

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS
77 South High Street, 21st Floor
Columbus, Ohio 43215-6120

RECEIVED
DIVISION OF FINANCIAL
INSTITUTIONS

2007 JAN 18 PM 12:00

In the matter of:

PICKWELL INVESTMENTS, LTD.
6402 East Main Street
Reynoldsburg, OH 43068

)
)
) Case No. M2006-9992822

)
)
) 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, Pickwell Investments, 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 6402 East Main Street, Reynoldsburg, OH 43068; and

WHEREAS, on June 16, 2006, 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 Pickwell Investments, Ltd. ("Respondent") to its main office business address; and

WHEREAS, the Notice contained allegations and findings that:

1. A direct mailing by a mortgage broker to solicit business is considered an advertisement pursuant to rules of the Division governing mortgage brokers. (See O.A.C. § 1301:8-7-07(B)).
2. In April 2006, the Registrant sent out direct mailings to potential customers seeking to solicit business. The mailing stated: "Please give me a call regarding the information received concerning your parcel for the April 28, 2005 tax lien sale. This notice is to allow you the opportunity to settle a debt. Contact our office immediately at (740)687-5162." Behind the letter

to the potential consumer and also on the upper right corner of the solicitation appeared the Seal of the State of Ohio.

3. Approximately 2200 Fairfield County property owners received a similar letter. Many of the advertisement recipients' properties were not delinquent on their taxes as the advertisement had implied and their properties were not set for a tax lien sale.
4. R.C. 1322.07(B) prohibits registrants from making false or misleading statements of a material fact, omissions of statements required by state law, or false promises regarding a material fact, through advertising or other means, or engage in a continued course of misrepresentations. R.C. 1322.07(C) prohibits registrants from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings.
5. These solicitations are false and misleading statements of a material fact in violation of R.C. 1322.07(B) and are improper and dishonest dealings in violation of R.C. § 1322.07(C). These notices falsely represented that individuals were delinquent on their property tax obligations because many of these notices were sent to consumers who had paid their taxes. Further, the solicitations were misleading in that they gave the impression to consumers that the notices were official government communications.

WHEREAS, Pickwell Investments, 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 June 16, 2006, 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 that 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). Respondent shall pay the amount of Ten Thousand Dollars (\$10,000) 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.

- D. 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 June 16, 2006

Robert M. Grieser
Robert M. Grieser
Deputy Superintendent of Consumer Finance

1-19-07
Date

Approved and Agreed

Pickwell Investments, Ltd.

By: [Signature]

1-12-07
Date

Its: Owner

s:/legal/martha/pickwell consent order.doc

