

Ted Strickland
Governor

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

Kimberly A. Zurz
Director

In the matter of:

HUMBERT MORTGAGE, INC.
1250 Springfield Pike
Cincinnati, Ohio 45215

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) Case No. M2008-531
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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, Humbert Mortgage, Inc. ("Respondent") holds a mortgage broker certificate of registration, MB 802476, to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Its address of record is 1250 Springfield Pike, Cincinnati, Ohio 45215. Aloysius Humbert, Jr. is the owner and operations manager of Respondent. Aloysius Humbert, Jr. holds loan officer license number LO 2238 under which he is authorized to act as a loan officer under the Ohio Mortgage Broker Act; and

WHEREAS, on or about April 6, 2009 the Division issued Respondent a Notice of Intent to Revoke Mortgage Broker Certificate of Registration & Notice of Opportunity for a Hearing ("Notice"). A hearing was scheduled for Thursday, May 14, 2009, continued to Wednesday, June 3, 2009, and continued again to June 17, 2009. On or about April 6, 2009, the Division issued Aloysius Humbert, Jr. a Notice of Intent to Revoke Loan Officer License & Notice of Opportunity for a Hearing, Case No. M2009-336. The hearing for Aloysius Humbert, Jr.'s loan officer license was also scheduled for Thursday, May 14, 2009, continued to Wednesday, June 3, 2009, and continued again to June 17, 2009;

WHEREAS, the Notice contained allegations and findings that:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to revoke a mortgage broker certificate of registration if the Division finds that the applicant has violated "or failed to comply with any provisions of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration[.]"
- B. On or about July 28, 2005, the Division issued Respondent a Notice of Intent to Assess Fine and Revoke Mortgage Broker Certificate of Registration & Notice of Opportunity for a Hearing from violations found during the Division's examination of Respondent on or about June 20 and June 21, 2005.
- C. Among violations found during the Division's 2005 examination of Respondent cited in the Division's 2005 Notice was that Humbert Mortgage, Inc. lent money secured by mortgages on real estate that constituted liens on property that were other than the first liens. R.C. 1321.52(A) prohibits persons from advertising, soliciting, or holding out that the person is engaged in the business of making loans secured by a mortgage on a borrower's real estate which is other than a first lien on

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the real estate or engaging in the business of lending or collecting the person's own or another person's money, credit, or choses in action for such loans unless the person holds a certificate of registration under the Ohio Mortgage Loan Act. Neither Aloysius Humbert, Humbert Mortgage Servicing, LLC nor Humbert Mortgage, Inc. was previously issued a certificate of registration under the Ohio Mortgage Loan Act. R.C. 1322.07(C) prohibits mortgage brokers, registrants, licensees, applicants for a certificate of registration or a license from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings. The Division found that by making second mortgages without a proper certificate of registration Respondent violated R.C. 1322.07(C) by engaging in improper dealings.

- D. Aloysius Humbert is the owner of Humbert Mortgage, Inc. and Humbert Mortgage Servicing, LLC. He is the Operations Manager of Humbert Mortgage, Inc.
- E. Humbert Mortgage Servicing, LLC applied for a certificate of registration under the Ohio Mortgage Loan Act on or about August 5, 2005. Because Humbert Mortgage Servicing, LLC failed to respond to a deficiency letter from the Division, the application was withdrawn pursuant to R.C. 1321.53(A)(3) on September 28, 2007.
- F. On March 26, 2007, Respondent entered into a settlement agreement with the Division whereby the Respondent agreed to pay the Division a fine in the amount of \$25,000. The Settlement Agreement, which was signed by Aloysius Humbert, the owner of both Humbert Mortgage, Inc. and Humbert Mortgage Servicing, LLC, stated in part, "[Humbert Mortgage, Inc.] and Humbert Servicing each agrees that it will not make or service any second mortgage loan under the Ohio Mortgage Loan Act for which it is not certified by the Division."
- G. On April 21, 2008 and April 22, 2008, the Division conducted an examination of Respondent. Upon the Division examiner's request, Aloysius Humbert provided to the Division examiner ledgers documenting payments on the second mortgages that were originated on or before 2005. Since Humbert Mortgage, Inc., Humbert Mortgage Servicing, LLC, and/or Aloysius Humbert are collecting payments for loans constituting liens other than first liens on real estate, Humbert Mortgage, Inc. has violated its agreements in the Settlement Agreement entered into with the Division on March 26, 2007. By collecting payments for loans constituting liens other than first liens on real estate, Humbert Mortgage, Inc., Humbert Mortgage Servicing LLC, and/or Aloysius Humbert have violated R.C. 1321.52(A)(1)(b).
- H. R.C. 1322.04(A)(10) lists as a requirement for a certificate of registration as a mortgage broker: "the applicant's financial responsibility, experience, character, and general fitness 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."
- I. Since Respondent violated R.C. 1322.07(C), 1321.52(A), and the terms of the Settlement Agreement entered into with the Division on March 26, 2007, it no longer has the experience, character and general fitness to have a certificate of registration as a mortgage broker. R.C. 1322.04(A)(10).
- J. Respondent's actions listed in paragraph G violated R.C. 1322.07(C).

- K. The actions of Respondent, Humbert Mortgage Servicing, LLC, and/or Aloysius Humbert, Respondent's owner, listed in paragraph G, violated R.C. 1321.53(A)(1)(b).
- L. Because Respondent violated or failed to comply with R.C. sections 1322.07(C) and R.C. 1321.53(A)(1)(b), the Division is authorized under R.C. 1322.10(A)(1)(a) to revoke Respondent's mortgage broker certificate of registration.
- M. Respondent no longer meets the requirement for a certificate of registration listed in R.C. 1322.04(A)(10).

