

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

In the matter of:)	Case No. 04-0102MBR
)	
NATIONAL FUNDING INSTITUTE, INC.)	Notice of Intent to Fine Mortgage Broker
134 W. S. Boundary)	&
Perrysburg, Ohio 43511)	Notice of Opportunity for a Hearing
)	
and)	
)	
JEFFREY R. SCHWARTZ)	
Owner/Operations Manager)	
29289 East River Rd.)	
Perrysburg, OH 43551)	
)	

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.

RESPONDENTS

NATIONAL FUNDING INSTITUTE, INC. ("Respondent corporation") holds an active mortgage broker certificate of registration. Respondent corporation's business address is 134 W. S. Boundary, Perrysburg, Ohio 43511 and operates under the mortgage broker certificate of registration number MB 4179. Respondent corporation's previous business address was 133 W. Second Street, Perrysburg, Ohio 43551. Respondent **JEFFREY R. SCHWARTZ** is the owner of National Funding Institute, Inc. and serves as the registrant's operations manager and sole employee. Mr. Schwartz resides at 29289 East River Road, Perrysburg, Ohio 43511.

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1322.10(A)(1)(a), and pursuant to R.C. Chapter 119, the Division intends to **LEVY a FINE of \$4,000** against Respondents for which they are jointly and severally liable.

BASIS FOR PROPOSED ACTION

1. If the superintendent finds that a registrant has violated or failed to comply with any provisions of sections 1322.01 to 1322.12 of the Revised Code or the rules under those sections or any other law applicable to the businesses conducted under a certificate of registration, pursuant to R.C. § 1322.10(A)(2), the superintendent of the Division may impose a fine of not more than one thousand dollars, for each day a violation of a law or rule is committed, repeated or continued.
2. In accordance with R.C. § 1322.07(C), a registrant is prohibited from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings.

3. In or around September of 2002, Jeffrey R. Schwartz, in his capacity as operations manager for Respondent corporation, helped obtain a loan refinancing from Decision One Mortgage Co. for Lisa Ball, a consumer from Toledo Ohio. As part of this refinancing, funds were borrowed to pay off various other creditors of Ms. Ball. These pay out amounts are shown as "Disbursements to Others," on section M of the HUD 1A Statement prepared for the transaction.
4. Respondent corporation, by and through its operations manager Jeffrey Schwartz, directed the closing title company, Advanced Title Services, to disburse the checks created to pay the creditors listed in section M of the HUD 1A Statement to the Respondent. Advanced Title Services issued four checks that were to be used to pay off said creditors. It is the misapplication of three of the checks that is the subject of this Notice of Opportunity for Hearing. The first check of these three checks was for \$1,659 made payable to St Vincent's Medical Center, the second check was for \$538 made payable to Cross Country Bank, and the last check was for \$335 made payable to Genesis Financial.
5. In total, Respondent corporation was given \$2532 by these three checks, which checks were made out to, and were to be used to, pay other creditors on behalf of Ms. Ball. Two of the checks were stamped "For Deposit Only." Instead of using these checks to pay off Ms. Ball's creditors, however, these checks were taken by Mr. Schwartz and deposited into his own personal bank account at National City Bank.
6. In or about September and October of 2003, Ms. Ball went to Respondents to attempt to refinance the previous 2002 loan. Mr. Schwartz requested that Ms. Ball make a double mortgage payment to him in the amount of \$1305.02 to aid him in procuring her a new loan. This payment was also deposited into Mr. Schwartz's personal account. On November 17, 2003, Household Mortgage Services, the company who had acquired the 2002 loan, referred Ms. Ball's mortgage to foreclosure. This occurred because the \$1305.02 given to Mr. Schwartz was never paid over to Household Mortgage Services.
7. As a result of Respondents' conduct Ms. Ball paid \$3,750 to Household Finance Services to stop the foreclosure action. Ms. Ball contacted the Perrysburg Police Department and filed charges against Respondents.

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

1. Respondents' misappropriation of funds as described in the above paragraphs constitutes improper and dishonest dealings in violation of the Ohio Mortgage Broker Act section 1322.07(C).
2. Respondents' misrepresentation to Ms. Ball that it was engaged in seeking a mortgage loan and needed advance payments constitutes improper, fraudulent and dishonest dealings in violation of the Ohio Mortgage Broker Act section 1322.07(C).
3. Respondents' collection of advance mortgage payments from Ms. Ball was in violation of the Ohio Mortgage Broker Act section 1322.08(B).
4. As the corporate officer of Respondent National Funding Institute, Inc., Jeffrey R. Schwartz had the authority to control the acts of the company and instead participated in the violations of the Ohio Mortgage Broker Act set forth herein.

5. Any fine assessed in this case against the Respondent corporation is one for which Jeffrey R. Schwartz has joint and several liability.

NOTICE OF OPPORTUNITY FOR A HEARING ON PROPOSED ACTION

Therefore, pursuant to R.C. Chapters 1322 and 119, Respondents are hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to impose a fine of \$4,000.

Respondents are further notified, pursuant to R.C. Chapter 119, that the Registrant is entitled to a hearing on this matter. If Registrant 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: Timothy Winslow—Staff Attorney, 77 South High Street, 21st Floor, Columbus, Ohio 43215-6120.

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

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 levying a fine of \$4,000 for which the Respondents named herein shall be jointly and severally liable.

Signed and sealed this _____ day of _____, 2004.

ROBERT M. GRIESER

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

CERTIFIED MAIL