

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS
77 South High Street, 21st Floor
Columbus, Ohio 43215-6120

DIVISION OF FINANCIAL
INSTITUTIONS
03 OCT 23 AM 11:05

In the matter of:

**ALTA FINANCIAL CORP.
OF OHIO
6717 Tylersville Rd.
West Chester, Ohio 45069**

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)
) Case No. 03-MB-S-10-01
)
) **SETTLEMENT AND**
) **CONSENT ORDER**
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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, Alta Financial Corporation of Ohio ("Respondent") is a Georgia corporation registered with the Division as a mortgage broker pursuant to R.C. Chapter 1322. The business address of record for Respondent's office in Ohio is 6717 Tylersville Rd., West Chester, Ohio 45069. Said registrant holds a license to operate this Ohio office under the registration number MB 2925. The Registrant's main office is at 531 Roselane Street, Suite 600 Marietta, Georgia 30060; and

WHEREAS, on October 10, 2003, the Division sent via certified mail a Notice of Intent to Assess Fine and Suspend Mortgage Broker Certificate of Registration and Notice of Opportunity for a Hearing ("the Notice") to Alta Financial Corporation of Ohio ("Respondent") to its main office business address; and

WHEREAS, the Notice contained allegations and findings that:

(A) In June 2001 the Respondent's branch office in West Chester, Ohio at 6717 Tylersville Road, a residence owned and occupied by Gary Nickell, a loan officer with Respondent at the time, was sold to Jason and Allison Bowers. The Bowers do not have, and have not had, any business relationship with Respondent. The 6717 Tylersville Road, West Chester, Ohio location is the only branch office of the Respondent registered to operate in Ohio as a mortgage broker business. The Respondent failed to properly notify the Division of Financial Institutions of the closure of its West Chester, Ohio office in violation of O.A.C. §1301:8-7-03.

(B) The Respondent continued to solicit business and to broker mortgages in Ohio in 2001 and 2002, notwithstanding the fact that it has had no licensed registered office in Ohio since June 1, 2001 in violation of R.C. § 1322.02(A)(1).

(C) In Respondent's 2002 Renewal Application to the Division it was stated in writing in March of 2002 and attested on July 11, 2002 by its corporate officers Rick Krogh, President, Kinley Shell, Vice President, and C. Randall Krogh, Vice President that there had been no change in location of any of its licensed or registered business locations within the past year. It was also attested to by them in said document of July 11, 2002 that the Respondent had not been fined by any governmental authority within the past year. In truth and fact, Respondent no longer operated its registered office in West Chester, Ohio as of June 1, 2001; and Respondent had been fined \$2000 (one \$1000 fine and two \$500 fines) by the Georgia Department of Banking and Finance on December 4, 2001. By said conduct Respondent made substantial misrepresentations in its 2002 Renewal Application in violation of R.C. § 1322.07(A).

(D) Respondent has made false statements of material fact and engaged in a continued course of misrepresentations in violation of R.C. § 1322.07(B) by continuing to hold itself out since June 1, 2001 as a properly licensed and registered mortgage broker in Ohio, when its failure to maintain a registered office in Ohio since that time prevented it from continuing to properly conduct a mortgage broker business pursuant to R.C. § 1322.02(A)(1).

(E) Respondent failed to complete the required continuing education ("CE") requirement for its operations manager as set forth in R.C. § 1322.052 notwithstanding the extension of the deadline for completion by the Division from December 31, 2002 to March 30, 2003; the continuing education having been completed on April 16, 2003.

WHEREAS, Alta Financial Corporation of Ohio does not admit to the allegations and contentions of the Division set forth in the Division's Notice and as outlined above, 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) Respondent in consideration of the mutual agreements set forth herein, and for purposes of settlement, agrees to pay the fine as set forth herein.
- 5) The Division hereby terminates its Notice of Intent to Assess Fine and Suspend Mortgage Broker Certificate of Registration and Notice of Opportunity of Hearing issued October 10, 2003, 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.


- 6) The Division hereby consents to Respondent's request that the Division apply the eight (8) hours of CE that the Respondent completed after the extended deadline to its 2002 CE requirement, and understands and agrees that the eight (8) hours of CE credits earned are to be applied only to Respondent's 2002 CE requirement, which credits cannot be applied to Respondent's 2003 CE requirement to be completed by December 31, 2003.
- 7) 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.
- 8) Respondent acknowledges lawful service and receipt of the Notice, and stipulates to the jurisdiction of the Division in this matter.
- 9) The Respondent hereby agrees to forego its administrative remedies, and waive any and all rights to an administrative hearing in this matter, as well as any right to appeal this order. Provided, however, that if the Division takes any subsequent action relative to this Settlement and Consent Order and/or the notice and/or allegations and/or contentions therein, then Respondent hereby reserves all its administrative remedies and rights.
- 10) 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.
- 11) 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 comply with the requirements of the Ohio Mortgage Broker Act, R.C. § 1322.01 et seq. in that Alta Financial Corporation of Ohio will refrain from soliciting mortgage business or otherwise engaging in the mortgage broker business in Ohio unless it maintains a registered Ohio office location as required by law.

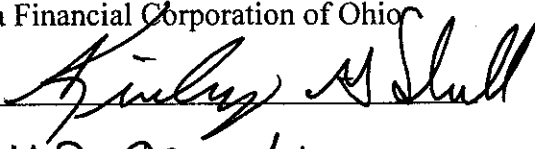
- C. The Respondent is hereby assessed a fine in the amount of Thirty Thousand Dollars (\$30,000) one half of which shall be suspended upon the Respondent's full compliance with this order during the proceeding five years. Respondent shall pay the unsuspended amount of Fifteen Thousand Dollars (\$15,000) 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 as substantiated in a subsequent hearing unless the hearing is waived 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.


F. Scott O'Donnell
Superintendent of Financial Institutions

10-23-03
Date

Approved and Agreed

Alta Financial Corporation of Ohio
By: 
Its: V.P. Operations

10/20/03
Date