

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

In the matter of:) Case No. M2009-110
)
LIBERTY MORTGAGE COMPANY, INC.)
473 East Rich Street) **SETTLEMENT AND CONSENT ORDER**
Columbus, Ohio 43215)
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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, Liberty Mortgage Company, Inc. ("Respondent") is a corporation that holds a certificate of registration, MB.802721.000, issued by the Division to act as a mortgage broker pursuant to R.C. Chapter 1322. The business address of record for Respondent's main office is 473 East Rich Street, Columbus, Ohio 43215; and

WHEREAS, on February 26, 2009, the Division sent via certified mail a Notice of Intent to Fine Mortgage Broker Registrant and Notice of Opportunity for a Hearing ("the Notice") to Respondent to its main office business address; and

WHEREAS, the Notice contained allegations and findings that:

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DIVISION OF FINANCIAL INSTITUTIONS
COLUMBUS, OHIO
- A. In February 2009, Registrant sent out a direct mailing to potential customers seeking to solicit business. A copy of this direct mailing is attached hereto as Attachment A. The mailing consists of a document entitled open-end mortgage with the potential customer's name, address, lender's name (in this case, Builders Fin Corp), and an amount of indebtedness to the lender (in this case \$119,505). The advertisement mimics a genuine mortgage. The cover letter to the mortgage is entitled "ENDORSEMENT" and contains the message of "PLEASE CALL ME AT (614) 458-1875 REGARDING THE ENCLOSED DOCUMENT." The Division contends that dissemination of this advertisement constitutes an improper and dishonest business practice in violation of R.C. 1322.07(C).
 - B. A mortgage broker registrant is required by law to clearly identify itself by disclosing in all advertisements its true name, street address and number as designated on its certificate of registration. (See R.C. 1322.09 and O.A.C. 1301:8-7-07(B)(1) and (2)). Respondent failed to include its true name and number as designated on its certificate of registration.
 - C. 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.

- D. The Division contends that 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).
- E. Because Respondent violated R.C. 1322.07(B), 1322.07(C), 1322.09 and O.A.C. 1301:8-7-07(B)(1) and (2), the Division has the authority to impose a fine against Respondent.
- F. A fine in the amount of one thousand dollars (\$1,000.00) is reasonable, appropriate and necessary.

WHEREAS, Respondent denies the allegations of the Division but 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 shareholders, partners, members, assigns, and successors in interest.
- 4) The Division hereby terminates the Notice of Intent to Fine Mortgage Broker Registrant issued on February 26, 2009, 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) 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 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 One Thousand Dollars (\$1000.00). Respondent shall pay the full amount of One Thousand dollars (\$1000.00) 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 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.

Approved and Agreed:

Liberty Mortgage Company, Inc.

By: [Signature]
Title: PRESIDENT

4-8-09
Date

[Signature]
LEIGH A. WILLIS
Deputy Superintendent for Consumer Finance
Division of Financial Institutions

4/13/09
Date