

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

In the matter of:

DAVID J. ZOELLNER,
D.B.A. THE MONEY SOURCE
304 Williams Street
Huron, OH 44839

) Case No. 04-0016-MBR
)
) Notice of Intent to REVOKE MB Certificate of Registration
) -&-
) Notice of Opportunity for a Hearing on Revocation
)
)

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

DAVID J. ZOELLNER, doing business as THE MONEY SOURCE ("Respondent"), is an Ohio sole proprietorship that holds an active mortgage broker certificate of registration. Respondent's business address is 304 Williams Street, Huron, OH 44839; its Division identification number is 8800668, and its mortgage broker license number is 1165. Zoellner, who also serves as the company's operations manager, lives at 4 Creekside Circle, Milan, OH 44846; his date of birth is March 18, 1969.

NOTICE OF PROPOSED ACTION

In accordance with R.C. § 1322.10, and pursuant to R.C. Chapter 119, the Division intends to REVOKE Respondent's mortgage broker certificate(s) of registration.

BASIS FOR PROPOSED ACTION

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

1. Pursuant to R.C. § 1322.10(A)(1)(a), the Division has the power to revoke a mortgage broker certificate of registration if the Division finds that the registrant has violated or failed to comply with any provision of R.C. §§1322.01 to 1322.12 (the Ohio Mortgage Broker Act), the rules adopted thereto, or any other law applicable to the business conducted under a certificate of registration.
2. R.C. § 1322.072 states that "[n]o person, in connection with any examination or investigation conducted by the superintendent of financial institutions under [the Ohio Mortgage Broker Act], shall knowingly *** [c]ircumvent, interfere with, obstruct, or fail to cooperate[.]"
3. On or around the twenty-seventh and twenty-eighth days of February 2003, by and through Consumer Finance Examiner Malcolm Mather, the Division conducted an examination of Respondent. The examination revealed that Respondent had violated and or failed to comply with several provisions of the Ohio Mortgage Broker Act.
4. On July 31, 2003, Richard Keck, Chief Examiner for Consumer Finance, sent Respondent a letter, which explained the February 2003 examination results and directed Respondent to submit a "written response outlining [Respondent's] proposed corrective action *** within thirty days." Respondent did not respond to the July 2003 examination letter.

5. On November 5, 2003, Chief Examiner Richard Keck sent Respondent, via certified mail, another letter outlining the compliance issues discovered in the February 2003 examination, and instructing Respondent to submit a written response addressing the issues. The letter indicated that Respondent's written response was due on or before November 21, 2003. The letter warned that "[f]ailure to respond *** in writing, by [November 21, 2003] will cause the Division to begin an administrative action pursuant to Chapter 119 of the Ohio Revised Code that could result in civil penalties against your company, or suspension or revocation of your certificate of registration." To date, the Division has not received a response.

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

- I. Respondent has failed to cooperate with a Division examination, in violation of R.C. §1322.072(A).
- II. Respondent's failure to comply with a Division examination leads the Division to believe that Respondent does not hold the requisite character and general fitness to command the confidence of the public and to warrant the belief that Respondent's business will be conducted in compliance with the Ohio Mortgage Broker Act. (R.C. §1322.04(A)(10).)
- III. Respondent's mortgage broker certificate of registration should be revoked.

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 mortgage broker certificate(s) of registration.

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: Amanda Axtell—Consumer Finance 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 revoking Respondent's mortgage broker certificate of registration.

Signed and sealed this 10th day of February, 2004.

ROBERT M. GRIESER

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

CERTIFIED MAIL 7002 2030 0002 6800 4286