

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

NOV -5 AM 1:41

In the matter of:

3QB INC.

dba FIRSTAR MORTGAGE INC.

1531 South Breiel Blvd.

Middletown, OH 45044

Case No. 04-NOV-421

**SETTLEMENT AND
CONSENT ORDER**

CHECK NO

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NOV - 5 2004

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, 3QB Inc. dba Firstar Mortgage, Inc. ("Respondent") is an Ohio corporation registered with the Division as a mortgage broker pursuant to R.C. 1322. The business address of record for Respondent's main office is 1531 South Breiel Blvd. Middletown, OH 45044 which operates under certificate of registration MB# 5284; and

WHEREAS, on September 2, 2004, the Division sent via certified mail a Notice of Violation ("the Notice") to 3QB Inc. dba Firstar Mortgage Inc. ("Respondent") to its main office business address; and

WHEREAS, the Notice contained allegations and findings that:

1. On or about August 15, 2004 the Registrant's Office sent out a direct mailing to potential customers seeking to solicit business. The Direct Mailing has at the top of the page: Form 4473 Important notice. The mailing states the registrant's address but states that it is from the "Department of Loan Processing". The registrant's certificate of registration number is listed on the mailing. The name of the registrant does not appear on the direct mailing.
2. 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)).
3. The direct mailing of the Registrant sent on or about August 2004 failed to state the identity of the mortgage broker, providing only the registrant's

address, a telephone number, and a certificate of registration number. The solicitation fails to state the name of the mortgage broker.

4. A mortgage broker registrant is required by law to state and clearly indicate its identity in all advertisements pursuant to R.C. § 1322.09 and O.A.C. § 1301:8-7-07(A)(1).

WHEREAS, Firststar Mortgage, Inc. 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 Violation issued August 19, 2004, 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) Respondent acknowledges lawful service and receipt of the Notice, and stipulates to the jurisdiction of the Division in this matter.
- 6) 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.
- 7) 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.
- 8) 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, 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 Five Hundred Dollars (\$500), half of which shall be suspended upon the Respondent's full compliance with this order during the proceeding five years. Respondent shall pay the unsuspended amount of Two Hundred Fifty Dollars (\$250) 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.

The Respondent understands that any breach of this Settlement and Consent Order will subject the Respondent to the immediate payment of the suspended portion of the fine set forth herein and may result in the reinstitution of administrative proceedings, including suspension or revocation, the imposition of additional fines and any other remedy available to the Division.

Robert M. Grieser
Robert Grieser
Deputy Superintendent of Financial Institutions

11/5/04
Date

Approved and Agreed

3QB Inc. dba Firststar Mortgage Inc.

By: [Signature]

11-01-04
Date

Its: Secy. Treasurer

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