

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

In the matter of:)	Case No. M2009-677
)	
BRIAN E. HEIBEL)	Notice of Intent to Issue Cease & Desist Order
5842 Fieldcrest Drive)	&
Galloway, OH 43119)	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 administering and enforcing the Ohio Mortgage Broker Act ("OMBA"), codified in Ohio Revised Code ("R.C.") Chapter 1322.

RESPONDENT

BRIAN E. HEIBEL ("Respondent") is an individual who held a loan officer license and was president and operations manager for a mortgage broker registered under the OMBA. Respondent's date of birth is September 15, 1970 and his address of record is 5842 Fieldcrest Drive, Galloway, Ohio 43119. Respondent was operations manager for former OMBA registrant Prosperity Financial Group, Inc. Respondent has no current employer of record.

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1322.10(D) and R.C. Chapter 119, the Division intends to issue Respondent an ORDER TO CEASE & DESIST from failing to cooperate with a Division investigation in violation of R.C. 1322.072(A).

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.10(B), and has found the following:

- A. R.C. 1322.072(A) provides that no person shall knowingly circumvent, interfere with, obstruct or fail to cooperate with any examination or investigation conducted by the superintendent pursuant to sections 1322.01 to 1322.12 of the Revised Code.
- B. R.C. 1322.01(H) defines "operations manager" as "the individual responsible for the everyday operations, compliance requirements, and management of a mortgage broker business."
- C. Respondent was president and operations manager for former OMBA registrant Prosperity Financial Group, Inc., which had its certificate of registration expire by operation of law for failure to renew on April 30, 2009. Similarly, Respondent's loan officer license expired on April 30, 2009 by operation of law for failure to renew.
- D. The registered address of Prosperity Financial Group, Inc. is also the address of record for Respondent.

- E. On January 21, 2009, the Division issued an investigatory letter via certified mail to Brian E. Heibel, President/Operations Manager of Prosperity Financial Group at 5842 Fieldcrest Drive, Galloway, Ohio 43119. After three delivery attempts, the letter was returned by the United States Post Office to the Division on February 17, 2009 stamped "UNCLAIMED." On February 19, 2009, the letter was resent with a certificate of mailing to the same address and was not returned. As of the date of this Notice, Respondent has not responded or complied with the Division's investigatory letter.

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

1. Respondent's activities as described above violated R.C. 1322.072(A).
2. Because Respondent engaged in activities that violated R.C. 1322.072(A), the Division has the authority under R.C. 1322.10(D) to issue Respondent an order to cease and desist from failing to cooperate with a Division investigation.

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 ordering Respondent's to cease and desist from engaging in the activities described herein.

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: Anthony D. Siciliano, Consumer Finance General 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 ordering Respondent to cease and desist from engaging in the activities described herein.

Signed and sealed this 6th day of July, 2009.

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