



Ohio Department of Commerce

Division of Financial Institutions
77 South High Street • 21st Floor
Columbus, OH 43215-6120

Ted Strickland
Governor

Kimberly A. Zurz
Director

In the matter of:)
) Case No. M2009-837
 CALIBER FUNDING, LLC.)
 9201 East Mountain View Road, Suite 210) **SETTLEMENT AND CONSENT ORDER**
 Scottsdale, AZ 85258)
)

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 Loan Act, codified in Ohio Revised Code ("R.C.") Chapter 1321; and

WHEREAS, Caliber Funding, LLC. ("Respondent") is a foreign limited liability company that held a certificate of registration ("certificate") issued by the Division pursuant to the Ohio Mortgage Loan Act. Respondent's registration expired on June 30, 2009, and Respondent untimely filed the application and annual fee to renew its certificate on or about July 16, 2009. The application remains pending. The business address of record for Respondent is 9201 East Mountain View Road, Suite 210, Scottsdale, Arizona 85258; and

WHEREAS, on September 28, 2009, the Division issued Respondent a Notice of Intent to Refuse Renewal and Notice of Opportunity for a Hearing; and

WHEREAS, the Notice contained allegations and findings that:

- A. R.C. 1321.54(B) states that the superintendent may refuse to renew a registrant's certificate if the registrant is in default in the payment of the annual assessment or certificate of registration fee prescribed in R.C. 1321.20.
- B. R.C. 1321.20 states that every person registered under Chapter 1321 shall pay to the superintendent of financial institutions, prior to the last day of June, an annual certificate of registration fee.
- C. R.C. 1321.53(A)(4) states that a registrant's certificate shall expire on the first day of July next after its issue and on the first day of July in each succeeding year, unless renewed by payment of an annual fee, and any assessment, on or before the last day of June each year.
- D. Respondent did not file its renewal application and annual fee with the superintendent until July 16, 2009.
- E. Because Respondent failed to renew its certificate before the last day of June 2009, the Division has the authority to refuse to renew Respondent's certificate.

WHEREAS, Respondent admits the allegations of the Division's September 28, 2009 Notice.

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 Division's findings listed above.
- 2) Respondent acknowledges lawful service and receipt of the Notice, and stipulates to the jurisdiction of the Division in this matter.
- 3) Nothing in this Settlement and Consent Order shall be deemed to prevent the Division or its employees, agents, or assignees 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.
- 4) In lieu of refusing the license renewals, Respondent agrees to pay a fine for the violation of law described herein in the amount of three hundred dollars (\$300.00). Payment shall be in the form of a cashier's check or money order, made payable to "Consumer Finance Fund," and shall be submitted to the Division with this Settlement and Consent Order.
- 5) 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.
- 6) The Division hereby terminates the Notice of Intent to Refuse Renewal and Notice of Opportunity for Hearing issued September 28, 2009 and agrees to renew Respondent's certificate provided there remain no outstanding deficiencies prohibiting renewal of the certificate.
- 7) This Settlement and Consent Order shall be effective on the date it is signed by the Deputy Superintendent of the Division of Financial Institutions 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 expressed or implied, other than those set forth herein, shall be binding on either party.
- 9) The parties agree that the terms of this Settlement and Consent Order bind the parties hereto, and their shareholders, partners, members, assignees, and successors in interest.

- 10) Respondent releases the Division, 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.
- 11) This Settlement and Consent Order shall be considered a public record as that term is used in R.C. 149.43, and may be reported to appropriate organizations, data banks, and governmental bodies, or released to the general public.
- 12) Respondent has been advised by the Division to seek legal counsel if it has any questions concerning the terms and/or effect of this Settlement and Consent Order.
- 13) Respondent must submit this Settlement and Consent Order completed per the terms dictated herein, no later than October 28, 2009.

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. When this Settlement and Consent Order becomes effective as a final order, the Division shall again review Respondent's OMLA renewal application. Provided the application does not contain any deficiencies, the Division will renew Respondent's certificate of registration. Nothing in this Settlement and Consent Order shall deem to prevent the Division from taking any administrative action due to deficiencies that may arise in Respondent's renewal application not specifically addressed in the Notice of Intent to Refuse Renewal.
- C. The Notice of Intent to Refuse Renewal issued September 28, 2009 by the Division is hereby terminated.

LEIGH A. WILLIS Date
Deputy Superintendent for Consumer Finance
Ohio Division of Financial Institutions

Approved and Agreed:

The Settlement Agreement & Consent Order must be signed by: the owner if the registrant is a sole proprietor; all partners if the registrant is a partnership; at least one member if the registrant is a limited liability company; and the president and secretary, as duly authorized by resolution of the board of directors, if the registrant is a corporation. **The ORIGINAL, signed Settlement Agreement & Consent Order with all pages attached must be returned.** Keep a copy for your records.

PRINTED Name of authorized signor #1:

Date

SIGNATURE of authorized signor #1:

Date

PRINTED Name of authorized signor #2:

Date

SIGNATURE of authorized signor #2:

Date