

# SETTLEMENT AGREEMENT

# 501399 & 803561

by and between

THE OHIO DEPARTMENT OF COMMERCE  
DIVISION OF FINANCIAL INSTITUTIONS

Consumer Finance Section

77 South High Street, 21<sup>st</sup> Floor  
Columbus, OH 43215-6120

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MORTGAGETREE LENDING

100 Poplar Avenue  
Modesto, California 95354

RE: Mortgage Broker Certificate of Registration Application and Mortgage Loan Certificate of  
Registration Application filed September 29, 2005



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

# SETTLEMENT AGREEMENT

# 501399 & 803561

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, 21<sup>st</sup> Floor  
Columbus, OH 43215-6120

**Hereinafter referred to as “DFI.”**

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MORTGAGETREE LENDING

100 Poplar Avenue  
Modesto, California 95354

**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.”) and the Ohio Mortgage Loan Act (“OMLA”), codified in Chapter 1321 of the R.C. Respondent is a foreign corporation that has applied to the Division for certificates of registration in order to be legally authorized to operate as a mortgage broker pursuant to R.C. Chapter 1322 and as a mortgage lender pursuant to R.C. Chapter 1321.

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)(b) to refuse to issue a mortgage broker certificate of registration if the applicant has been convicted of or has pleaded guilty “to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities.”
- B. DFI is empowered by R.C. 1322.10(A)(1)(a) to refuse to issue a mortgage broker certificate of registration if the Division find that an applicant has “violat[ed] or fail[ed] to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code[.]”

- C. DFI is empowered by R.C. 1322.04(A)(7) to grant a mortgage broker certificate of registration to an applicant who has an owner/shareholder who has been convicted of one of the crimes listed in paragraph A above and codified in R.C. 1322.03(A)(7), if the applicant “has proven . . . , by a preponderance of the evidence, that the applicant’s activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.”
- D. DFI is empowered by R.C. 1321.53(A)(4) to deny an application for a mortgage loan certificate of registration if DFI cannot find that an applicant’s “financial responsibly, experience, character, and general fitness of the applicant are such as to command the confidence of the public and to warrant the belief that the business will be operated honestly and fairly in compliance with and within the purposes of sections 1321.51 to 1321.60 of the Revised Code[.]”
- E. Respondent submitted applications for a mortgage broker certificate of registration and mortgage loan certificate of registration on September 29, 2005; those applications remains pending.
- F. Respondent admits that one its shareholders, namely Diana Grossman, was convicted in 1973 of a misdemeanor offense involving passing bad checks.
- G. Respondent admits that it acted as a “mortgage broker”, as defined by R.C. 1322.01(G), without a mortgage broker certificate of registration, in violation of R.C. 1322.02(A)(1).
- H. Respondent admits that it made loans on real estate that were other than first lien without a mortgage loan certificate of registration in violation of 1321.52(A)(1)(a) and (b).
- I. Respondent understands that because one of its shareholders has been convicted of a crime listed in R.C. 1322.03(A)(7), DFI has the authority to refuse to issue a mortgage broker certificate of registration.
- J. Respondent further understands that based on the violations listed in paragraphs G and H, the DFI has the authority to refuse to issue a mortgage broker certificate of registration and mortgage loan certificate of registration.
- K. Based upon Respondent’s representations and supporting documentation, DFI finds that Respondent has proven by a preponderance of the evidence that Diana Grossman is honest, trustworthy, and that there is no basis in fact for DFI to believe she would commit an offense listed in R.C. 1322.03(A)(7) again.
- L. DFI enters into this Settlement Agreement in lieu of formal proceedings under R.C. Chapter 119 to deny Respondent’s applications for a mortgage broker certificate of registration and mortgage loan certificate of registration.

- M. DFI expressly reserves the right to institute formal proceedings based upon any violation of or noncompliance with any provision of the OMBA or OMLA 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. For the violations of law described herein, Respondent agrees to pay a penalty of eight thousand five hundred dollars (\$8500.00) for 17 instances @ \$500.00 each. 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. If Respondent properly files this Agreement and fully complies with every provision, and if Respondent otherwise meets all of the licensing requirements under the OMBA and OMLA, DFI agrees to execute the same, to approve Respondent's mortgage broker certificate of registration and mortgage loan certificate of registration applications, and to issue Respondent certificates of registration under both acts. The mortgage broker certificate of registration issued shall expire on April 30, 2007. The mortgage loan act certificate of registration shall expire on June 30, 2007.
3. Respondent understands and agrees that if DFI should discover that Respondent has provided DFI with false, fraudulent, or misleading information in regard to its certificate of registration applications, Respondent agrees that such evidence shall establish that its 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 and OMLA. Respondent further agrees that such evidence is grounds for permanent revocation of its mortgage broker and mortgage loan certificates of registration.
4. 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.
5. If Respondent violates any term of this Settlement Agreement, DFI may reject the Settlement Agreement and initiate formal proceedings under R.C. Chapter 119 to deny both applications.
6. The above-described terms, conditions and limitations may be amended or terminated at any time upon the written agreement of both parties.

7. This settlement agreement must be received by the Division no later than March 30, 2007.

### **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. Respondent shall not seek attorney's fees or other costs arising from the within matters.

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 actions DFI may take with respect to Respondent or any other person, individual, or company, for the same or similar violations in the future.

### **EFFECTIVE DATE**

It is expressly understood that this Settlement Agreement shall become effective upon the last date of signature below.

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HAYDN J. RICHARDS, JR.                      DATE  
Attorney for MortgageTree Lending

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Owner/Officer                                      DATE

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Owner/Officer

DATE

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RICHARD F. KECK

DATE

Acting Deputy Superintendent - Consumer Finance  
Ohio Division of Financial Institutions

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MARK RHEA

DATE

Consumer Finance Licensing Attorney  
Ohio Division of Financial Institutions