

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

In the matter of:	)	Case No. M2008-336
	)	
<b>KEMPER MORTGAGE, INC.</b>	)	<b>Notice of Intent to Fine Mortgage Broker Registrant</b>
2 Prestige Place, Suite 450	)	&
Miamisburg, OH 45342	)	<b>Notice of Opportunity for a 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, and the rules adopted thereunder. In accordance therewith, the Division is accountable for the registration of mortgage brokers.

**RESPONDENT**

**KEMPER MORTGAGE, INC.** ("Respondent") is a corporation that held a certificate of registration issued by the Division to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent failed to renew its certificate of registration and therefore its mortgage broker certificate cancelled on April 30, 2008. Respondent's address of record is 2 Prestige Place, Suite 450, Miamisburg, OH 45342.

**NOTICE OF PROPOSED ACTION**

In accordance with R.C. Chapter 119 and R.C. 1322.10(A)(2), the Division intends to levy a fine in the amount of eleven thousand six hundred dollars (\$11,600.00) against Respondent for violating R.C. 1322.07(C).

**BASIS FOR PROPOSED ACTION**

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

- A. 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.
- B. During December 2007 through January 2008, Respondent held an active mortgage broker certificate of registration.
- C. 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)).
- D. In December 2007 through January 2008, 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, advising that there are new expanded mortgage programs available and that the homeowner "may qualify for a mortgage payment reduction." The signature line of the letter stated "James Kennedy Senior Loan Officer."

- E. Approximately 5800 of these solicitations were sent to consumers. A response from Kemper Mortgage, Inc. indicated that "Kemper estimates that it may have received approximately 58 calls as a result of this mailing and closed on 2 loans."
- F. 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.
- G. 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 James Kennedy was a loan officer in Ohio.

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

- 1. Because from December 2007 through January 2008, Respondent violated R.C. 1322.07(B) and R.C. 1322.07(C), the Division has the authority to impose a fine against Respondent.
- 2. A fine in the amount of eleven thousand six hundred dollars (\$11,600.00) 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 imposing a fine of eleven thousand six hundred dollars (\$11,600.00) on Respondent.

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, 21<sup>st</sup> Floor, Columbus, Ohio 43215-6120.

At the hearing, Respondent may appear by Respondent's attorney, 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 imposing a fine in the amount of eleven thousand six hundred dollars (\$11,600.00) on Respondent.

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