

SETTLEMENT AGREEMENT

M2008-627 -- MB.801790

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, 21st Floor
Columbus, OH 43215-6120

and

WILLIAMS MORTGAGE SERVICES, INC.

96810 Raiders Road
P.O. Box 37
Fazeysburg, OH 43822

The Division of Financial Institutions ("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."). Williams Mortgage Services, Inc. ("Respondent") is an Ohio registered corporation that holds a certificate of registration so that it may engage in business as a mortgage broker pursuant to R.C. Chapter 1322.

Respondent voluntarily enters into this Settlement Agreement being fully informed of the right to representation by counsel, and the right to reject this Settlement Agreement and to proceed to a formal adjudicative hearing, pursuant to R.C. Chapter 119 on the issues considered herein.

This Settlement Agreement contains the entire Settlement Agreement between the parties. There is no other Settlement Agreement of any kind, verbal or otherwise, on the issues considered herein, which varies the terms of the 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 suspend, revoke or refuse to issue a mortgage broker certificate of registration if the Division finds that a registrant has "violat[ed] or fail[ed] to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections[.]"
- B. R.C. 1322.04(A)(7) states that "...the superintendent of financial institutions shall issue a certificate of registration to the applicant if the superintendent finds that...[n]either the applicant nor any shareholder...of the applicant has pleaded guilty to or been convicted of any criminal offense described in division (A)(8) of section 1322.03 of the Revised Code....However, if the applicant or any of those other persons has pleaded guilty to or been convicted of any such offense other than theft, the superintendent shall not consider the offense if the applicant has proven to the superintendent, by a preponderance of the

evidence, that the applicant's or other 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 offense again."

- C. R.C. 1322.04(B)(3) states that "[t]he certificate of registration...may be renewed annually...if the superintendent finds that...[t]applicant meets the conditions set forth in division (A)(2) to (10) of this section."
- D. R.C. 1322.07(A) states that "[n]o mortgage broker...shall...make any substantial misrepresentation in any registration...application."
- E. Respondent admits that its owner, James Evan Atkinson, pled guilty and was convicted of passing a bad check in violation of R.C. 2913.11 in 1990.
- F. Respondent admits that it violated R.C. 1322.07(A) in March 1999 by failing to respond truthfully and correctly to question 16 on the Mortgage Broker Application for a Certificate of Registration and question 9 on Schedule 18 submitted by James Evan Atkinson. Respondent failed to disclose that James Evan Atkinson, Respondent's owner who attested to the completeness, truthfulness and accuracy of the answers on both forms, had a conviction for passing a bad check in 1990.
- G. Because Respondent violated R.C. 1322.07(A), DFI has the authority to suspend, revoke or refuse to issue Respondent a mortgage broker certificate of registration.
- H. DFI enters into this Settlement Agreement in lieu of formal proceedings under R.C. Chapter 119 to suspend, revoke or refuse to issue Respondent's mortgage broker certificate of registration on the basis of Respondent's admitted violations and noncompliance with the OMBA.
- I. 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 continuing with any formal disciplinary proceedings at this time, Respondent knowingly and voluntarily agrees with DFI to the following terms, conditions and limitations:

- 1. As penalty for the violation of law described herein, Respondent agrees to pay a fine of five hundred dollars (\$500.00). 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. Respondent understands and agrees that by executing this Settlement Agreement, Respondent admits that it has violated R.C. 1322.07(A) by making a substantial misrepresentation in a Division application, and that Respondent has been penalized in the form of a fine for this violation.
- 3. Respondent has submitted information and documents to the Division which, after review, the Division has determined satisfies the burden of proof set forth in R.C. 1322.04(A)(7). As a result, the Division will not consider Respondent's conviction of passing bad check(s) as a basis for the denial of Respondent's mortgage broker certificate of registration.

4. Respondent understands that for this Settlement Agreement to be considered for acceptance by DFI, the ORIGINAL properly executed Settlement Agreement, with all pages attached, and a cashier's check or money order for the dollar amount listed above must be received in the offices of DFI on or before **February 13, 2009**. Should Respondent fully comply with every provision of this Agreement, DFI agrees not to suspend, revoke or refuse to issue Respondent's mortgage broker certificate of registration based on the untruthful answers to questions 16 and 9 contained in the March 1999 Application for a Mortgage Broker Certificate of Registration.
5. Should DFI discover that Respondent has provided DFI with false, fraudulent, misleading, or incomplete information pertaining to this Agreement, Respondent agrees that such evidence will firmly establish that Respondent's 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. Respondent further agrees that such discovery is grounds for permanent revocation or denial of its mortgage broker certificate of registration.
6. The above-described terms, conditions and limitations may be amended or terminated at any time upon the written agreement of both parties.

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 fees or other costs arising from the within matter.

This Settlement Agreement shall be considered a public record as that term is used in R.C. section 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 mortgage broker 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: J. Evan Atkinson

SIGNATURE of Authorized Signor #1: _____ 2-6-09
Date

2/12/09
Date
JOHN B. REARDON
Superintendent of Financial Institutions
Ohio Division of Financial Institutions

2/9/09
Date
JACQUELINE S. MALLETT
Consumer Finance Attorney Examiner
Ohio Division of Financial Institutions