

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

In the matter of:	)	
	)	Case No. 04-0326MBS
<b>1<sup>st</sup> RESOURCE MORTGAGE, LTD.</b>	)	
6777 Engle Road, Suite P	)	
Middleburg Heights, OH 44130	)	<b>Notice of Intent to Assess Fine and Suspend</b>
	)	<b>Mortgage Broker Certificate of</b>
	)	<b>Registration &amp; Notice of Opportunity for a</b>
	)	<b>Hearing</b>
	)	

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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 enforcing the Ohio Mortgage Broker Act, codified in Ohio Revised Code ("R.C.") Chapter 1322, and the rules adopted thereunder.

**RESPONDENT**

Respondent 1<sup>st</sup> Resource Mortgage, Ltd., ("Respondent") is an Ohio limited liability company and holds an active mortgage broker certificate of registration issued by the Division pursuant to R.C. 1322. The business address of record for Respondent's main office is 6777 Engle Road, Suite P, Middleburg Heights, OH 44130. Respondent operates under the mortgage broker certificate of registration number MB 5109.

**ALLEGATIONS**

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

1. A direct mailing by a mortgage broker to solicit business is considered an advertisement pursuant to rules of the Division governing mortgage brokers. (See O.A.C. § 1301:8-7-07(B)).
2. In January 2004, the Registrant sent out a direct mailing to potential customers seeking to solicit business. A copy of this direct mailing is attached hereto as Attachment A. The mailing consisted of a letter addressed to each homeowner. The top left corner stated: "Form 867-T Delinquent Tax Notification" with the address of the Respondent underneath. The letter states: "Our tax records indicate that you are currently delinquent on your property

taxes. Did you know that delinquent property taxes can result in the foreclosure of your property?” The letter urges the consumer to contact an 866 number. Although the Respondent’s name, address, phone number, and mortgage broker license number appear at the bottom of the letter, the letter is structured so as to appear to be an official notification that a consumer’s taxes are delinquent.

3. Approximately 1000 to 1200 Portage County property owners received this letter. Many of the property owners that received this letter were not delinquent on their taxes as the “delinquent tax notification” advertisement had stated.
4. R.C. 1322.07(B) prohibits registrants from making false or misleading statements of a material fact, omissions of statements required by state law, or false promises regarding a material fact, through advertising or other means, or engage in a continued course of misrepresentations. R.C. 1322.07(C) prohibits registrants from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings.
5. The Division contends that these solicitations are false and misleading statements of a material fact in violation of R.C. 1322.07(B) and are improper and dishonest dealings in violation of R.C. § 1322.07(C). These notices falsely represented that individuals were delinquent on their property tax obligations because many of these notices were sent to consumers who had paid their taxes. Further, the solicitation was misleading in that it gave the impression to consumers that the notice was an official governmental communication.

### **FINDINGS**

Based upon the allegations above, the Division determines the following:

1. Respondent, 1<sup>st</sup> Resource Mortgage, Ltd. has caused advertisements to be mailed to consumers which contained false or misleading statements of material fact in violation of R.C. 1322.07(B).
2. By mailing the above-mentioned solicitations, 1<sup>st</sup> Resource Mortgage, Ltd. has engaged in conduct that constitutes improper, fraudulent, or dishonest dealings in violation of R.C. 1322.07(C).

### **PROPOSED ACTION**

Based upon the allegations and findings above, the Division intends to SUSPEND the Mortgage Broker Certificate of Registration MB 5109 for 1<sup>st</sup> Resource Mortgage, Ltd. for a period

of six months and LEVY a FINE of \$25,000 for violation of R.C. 1322.07(B) and R.C. 1322.07(C).

**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 SUSPENDING the mortgage broker certificate of registration MB 5109 for 1<sup>st</sup> Resource Mortgage, Ltd. for a period of six months effective upon the issuance of this order, and to impose a FINE of \$25,000 for violation of R.C. 1322.07(B) and R.C. 1322.07(C).

**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, 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 SUSPENDING the mortgage broker certificate of registration MB 5109 for 1<sup>st</sup> Resource Mortgage, Ltd. for a period of six months and assessing a FINE of \$25,000 for violation of R.C. 1322.07(B) and R.C. 1322.07(C).

Signed and Sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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Robert M. Grieser  
Deputy Superintendent of Financial Institutions

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

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