

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

In the matter of:)	Case No. M2008-531
)	
HUMBERT MORTGAGE, INC.)	Notice of Intent to Revoke Mortgage Broker Registration
1250 Springfield Pike)	&
Cincinnati, OH 45215)	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. In accordance therewith, the Division is accountable for the registration of mortgage brokers.

RESPONDENT

HUMBERT MORTGAGE, INC. ("Respondent") is a company that holds a certificate of registration to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent's business address of record is 1250 Springfield Pike, Cincinnati, Ohio 45215. Respondent operates under mortgage broker certificate of registration number MB 802476.

NOTICE OF PROPOSED ACTION

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

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 mortgage broker certificate of registration if the Division finds that the applicant has violated "or failed to comply with any provisions of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration[.]"
- B. On or about July 28, 2005, the Division issued Respondent a Notice of Intent to Assess Fine and Revoke Mortgage Broker Certificate of Registration & Notice of Opportunity for a Hearing from violations found during the Division's examination of Respondent on or about June 20 and June 21, 2005.
- C. Among violations found during the Division's 2005 examination of Respondent cited in the Division's 2005 Notice was that Humbert Mortgage, Inc. lent money secured by mortgages on real estate that constituted liens on property that were other than the first liens. R.C. 1321.52(A) prohibits persons from advertising, soliciting, or holding out

that the person is engaged in the business of making loans secured by a mortgage on a borrower's real estate which is other than a first lien on the real estate or engaging in the business of lending or collecting the person's own or another person's money, credit, or choses in action for such loans unless the person holds a certificate of registration under the Ohio Mortgage Loan Act. Neither Aloysius Humbert, Humbert Mortgage Servicing, LLC nor Humbert Mortgage, Inc. was previously issued a certificate of registration under the Ohio Mortgage Loan Act. R.C. 1322.07(C) prohibits mortgage brokers, registrants, licensees, applicants for a certificate of registration or a license from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings. The Division found that by making second mortgages without a proper certificate of registration Respondent violated R.C. 1322.07(C) by engaging in improper dealings.

- D. Aloysius Humbert is the owner of Humbert Mortgage, Inc. and Humbert Mortgage Servicing, LLC. He is the Operations Manager of Humbert Mortgage, Inc.
- E. Humbert Mortgage Servicing, LLC applied for a certificate of registration under the Ohio Mortgage Loan Act on or about August 5, 2005. Because Humbert Mortgage Servicing, LLC failed to respond to a deficiency letter from the Division, the application was withdrawn pursuant to R.C. 1321.53(A)(3) on September 28, 2007.
- F. On March 26, 2007, Respondent entered into a settlement agreement with the Division whereby the Respondent agreed to pay the Division a fine in the amount of \$25,000. The Settlement Agreement, which was signed by Aloysius Humbert, the owner of both Humbert Mortgage, Inc. and Humbert Mortgage Servicing, LLC, stated in part, "[Humbert Mortgage, Inc.] and Humbert Servicing each agrees that it will not make or service any second mortgage loan under the Ohio Mortgage Loan Act for which it is not certified by the Division."
- G. On April 21, 2008 and April 22, 2008, the Division conducted an examination of Respondent. Upon the Division examiner's request, Aloysius Humbert provided to the Division examiner ledgers documenting payments on the second mortgages that were originated on or before 2005. Since Humbert Mortgage, Inc., Humbert Mortgage Servicing, LLC, and/or Aloysius Humbert are collecting payments for loans constituting liens other than first liens on real estate, Humbert Mortgage, Inc. has violated its agreements in the Settlement Agreement entered into with the Division on March 26, 2007. By collecting payments for loans constituting liens other than first liens on real estate, Humbert Mortgage, Inc., Humbert Mortgage Servicing LLC, and/or Aloysius Humbert have violated R.C. 1321.52(A)(1)(b).
- H. R.C. 1322.04(A)(10) lists as a requirement for a certificate of registration as a mortgage broker: "the applicant's financial responsibility, experience, character, and general fitness 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 sections 1322.01 to 1322.12 of the Revised Code."
- I. Since Respondent violated R.C. 1322.07(C), 1321.52(A), and the terms of the Settlement Agreement entered into with the Division on March 26, 2007, it no longer has the experience, character and general fitness to have a certificate of registration as a mortgage broker. R.C. 1322.04(A)(10).

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

1. Respondent's actions listed in paragraph G violated R.C. 1322.07(C).
2. The actions of Respondent, Humbert Mortgage Servicing, LLC, and/or Aloysius Humbert, Respondent's owner, listed in paragraph G, violated R.C. 1321.53(A)(1)(b).
3. Because Respondent violated or failed to comply with R.C. sections 1322.07(C) and R.C. 1321.53(A)(1)(b), the Division is authorized under R.C. 1322.10(A)(1)(a) to revoke Respondent's mortgage broker certificate of registration.
4. Respondent no longer meets the requirement for a certificate of registration listed in R.C. 1322.04(A)(10).

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.

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: Martha S. Rhea, 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. At the hearing, a corporation must have a representative that is permitted to practice 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.

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

LEIGH A. WILLIS

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