

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

In the matter of: ) Case No. M2008-657  
)  
**BRIAN S. DAVIS** ) **Notice of Intent to Revoke Loan Officer License**  
728 Pinewood Drive ) **and Notice of Intent to Impose Fine**  
Hudson, Ohio 44236 ) **&**  
) **Notice of Opportunity for a Hearing**  
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**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**

**BRIAN S. DAVIS** (“Respondent”) is an individual who holds a loan officer license issued by the Division to originate residential mortgage loans pursuant to R.C. Chapter 1322. His address of record is 728 Pinewood Drive, Hudson, Ohio 44236, and his date of birth is September 26, 1969. Respondent’s employer of record is Community Choice Mortgage, LLC, 23660 Miles Road, Suite 200, Bedford Heights, Ohio 44128. Respondent is a member and 50% owner of Community Choice Mortgage, LLC.

**NOTICE OF PROPOSED ACTION**

In accordance with R.C. sections 1322.041 and 1322.10, and R.C. Chapter 119, the Division intends to REVOKE Respondent’s loan officer license and IMPOSE A FINE of ten thousand dollars (\$10,000.00) upon Respondent.

**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. The Division is authorized by R.C. 1322.10(A)(1)(a) to revoke a loan officer license if the Division finds that the licensee has “violat[ed] or fail[ed] to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code[.]”
- B. The Division is authorized by R.C. 1322.10(A)(2) to impose a fine upon Respondent for his violations of a law or rule.
- C. In September 2008, Respondent, while acting in his capacity as member and 50% owner of Community Choice Mortgage, LLC, closed the registered office located at 23660 Miles Road, Suite 200, Bedford Heights, Ohio 44128. Respondent did so

without properly notifying the Division by submitting “Notice of Office Closure—Part A” or “Part B” forms at least thirty days in advance of the closure of its registered location.

- D. In September 2008, Respondent, while acting in his capacity as member and 50% owner of Community Choice Mortgage, LLC, failed to maintain records pertaining to business transacted pursuant to R.C. 1322.01 to 1322.12. Records were abandoned at the main office location which the registrant rented or leased from its landlord. Records were disposed of in a garbage dumpster located in the parking lot behind the registrant’s main office location. These records were from individual buyer files as that term is defined in O.A.C. 1301:8-7-06(H)(3).

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

1. Respondent’s actions as listed in paragraphs C and D above violated R.C. 1322.07(C), which prohibits a loan officer from “[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings.”
2. Respondent’s actions as listed in paragraph D above violated R.C. 1322.081(A)(3), which requires that a loan officer “shall...[a]ct with reasonable skill, care, and diligence.
3. Respondent’s actions as listed in paragraph D above violated R.C. 1322.081(A)(4), which requires that a loan officer “shall...[a]ct in good faith and with fair dealing in any transaction, practice, or course of business in connection with the brokering or originating of any mortgage loan.”
4. Respondent, while acting in his capacity as member and 50% owner of Community Choice Mortgage, LLC, violated O.A.C. 1301:8-7-19(F) which states the following:

“[a]t least thirty days prior to the closure of a registered location, the registrant shall notify the division by filing an “Notice of Office Closure—Part A” form approved by the division. The form shall indicate the custodian of the records and the location where the records will be maintained in compliance with rule 1301:8-7-06 of the Administrative Code. Within five business days after the closure, the certificate of registration issued to that location shall be surrendered to the division by returning it to the division along with the “Notice of Office Closure—Part B” form approved by the division.”
5. Respondent, while acting in his capacity as member and 50% owner of Community Choice Mortgage, LLC, violated the recordkeeping requirements of R.C. 1322.06(B) and O.A.C. 1301:8-7-06(A) and (B) by failing to maintain records pertaining to business transacted pursuant to the Ohio Mortgage Broker Act.

6. Respondent's character and general fitness do not 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 the Ohio Mortgage Broker Act. See R.C. 1322.041(A)(6).
7. Because of Respondent's non-compliance with and violations of the Ohio Mortgage Broker Act and rules listed above, Respondent's loan officer license should be revoked pursuant to R.C. 1322.10(A)(1)(a).
8. A fine in the amount of ten thousand dollars (\$10,000.00) is reasonable, appropriate and necessary.

### **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 loan officer license and imposing a fine of ten thousand dollars (\$10,000.00) upon Respondent.

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: Jacqueline Mallett, Consumer Finance Attorney, 77 South High Street, 21<sup>st</sup> 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 loan officer license and imposing a fine of ten thousand (\$10,000.00) upon Respondent.

Signed and sealed this 15th day of October 2008.

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**LEIGH A. WILLIS**

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