

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

In the matter of:)	Case No. M2008-223
)	Amended
APEX MORTGAGE SERVICES, LLC)	Notice of Intent to Revoke Mortgage
2550 Corporate Exchange Drive, Suite 102)	Broker Certificate of Registration and
Columbus, Ohio 43231)	Notice of Intent to Fine
)	&
)	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, codified in Ohio Revised Code (“R.C.”) Chapter 1322, and the rules adopted thereunder.

RESPONDENT

APEX MORTGAGE SERVICES, LLC (“Respondent”) holds a mortgage broker certificate of registration issued by the Division. Its last known business address of record is 2550 Corporate Exchange Drive, Suite 102, Columbus, Ohio 43231.

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 of registration and to IMPOSE A FINE of one hundred sixty-five thousand dollars (\$165,000.00) against Respondent.

BASIS FOR PROPOSED ACTION

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

- A. In accordance with R.C. 1322.10(A)(1)(a), the superintendent of the Division may revoke a mortgage broker certificate of registration if the superintendent finds that a mortgage broker has committed a “violation of or failure 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 against a mortgage broker registrant of not more than one thousand dollars for each day a violation of a law or rule is committed, repeated, or continued. If the registrant engages in a pattern or repeated violations of a law or rule, the Division is authorized to impose a fine against a mortgage broker registrant of not more than

two thousand dollars for each day a violation of law or rule is committed, repeated, or continued.

- C. In January 2007, Respondent closed its offices located at 2550 Corporate Exchange Drive, Suite 102, Columbus, Ohio 43231. Respondent did so without properly notifying the Division by submitting "Notice of Office Closure—Part A" or "Part B." Further, Respondent no longer maintains an office in the state of Ohio. At this time, Respondent has not surrendered its certificate of registration to the Division.
- D. R.C. 1322.072 prohibits a registrant from failing to produce records in connection with an investigation conducted by the Division.
- E. On November 27, 2007, the Division issued Respondent an investigatory subpoena duces tecum via certified mail pursuant to R.C. 1322.10(C) requesting certain documents. A certified mail receipt was signed and returned to the Division. The subpoena required Respondent to submit copies of the requested documents to the Division by December 11, 2007. Respondent failed to provide any documents or response within the time frame imposed within the subpoena, and therefore, did not comply with the investigatory subpoena. After the Division inquired why Respondent failed to comply with the subpoena, Respondent provided an incomplete response.

As a result of the above findings, the Division finds:

- 1. Respondent is no longer in compliance with R.C. 1322.02(A)(1) which states "[a] registrant shall maintain an office location in this state for the transaction of business as a mortgage broker in this state." As a result of non-compliance with R.C. 1322.02(A)(1), Respondent is no longer in compliance with O.A.C. 1301:8-7-02(G).
- 2. Respondent violated 1301:8-7-19(F) which states "[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."
- 3. Respondent violated R.C. 1322.072 of the Ohio Mortgage Broker Act by failing to produce records in connection with a Division investigation. By failing to produce records, Respondent also violated O.A.C. 1301:8-7-13(F) for which, pursuant to O.A.C. 1301:8-7-13(H), the superintendent may revoke Respondent's certificate of registration.

4. 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. 1322.04(A)(10).
5. Because of Respondent's non-compliance and violations of the Ohio Mortgage Broker Act and Rules listed above, Respondent's mortgage broker certificate of registration should be revoked pursuant to R.C. 1322.10(A)(1)(a).
6. A fine of one hundred sixty-five thousand dollars (\$165,000) 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 mortgage broker certificate of registration and imposing a fine of one hundred sixty-five thousand dollars (\$165,000.00).

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 Examiner, 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. Note: a limited liability company must be represented by a person who is legally authorized to appear before the Agency, such as an attorney.

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 and imposing a fine in the amount of one hundred sixty-five thousand dollars (\$165,000.00) against Respondent.

Signed and sealed this 12th day of May 2008.

LEIGH A. WILLIS

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