

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

In the matter of:) Case No. M2008-526
)
BENJAMIN L. WILCOX) **NOTICE OF INTENT TO IMPOSE A FINE**
794 Jentes Road) **&**
Wooster, Ohio 44691) **NOTICE OF OPPORTUNITY FOR 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

BENJAMIN L. WILCOX ("Respondent") is an individual who held a loan officer license issued pursuant to R.C. Chapter 1322. Respondent's loan officer license expired on April 30, 2008, and Respondent did not renew his loan officer license. Respondent's home address of record is 794 Jentes Road, Wooster, Ohio 44691. Respondent has no employer of record.

NOTICE OF PROPOSED ACTION

In accordance with sections 1322.04 and 1322.10 of the R.C., and R.C. Chapter 119, the Division intends to FINE Respondent.

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)(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."
- B. 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."
- C. R.C. 1322.02(B) prohibits any person from acting as a "loan officer" without first having obtained a license from the superintendent.
- D. On or about June 12, 2006, Respondent submitted an application for a loan officer license which identified Respondent's employer as Home Loan USA Corporation.

- E. On or about July 24, 2006, the Division requested Respondent provide additional information within 21 days of the date of the letter. The letter stated that review of Respondent's application could not proceed without the information and warned that if the requested information was not received within ninety (90) days, Respondent's application would be withdrawn.
- F. On or about September 20, 2006, the Division received a "Loan Officer License Transfer Application" from Freedom Banc Mortgage Services, Inc. ("Freedom Banc") indicating that effective September 12, 2006 Respondent was its new employee. The Transfer Application included a certificate of employment that was not notarized and a blank "Request for Confirmation of Loan Officer License Status" form.
- G. Because Freedom Banc failed to request written confirmation of Respondent's loan officer status to work, no written confirmation was provided.
- H. On or about November 7, 2006, the Division withdrew Respondent's 2006 loan officer license application for failure to respond to the Division's request for information necessary to complete his application and informed Respondent that he was not authorized to originate mortgage loans governed under R.C. Chapter 1322 "in consideration of direct or indirect gain, profit, fees or charges." The Division further informed Respondent that to work as a loan officer he would have to submit a new loan officer license application.
- I. In a compliance examination conducted pursuant to R.C. 1322.06 on March 12, 2008, it was determined that Respondent originated residential mortgage refinance loans in violation of R.C. 1322.02(B).
- J. The records obtained during the compliance examination indicate that on or about September 21, 2006, October 5, 2006, October 17, 2006, October 21, 2006, November 9, 2006 and November 22, 2006, Respondent originated and/or acted as a loan officer on behalf of Freedom Banc to refinance six residential mortgage loans.
- K. The records obtained during the compliance examination indicate that Freedom Banc was paid for brokering the six residential mortgage refinance loans originated by Respondent.
- L. On or about January 8, 2007 the Division received a loan officer license application from Respondent seeking to obtain a loan officer license to work as an employee of Freedom Banc. The January 8, 2007 application was withdrawn on July 2, 2007 for failure to submit requested information. Respondent submitted another application on October 10, 2007 to work for Mortgatopia, LLC and a loan officer license was issued to Respondent on November 8, 2007.

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

- 1. Respondent violated R.C. 1322.02(B), which prohibits any person from acting as a loan officer without first having obtained a license from the superintendent.
- 2. Because Respondent violated R.C. 1322.02(B), the Division is authorized under R.C. 1322.10(A)(2) to impose a fine upon Respondent.
- 3. Because Respondent committed repeated and continued violations of R.C. 1322.02(B), the Division may impose a fine up to two thousand dollar (\$2,000.00) for each of Respondent's six violations.

4. A fine in the amount of twelve thousand dollars (\$12,000.00) 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 to Respondent ordering payment of a twelve thousand dollar (\$12,000.00) 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, 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 to Respondent ordering payment of a twelve thousand dollar (\$12,000.00) fine.

Signed and sealed this 25th day of November, 2008.

LEIGH A. WILLIS

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