) and 1301: 8-7-17(B)(2) "[i]f a registrant is unable to designate an individual who meets the approval of the superintendent within one hundred eighty days of termination date of the individual last approved as the registrant's operations manager, the superintendent may revoke the registrants' certificate of registration for operating without an approved operations manager.
- D. On or about August 8, 2008, by facsimile Respondent submitted a change of operations manager package that indicated it proposed a different individual, Russell E. Kilway ("Mr. Kilway"), to be its operations manager. A hard copy was received on August 26, 2008.

- E. On or about August 18, 2008, the superintendent notified Mr. Kilway that he was authorized to take the operations manager examination and would have to pass the examination within ninety (90) days of the date of the letter. If Mr. Kilway failed to pass the examination by November 16, 2008, his application would be withdrawn by operation of law.
- F. Mr. Kilway failed to pass the operations manager examination by November 16, 2008.
- G. Respondent did not submit a new change of operations manager package to propose a different individual as operations manager since the approval of Mr. Kilway to become an operations manager.
- H. As a result of the findings listed above, the Division has determined that because one hundred eighty days have passed since the superintendent last approved an individual to be Respondent's operations manager and Respondent has failed to designate another individual to be its operations manager, the Division has the authority to revoke Respondent's certificate of registration for operating without an operations manager

WHEREAS, Respondent admits the allegations of the Division's April 30, 2009 Notice.

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 Division's findings listed above.
- 2) Respondent acknowledges lawful service and receipt of the Notice, and stipulates to the jurisdiction of the Division in this matter.
- 3) Nothing in this Settlement and Consent Order shall be deemed to prevent the Division or its employees, agents, or assignees 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.
- 4) In lieu of revoking its certificate of registration, Respondent agrees to pay a fine for the violations of law described herein in the amount of seven hundred and fifty dollars (\$750.00). Payment shall be in the form of a cashier's check or money order, made payable to "Consumer Finance Fund" and shall be submitted to the Division at the address indicated above with this Settlement and Consent Order.
- 5) In the event that American Mortgage & Loan, LLC. should cease to exist as an entity before the administrative penalty is paid in full or is unable to pay for any reason, American Mortgage & Loan, LLC.'s current members, namely Roberto F.

Cobos and Lynn M. Cobos, personally guarantees timely payment of the fine. A Guarantee executed by Roberto F. Cobos and Lynn M. Cobos is attached to this Settlement and Consent Order and is incorporated herein

- 6) In addition, Respondent agrees to comply with all provisions of Chapter 1322, and specifically agrees not to use outside loan processors, to maintain all records kept pursuant to statute at the registered location and to use its special account as required by statute.
- 7) 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) The Division hereby terminates the Notice of Intent to Revoke and Notice of Opportunity for Hearing issued April 30, 2009.
- 9) This Settlement and Consent Order shall be effective on the date it is signed by the Deputy Superintendent of the Division of Financial Institutions and on such date it will become a final order.
- 10) 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.
- 11) The parties agree that the terms of this Settlement and Consent Order bind the parties hereto, and their shareholders, partners, members, assignees, and successors in interest.
- 12) Respondent releases the Division, its members, employees, agents, officers and representatives jointly and severally from any and all liability arising from the within matter. Respondent shall not seek attorney fees or other costs arising from the within matter.
- 13) This Settlement and Consent Order 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.
- 14) Respondent has been advised by the Division to seek legal counsel if it has any questions concerning the terms and/or effect of this Settlement and Consent Order.
- 15) Respondent must submit this Settlement and Consent Order completed per the terms dictated herein, no later than **June 24, 2009**.

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. Nothing in this settlement agreement and consent order shall deem to prevent the Division from taking any administrative action due to deficiencies which may arise in Respondent's violations of Chapter 1322 not specifically addressed in the Notice.
- C. The Notice of Intent to Deny Respondent's Mortgage Broker Certificate of Registration Renewal and Notice of Opportunity for Hearing issued April 30, 2009 is hereby terminated.

LEIGH A. WILLIS

Date

Deputy Superintendent for Consumer Finance
Ohio Division of Financial Institutions

Approved and Agreed:

The Settlement Agreement & Consent Order must be signed by: the owner if the 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 Settlement Agreement & Consent Order with all pages attached must be returned.** Keep a copy for your records.

PRINTED Name of authorized signor #1: _____

Date

SIGNATURE of authorized signor #1: _____

Date

PRINTED Name of authorized signor #2: _____

Date

SIGNATURE of authorized signor #2: _____

Date