WHEREAS, Respondent Humbert Mortgage, Inc. denies the Division's allegations, and further, to avoid the cost and uncertainty of litigation Respondent 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. The parties agree that the terms of this Settlement and Consent Order bind the parties hereto, and their successors in interest.
- 3. Respondent acknowledges lawful service and receipt of the Notice of Intent to Revoke Mortgage Broker Certificate of Registration and Notice of Opportunity for a Hearing issued to Respondent and stipulates to the jurisdiction of the Division in this matter.
- 4. 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. Nothing shall prevent the Division, in the future, from taking any administrative or other action against Respondent for matters not addressed in this Order.
- 5. The Respondent hereby agrees to forego its administrative remedies and waives any and all rights to an administrative hearing as well as any right to appeal this matter or order.
- 6. Nothing 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 these Notices.
- 7. This Settlement and Consent Order shall be effective on the date it is signed by the Deputy Superintendent of Consumer Finance 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. Respondent releases the Division, its members, employees, agents, officers and representatives jointly and severally from any liability arising from the within matter. Respondent agrees not to seek attorney fees or other costs arising from the within matter.
10. Respondent agrees that Aloysius Humbert, Jr. shall relinquish or sell any and all interest or ownership in Humbert Mortgage, Inc. Respondent and/or Aloysius Humbert, Jr. shall provide a contract for sale or transfer of ownership of Humbert Mortgage, Inc. to the Division on or before the date this Settlement Agreement and Consent Order becomes final. This contract for sale or transfer of ownership of Humbert Mortgage, Inc. shall include a provision that the new owners obtain interest in Humbert Mortgage, Inc. subject to this Settlement Agreement and Consent Order. The transfer in ownership interest of Humbert Mortgage, Inc. shall be completed on or before 60 days after the date this Settlement and Consent Order becomes final. Humbert Mortgage, Inc. shall notify the Division of a change in control for its mortgage broker certificate of registration within 7 days of transfer of control on the form prescribed by the Division.
11. Respondent agrees that Aloysius Humbert, Jr. shall cease performing the duties of Operations Manager for Humbert Mortgage, Inc. no later than the date this Settlement Agreement and Consent Order becomes final. On or before July 30, 2009, Humbert Mortgage, Inc. shall designate, in the form prescribed by the Division, an alternate individual to perform the duties of Operations Manager. Aloysius Humbert, Jr. shall cease performing management duties for Humbert Mortgage, Inc. at the time of transfer of ownership of Humbert Mortgage, Inc.
12. The transfer of ownership interest or control in Humbert Mortgage, Inc. as well as the change in Operations Manager is subject to the Division's approval, pursuant to the Ohio Mortgage Broker Act and the applicable regulations.
13. At the time of transfer of ownership of Humbert Mortgage, Inc., Humbert Mortgage, Inc. shall apply for a certificate of registration under the Ohio Mortgage Loan Act. Humbert Mortgage, Inc. agrees to pursue the application in a diligent and timely manner, and timely provide to the Division any and all information the Division requests. If Humbert Mortgage, Inc.'s application for a certificate of registration under the Ohio Mortgage Loan Act meets the statutory requirements, the Division shall issue Humbert Mortgage, Inc. a certificate of registration. Should the Division deny Humbert Mortgage, Inc.'s application for a certificate of registration under the Ohio Mortgage Loan Act for any reason, Humbert Mortgage, Inc. shall transfer the servicing, at minimum, or servicing and ownership of all the mortgage loans which constitute a lien other than a first lien on a consumer's property to an entity that either is exempt from the Ohio Mortgage Loan Act or holds a certificate of registration under the Ohio Mortgage Loan Act. Humbert Mortgage, Inc. shall transfer servicing or servicing and ownership of such mortgages no later than 60 days after such denial. Should transfer of servicing be required under this provision, Humbert Mortgage, Inc. shall provide the Division evidence of this transfer of servicing.

14. Respondent understands that if it does not hold a certificate of registration under the Ohio Mortgage Loan Act, it may not collect interest on mortgage loans that constitute a lien other than a first lien on real estate under R.C. 1321.52(D)(1).
15. Humbert Mortgage, Inc. shall refund interest collected between March 26, 2007 through the date Humbert Mortgage, Inc. receives a certificate of registration under the Ohio Mortgage Loan Act on mortgage loans it services that constitute a lien other than a first lien on real estate. (In the event Humbert Mortgage, Inc. is unable to obtain its certificate of registration under the Ohio Mortgage Loan Act and transfers servicing to an entity that holds a license under the Ohio Mortgage Loan Act or is exempt from such license, Humbert Mortgage Inc. shall refund interest collected between March 26, 2007 through the date it transfers servicing to another person or entity on mortgage loans it services that constitute a lien other than a first lien on real estate.) This refund shall occur within 30 days of Humbert Mortgage, Inc. obtaining a certificate of registration under the Ohio Mortgage Loan Act. Humbert Mortgage, Inc. shall furnish to the Division evidence that such interest has been refunded to the consumers. Humbert Mortgage, Inc. agrees to notify each consumer that receives a refund at the time of refund that there may be tax implications as a result of the refund.

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 Notice of Intent to Revoke Mortgage Broker Certificate of Registration of Humbert Mortgage, Inc. issued April 6, 2009 is hereby terminated.
- C. Respondent shall abide by the Ohio Mortgage Broker Act, R.C. 1322.01 et. seq. and the Ohio Mortgage Loan Act, R.C. 1321.51 et. seq. and the rules thereunder.

LEIGH A. WILLIS

Deputy Superintendent for Consumer Finance
Division of Financial Institutions

6/16/09
Date

Approved and Agreed:

Humbert Mortgage, Inc.

June 10, 2009

Date

By: A. J. Humbert, Jr.

(Printed Name)

Its: President

(Title)

