

Ted Strickland
Governor

Kimberly A. Zurz
Director

STATE OF OHIO
DEPARTMENT OF COMMERCE
Division of Financial Institutions
Consumer Finance

In the matter of:

) Case No. M2009-1125
)

TIMOTHY P. BELL
3440 Virginia Road, 106B
Woodmere, OH 44122
)
)
)

) 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, Timothy P. Bell ("Respondent") is an individual who holds a loan officer license, L.O.035432.000, issued by the Division to originate residential mortgage loans pursuant to R.C. Chapter 1322. The Respondent's address of record is 3440 Virginia Road, 106B, Woodmere, Ohio 44122. Respondent's employer of record is Woodside Mortgage Services, Inc., 30195 Chagrin Blvd., Suite 112, Pepper Pike, Ohio 44124; and

WHEREAS, on December 4, 2009, the Division sent via certified mail a Notice of Intent to Revoke Loan Officer License and Notice of Intent to Fine and Notice of Opportunity for a Hearing ("the Notice") to Respondent at his home address of record which mailed Notice was received by and served upon Respondent; and

WHEREAS, the Notice contained allegations and findings that:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to revoke a loan officer license if the Division finds that the licensee has "violat[ed] or fail[ed] to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code...or any other law applicable to the business conducted under a certificate of registration[.]"
- B. The Division is authorized by R.C. 1322.10(A)(2) to impose a fine upon Respondent for his violations of a law or rule.
- C. R.C. 1322.071(B)(3) prohibits a loan officer from "pay[ing] or receiv[ing], directly or indirectly, a referral fee or kickback of any kind to or from a bona fide third party or other party with a related interest in the transaction, such as a...real estate broker or agent, for the referral of business."
- D. R.C. 1322.07(C) prohibits a licensee from "engag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings."
- E. The Real Estate Settlement and Procedures Act ("RESPA"), 12 U.S.C. 2607(a), states that "[n]o person shall give and no person shall accept any fee, kickback, or thing of value pursuant to any agreement or understanding, oral or otherwise, that business incident to or a part of a real estate settlement service involving a federally related mortgage loan shall be referred to any person." Pursuant to 12 U.S.C. 2602(a)(2), "thing of value" means "any payment, advance, funds, loan, service, or other consideration[.]" and "Settlement service"

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From: Hallett Jacqueline

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means "any service provided in connection with a real estate settlement including, but not limited to, ...services rendered by a real estate agent or broker, the origination of a federally related mortgage loan (including, but not limited to, the taking of loan applications, loan processing, and the underwriting and funding of loans)...["]"

F. On or about October 16, 2009, Respondent sent via electronic mail a written agreement offering to pay a referral fee, kickback or thing of value to real estate brokers or agents for the referral of a [sic] real estate settlement services involving federally related mortgage loans.

As a result of the findings listed above, the Division has determined that:

1. Respondents actions as listed in Paragraph F above violated R.C. 1322.071(B)(3), 1322.07(C), and 12 U.S.C. 2607(a).
2. Because Respondent violated R.C. 1322.071(B)(3), 1322.07(C) and 12 U.S.C. 2607(a), the Division is authorized to revoke Respondent's loan officer license pursuant to R.C. 1322.10(A)(1)(a).
3. Because of the actions listed in Paragraph F above, the Division can no longer find that Respondent has the "character and general fitness [to] command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1322.01 to 1322.12 of the Revised Code."
4. A fine in the amount of five thousand dollars (\$5,000.00) is reasonable, appropriate and necessary for his violations of R.C. Chapter 1322.

WHEREAS, Respondent admits only the allegations in Paragraph F of the Notice and that such conduct constitutes a violation of R.C. 1322.07(C), but avers that it was the result of error and not intent, and to avoid the cost and uncertainty of litigation 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 successors in interest.
- 4) Respondent agrees to pay to the Division One Thousand Dollars (\$1,000.00) as a fine as set forth in this Settlement and Consent Order. In the future, Respondent shall comply with the provisions of Chapter 1322 and the rules adopted thereunder, and specifically with R.C. 1322.071(B)(3).
- 5) The Division agrees to terminate its Notice of Intent to Revoke Loan Officer License and Notice of Intent to Fine and Notice of Opportunity of Hearing issued December 4, 2009, and

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agrees that it shall not, as long as Respondent is in compliance with this Settlement and Consent Order, pursue the matters set forth in the Notice through its administrative process. Nothing, however, in this Order shall be deemed to prevent the Division from taking action to enforce any breach of this Order or 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.

- 6) Respondent acknowledges lawful service and receipt of the Notice, and stipulates to the jurisdiction of the Division in this matter.
- 7) This Settlement and Consent Order shall be effective on the date it is signed by the Superintendent of the Division of Financial Institutions or his designee 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 express 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. Respondent shall pay a fine in the amount of One Thousand Dollars (\$1,000.00). Payment shall be in the form of a cashier's check or money order, made payable to "Treasurer of State" and shall be submitted to DFI with this signed Settlement and Consent Order.
- C.

The Division hereby terminates the Notice of Intent to Revoke Loan Officer License and Notice of Intent to Fine and Notice of Opportunity of Hearing issued December 4, 2009. Nothing shall prevent the Division, in the future, from taking any administrative or other action against Respondent for matters not addressed in this Order.

Approved and Agreed:

TIMOTHY P. BELL
Respondent

2-1-2010

Date

LEIGH A. WILLIS

Deputy Superintendent for Consumer Finance
Division of Financial Institutions

2/4/10

Date