

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

In the matter of:

CHALLENGE FINANCIAL INVESTORS CORPORATION)
d.b.a. CHALLENGE MORTGAGE)
1301 Seminole Blvd., Suite 140)
Largo, FL 33770)
-&-)
6800 W. Central #C)
Toledo, OH 43617)

) Case No. 03-MB-R-108-109
) *Related Cases: 03-LO-R-106-107 &*
) *03-LO-R-107-108*
)
) Notice of Intent to REVOKE MB Certificate of Registration
) -&-
) Notice of Opportunity for a Hearing on Revocation
)
)

JURISDICTION

The Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act, codified in Ohio Revised Code ("R.C.") Chapter 1322, and the rules adopted thereunder.

RESPONDENT

Challenge Financial Investors Corporation, doing business as CHALLENGE MORTGAGE, ("Respondent"), is a Florida corporation licensed to do business in the state of Ohio, and which holds an active mortgage broker certificate of registration issued by the Division. Respondent's business address is 1301 Seminole Blvd., Suite 140, Largo, FL 33770; its Division identification number is 802170, and its mortgage broker license number is 3087.

Respondent has fifteen branch offices located in the state of Ohio currently registered by the Division to engage in mortgage broker activities regulated by the Ohio Mortgage Broker Act:

8820 Cincinnati-Dayton Rd.
West Chester, OH 45069
ID # 802170-005
MB # 3437

6800 W. Central #C
Toledo, OH 43617
ID # 802170-016
MB license # 4553

2665 Navarre Avenue
Oregon, OH 43619
ID # 802170-023
MB # 4812

27801 Euclid Avenue, Suite 400
Euclid, OH 44132
ID # 802170-006
MB # 3527

101 South Stone Street
Fremont, OH 43420
ID # 802170-017
MB # 4554

3530 Warrensville Center Rd. Suite 100A
Shaker Heights, OH 44122
ID # 802170-024
MB # 4865

422 North Main Street
Bluffton, OH 45817
ID # 802170-009
MB # 3772

4836 Interstate Drive
Cincinnati, OH 45246
ID # 802170-018
MB # 4677

1515 South Byrne Road, Suite 116
Toledo, OH 43614
ID # 802170-025
MB # 4870

5311 Northfield, Suite 220
Bedford Heights, OH 44146
ID # 802170-012
MB # 3946

9735 Valley View Road, Suite 118
Macedonia, OH 44056
ID # 802170-021
MB # 4795

28701 Euclid Avenue, Suite 200
Euclid, OH 44132
ID # 802170-027
MB # 4976

2280 West Henderson Road,
Suite 204
Upper Arlington, OH 43221
ID # 802170-015
MB # 4437

5826 State Road
Parma, OH 44134
ID # 802170-022
MB # 4802

5311 Northfield Road, Suite 409
Bedford Heights, OH 44146
ID # 802170-028
MB # 5098

Respondent has designated Harold Barian as the person “responsible for the everyday operations, compliance requirements, and management of [Respondent’s] mortgage broker business.” R.C. 1322.01(H). (See, also, 1322.03(A)(3).) Barian’s date of birth is November 29, 1928; his address of record is 504 Lillian Drive, in Madiera Beach, Florida.

Respondent has appointed Richard Clark, also known as Dick Clark, to oversee the activities of Respondent’s branch office located at 6800 West Central #C, in Toledo, Ohio. Richard Clark holds an active loan officer license issued by the Division. Concurrent with the issuance of this notice, the Division has issued Richard Clark a notice of intent to revoke Clark’s loan officer license. (See Division Case No. 03-LO-R-107-108.)

NOTICE OF PROPOSED ACTION

In accordance with R.C. § 1322.10, and pursuant to R.C. Chapter 119, the Division intends to REVOKE Respondent’s mortgage broker certificate(s) of registration.

BASIS FOR PROPOSED ACTION

Pursuant to R.C. 1322.10(B), the Division conducted an investigation of Respondent, and as a result thereof, alleges the following:

1. The Ohio Mortgage Broker Act states that “[a] loan officer shall not be employed by more than one mortgage broker at any one time.” R.C. 1322.02(B). Violation of this provision is a criminal offense punishable by up to six months’ in jail and a fine of not more than \$1,000.00. (See R.C. § 1322.99(C) and R.C. §§ 2929.21(B) and (C)).
2. During November 2003, Respondent, through its agent Richard Clark, permitted Larry A. Temme to work as a loan officer in Respondent’s 6800 West Central #C, Toledo, Ohio branch office while Temme was employed as a loan officer by another mortgage broker, namely Premier Mortgage Funding of Ohio, Inc. (ID # 802904; MB # 4543).

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

- I. Respondent violated the Ohio Mortgage Broker Act, section 1322.02(B) of the Ohio Revised Code.
- II. By providing the means for Temme to commit the criminal offense described above in paragraph 2, Respondent Challenge Mortgage aided and abetted in a criminal offense.
- III. Respondent’s participation in the criminal offense and code violation described above in paragraph 2, constitutes improper and/or dishonest dealings in violation of the Ohio Mortgage Broker Act. See R.C. § 1322.07(C).
- IV. Respondent’s inability to control its branch operations and to ensure that business run through its branch locations is conducted in compliance with state law causes the Division to believe that Respondent does not hold the requisite character and general fitness to command the confidence of the public and to warrant the belief that Respondent’s business will be conducted in compliance with the Ohio Mortgage Broker Act. (R.C. §1322.04(A)(10).)
- V. Respondent’s participation in the criminal offense and code violation described above in paragraph 2, has caused the Division to believe that Respondent does not hold the requisite character and general fitness to command the confidence of the public and to warrant the belief that Respondent’s business will be conducted in compliance with R.C. Chapter 1322, the Ohio Mortgage Broker Act. (R.C. §1322.04(A)(10).)

NOTICE OF OPPORTUNITY FOR A HEARING ON PROPOSED ACTION

Therefore, pursuant to R.C. Chapters 1322 and 119, Respondent is hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to issue an order revoking Respondent's mortgage broker certificate(s) of registration.

Respondent is further notified, pursuant to R.C. Chapter 119, that Respondent is entitled to a hearing on this matter. If Respondent desires to request a hearing, the request must be made in writing, and must be received in the offices of the Ohio Division of Financial Institutions within thirty (30) days of the time of the mailing of this Notice. Hearing requests should be addressed: Ohio Division of Financial Institutions, Attn: Amanda Axtell—Consumer Finance Counsel, 77 South High Street, 21st Floor, Columbus, Ohio 43215-6120.

At the hearing, Respondent may appear in person, by Respondent's attorney, or by such other representative as is permitted to practice before the Agency, or Respondent may present its position, arguments, or contentions in writing, and, at the hearing, may present evidence and examine witnesses appearing for and against Respondent.

If the Ohio Division of Financial Institutions does not receive a written request for a hearing in its offices within thirty (30) days of the time of the mailing of this Notice, the Superintendent will issue an order revoking Respondent's mortgage broker certificate of registration.

Signed and sealed this 11th day of December, 2003.

ROBERT M. GRIESER

Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce

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