

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

In the matter of:	) Case No. M2008-337
	)
<b>JOSEPH M. HEISTER</b>	) <b>Notice of Intent to Deny Loan Officer Renewal</b>
6678 Bluefield Lane	) <b>and Notice of Intent to Fine</b>
Mason Ohio 45040	) <b>&amp;</b>
	) <b>Notice of Opportunity for 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 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**

**JOSEPH M. HEISTER** ("Respondent") is an individual who held a loan officer license issued pursuant to R.C. Chapter 1322. Respondent's license expired on April 30, 2008. Respondent filed an application to renew his loan officer license which remains pending. Respondent's date of birth is September 27, 1971. Respondent's home address of record is 6678 Bluefield Lane, Mason, Ohio 45040. Respondent has no employer of record.

**NOTICE OF PROPOSED ACTION**

In accordance with sections 1322.041 and 1322.10 of the R.C., and R.C. Chapter 119, the Division intends to DENY renewal of Respondent's loan officer license and impose a FINE of nine thousand dollars (\$9,000.00).

**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 refuse to renew an applicant's loan officer license if the Division finds that the applicant has violated "or failed to comply with any provision 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. The Division is authorized by R.C. 1322.10(A)(2) to "[i]mpose of fine of not more than one thousand dollars, for each day a violation of law or rule is committed, repeated or continued. If the registrant or licensee engages in a pattern of repeated violations of law or rule, the Division may impose a fine of not more than two thousand dollars for each day the violation is committed, repeated, or continued."

- C. The Division is authorized by R.C. 1322.06(A) to examine mortgage broker records that “[pertain] to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code.”
- D. Ohio Admin. Code 1301: 8-7-11(A) requires a loan officer to file a transfer application when she desires to change her employment from one mortgage broker registrant to another.
- E. Ohio Admin. Code 1301: 8-7-11(B) authorizes a loan officer to originate mortgage loans for a new employer when the Division prints a new license identifying the new employer or, after submission of a complete transfer application, when the new employer receives written confirmation from the Division in accordance with R.C. 1322.031(E)(2).
- F. R.C. 1322.031(E)(2) permits a mortgage broker registrant to employ a loan officer on a temporary basis pending the transfer of that loan officer’s license to that mortgage broker if the mortgage broker received written confirmation from the Division that the loan officer is licensed.
- G. R.C. 1322.07(G) prohibits a licensee from improperly influencing the independent judgment of an appraiser with respect to the value of a dwelling offered as security for repayment of a mortgage loan.
- H. Ohio Admin. Code 1301: 8-7-23(B)(1) provides that a person engages in the attempt to instruct or induce an appraiser by identifying on the appraisal order form or communicating by any other means to the appraiser the loan amount or any other express or implied statement of the anticipated or desired appraisal value.
- I. In or about 2004, Heritage Mortgage Corporation (“Heritage”) submitted an application for a certificate of registration in order to transact business under R.C. 1322.01 to 1322.12.
- J. In or around 2004, certificate of registration MB.803350 was issued to Heritage.
- K. Since at least 2005 until March 2007, Respondent was the operations manager of Heritage.
- L. As the operations manager of Heritage, Respondent was responsible for the day to day operations of Heritage and compliance with R.C. Chapter 1322 and the rules adopted thereunder. See, R.C. 1322.01(H), R.C. 1322.03(A)(3) and Ohio Admin. Code 1301:8-7-02(L).
- M. On or about February 21, 2007, the Division received a “Loan Officer License Transfer Application” from Heritage indicating that effective December 1, 2006, it hired a new loan officer employee. The Transfer Application included a certificate of employment that was notarized on February 15, 2007 and did not include a “Request for Confirmation of Loan Officer License Status” form.
- N. Because Heritage failed to request written confirmation of Respondent’s loan officer status to work, no written confirmation was provided.
- O. In a compliance examination conducted pursuant to R.C. 1322.06 on March 1 and 2, 2007, it was determined that Respondent allowed the new loan officer employee to originate residential mortgage refinance loans in violation of R.C. 1322.031(E)(2) and Ohio Admin. Code 1301: 8-7-11(A) and (B).

- P. The records obtained during the compliance examination indicate that on or about December 11, 2006, January 4, 2007, January 21, 2007 and January 29, 2007, the new loan officer employee originated and/or acted as a loan officer on behalf of Heritage to refinance four residential mortgage loans.
- Q. The records obtained during the compliance examination indicate that the new loan officer employee was compensated for originating the four residential mortgage refinance loans on behalf of Heritage.
- R. On or about February 22, 2007 the Division printed a loan officer license which identified the new loan officer employee as being employed by Heritage.
- S. In a compliance examination conducted pursuant to R.C. 1322.06 on March 1 and 2, 2007, it was determined that Respondent attempted to influence an appraisal by stating on an appraisal order form dated January 15, 2007 the estimated value and the loan amount for a refinance mortgage loan.
- T. On or about March 16, 2007, Heritage voluntarily surrendered its certificate of registration.
- U. In or around 2008, Respondent submitted an application to renew his loan officer license.

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

1. Respondent was responsible for compliance with Chapter 1322 at Heritage.
2. Respondent violated R.C. 1322.031(E)(2) and Ohio Admin. Code 1301: 8-7-11(A) and (B), by permitting a new loan officer employee to work as a loan officer before submitting an application to transfer the loan officer's license to Heritage and before written confirmation of temporary authority to work had been obtained.
3. Respondent violated R.C. 1322.07(G) by attempting to improperly influence an appraisal.
4. Because Respondent violated R.C. 1322.07(G), R.C. 1322.031(E)(2) and Ohio Admin. Code 1301: 8-7-11(A) and (B), the Division is authorized under R.C. 1322.10(A)(1)(a) to deny renewal of Respondent's loan officer license.
5. Because Respondent violated R.C. 1322.07(G), R.C. 1322.031(E)(2) and Ohio Admin. Code 1301: 8-7-11(A) and (B), the Division is authorized under R.C. 1322.10(A)(2) to impose a fine upon Respondent.
6. Because Respondent committed repeated and continued violations of R.C. 1322.031(E)(2), the Division may impose a fine up to two thousand dollar (\$2,000.00) for each of Respondent's violations.
7. A fine in the amount of nine thousand dollars (\$9,000.00) 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 denying renewal of Respondent's loan officer license and ordering payment of a nine thousand dollar (\$9,000.00) fine under the Ohio Mortgage Broker Act.

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: Lori A. Massey, Consumer Finance Attorney Examiner, 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. 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 denying renewal of Respondent's loan officer license and ordering payment of a nine thousand dollar (\$9,000.00) fine.

Signed and sealed this 11<sup>th</sup> day of December, 2008.

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**LEIGH A. WILLIS**

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