

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS
77 South High Street, 21st Floor
Columbus, Ohio 43215-6120

In the matter of:)	
)	Case No. 04-0015MBD
Onyx Financial, Inc.)	
260 Northland Boulevard- Suite 309)	Notice of Intent to Deny
Cincinnati, OH 45246)	Renewal of Mortgage Broker Certificate
)	of Registration
)	&
)	Notice of Opportunity for a Hearing
)	

JURISDICTION

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 the rules adopted thereunder.

RESPONDENT

Respondent Onyx Financial, Inc. ("Respondent") is an Ohio corporation that holds an active mortgage broker certificate of registration issued by the Division pursuant to R.C. 1322. The business address of record for Respondent is 260 Northland Boulevard- Suite 309, Cincinnati, OH 45246 with certificate of registration number MB 3246.

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1322.04(B) and 1322.10(A)(1)(a), and pursuant to R.C. Chapter 119, the Division intends to DENY RENEWAL of Respondent's mortgage broker certificate of registration.

BASIS FOR PROPOSED ACTION

Pursuant to R.C. 1322.10(B) and R.C. 1322.04(B), the Division conducted an investigation into the affairs of Respondent, and as a result thereof, alleges the following:

1. Respondent completed its 2004 Mortgage Broker Renewal Application. The 2004 Mortgage Broker Renewal Application asks: "Does the registrant, owner, partner, shareholder, member, officer, director, operations manager have any unpaid civil judgment against him/her? If yes, a certified copy of the judgment entry and proof of

payment history MUST be attached to this application or this application will not be processed.”

2. Respondent responded “No” to the above question on the renewal application.
3. There exists a civil judgment, Case No. 2003 CVI 2405, in the Massillon Municipal Court against Respondent Onyx Financial, Inc. filed on September 24, 2003. Upon information and belief, this judgment is unpaid.
4. According to R.C. 1322.07(A), no mortgage broker, registrant, licensee or applicant for a certificate of registration or license under sections 1322.01 to 1322.12 of the Revised Code shall obtain a certificate of registration or license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application.
5. Respondent made a substantial misrepresentation on its 2004 Mortgage Broker Renewal Application by failing to disclose the above civil judgment against it.
6. R.C. 1322.05 provides that no registrant shall conduct business in this state, unless the registrant has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state.
7. Respondent provided to the Division a surety bond dated February 27, 2004 that was to be effective May 1, 2004 to April 30, 2005.
8. Respondent’s proffered surety bond was, however, cancelled on or about March 12, 2004.
9. Respondent has failed to provide to the Division proof that it has a corporate surety bond in effect for Respondent between the period of May 1, 2004 to April 30, 2005.

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

1. Respondent violated 1322.07(A) of the Ohio Mortgage Broker Act.
2. By failing to have a corporate surety bond in effect Respondent has failed to comply with the requirements of R.C. 1322.05.
3. The Respondent does not meet the conditions for renewal, as set forth by R.C. 1322.04(B)(3).
4. Respondent, through its failure to satisfy its civil judgment, has failed to demonstrate that its 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 as required by R.C. 1322.04(A)(10).

5. Respondent's noncompliance with the Ohio Mortgage Broker Act, as described above in paragraph 1, causes the Division to believe that Respondent's character and general fitness do not command the confidence of the public and do not warrant the belief that its business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act as required by R.C. 1322.04(A)(10).
6. Pursuant to R.C. 1322.10(A)(1)(a), the Superintendent of Financial Institutions may refuse to renew a certificate of registration or license if the superintendent finds a violation of or failure to comply with any provision 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.

PROPOSED ACTION

Based upon the allegations and findings above, the Division intends to DENY THE RENEWAL of the Mortgage Broker Certificate of Registration MB 3246 for Onyx Financial Inc.

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 issue an ORDER DENYING THE RENEWAL of the mortgage broker certificate of registration MB 3246 for Onyx Financial Inc.

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 to:

**State of Ohio
Department of Commerce
Division of Financial Institutions
Attn: Attorney Timothy C. Winslow
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 DENYING THE RENEWAL of the mortgage broker certificate of registration MB 3246 for Onyx Financial Inc.

Signed and Sealed this _____ day of _____, 2004.

Robert M. Grieser
Deputy Superintendent of Financial Institutions

Cc: Timothy C. Winslow, In House Counsel—Division of Financial Institutions
Emily Smith, Asst. Attorney General, Business & Government Regulation

I:/legal/martha/...filings..Onyx NID 9-8-04.doc