



Ohio Department of Commerce

Division of Financial Institutions
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Ted Strickland
Governor

Kimberly A. Zurz
Director

In the matter of:

DAVID J. KIEFER
3800 Rosemont Blvd., Apt. 112C
Fairlawn, OH 44333

) Case No. M2008-45
)
) **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, David J. Kiefer ("Respondent") is an individual that applied for a loan officer license pursuant to R.C. Chapter 1322. The Respondent's address of record is 3800 Rosemont Blvd., Apt. 112C, Fairlawn, OH 44333, his date of birth is February 8, 1964. Respondent's proposed employer of record was Global Mortgage of Delaware, Inc., 14440 Myer Lake Circle, Clearwater, Florida 33760 MB 803400; and

WHEREAS, on March 13, 2008, the Division sent via certified mail a Notice of Intent to Deny Loan Officer Application 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. On or about March 26, 2004, the Division received a loan officer termination notification form from Mortgage-Doctors.com indicating that on March 22, 2004 Respondent ceased to be their employee. Mortgage-Doctors.com returned Respondent's loan officer license with the termination form.
- B. On or about April 28, 2004, the Division received a loan officer transfer application for Respondent requesting that his license be transferred from Mortgage-Doctors.com to his new employer, Premier Mortgage Funding of Ohio, Inc. ("Premier"). The application listed the effective date of new employment as April 5, 2004. Respondent's new employer neither requested nor received written confirmation from the superintendent that Respondent could be employed on a temporary basis while the transfer of his loan officer license was pending.
- C. Documents provided to the Division by Premier revealed that on April 15, 2004, Respondent originated a loan subject to the Ohio Mortgage Broker Act ("OMBA") for borrowers Jeff and Karen Sturm. The documents further revealed that on April 16, 2004, Respondent originated a loan subject to the OMBA for borrowers Lee and Pauline Guess.
- D. On or about March 23, 2006, the Division received a loan officer termination notification form from Premier indicating that Respondent's employment terminated on January 24, 2006.

- E. On or about January 25, 2008, the Division received a loan officer application from Respondent.

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

- F. Respondent had not complied with R.C. sections 1322.01 to 1322.12 because he originated at least two residential mortgage loans for Premier before his loan officer transfer application was submitted to the Division and without his employer requesting or receiving written confirmation from the superintendent that Respondent could be employed on a temporary basis while the transfer of his loan officer license was pending. See R.C. 1322.041(A)(2) and 1322.031(E).
- G. Respondent's character and general fitness do not 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 the Ohio Mortgage Broker Act. See R.C. 1322.041(A)(6).
- H. Respondent violated R.C. 1322.07(C), which prohibits a loan officer applicant from "[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings."

WHEREAS, Respondent does not admit to the allegations and contentions 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 successors in interest.
4. The parties agree that Respondent shall pay the Division Two Thousand Dollars (\$2,000.00) 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.
5. The Division shall terminate its Notice of Intent to Deny Loan Officer License Application and Notice of Opportunity of Hearing issued March 13, 2008, and agrees that it shall not, as long as Respondent is in compliance with this Settlement and Consent Order, pursue the matters set forth the Notice through its administrative process. The Division agrees that it will not initiate or pursue criminal or additional civil liability in any venue as a result of the conduct of Respondent as cited in the allegations and findings. 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. 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.

7. Respondent acknowledges lawful service and receipt of the Notice, and stipulates to the jurisdiction of the Division in this matter.
8. 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.
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. Respondent shall pay a Two Thousand Dollar (\$2,000.00) fine 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 "Consumer Finance Fund" delivered to the Division's counsel.
- C. The Notice of Intent to Deny Loan Officer License Application and Notice of Opportunity of Hearing issued March 13, 2008 to the Respondent is hereby terminated. 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:

DAVID J. KIEFER
Respondent

Date

LEIGH A. WILLIS
Deputy Superintendent for Consumer Finance

Date