

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS
77 South High Street, 21st Floor
Columbus, Ohio 43215-6120

In the matter of:)	
BAYVIEW MORTGAGE, INC.)	Case No. 03-MB-S-02-04
122 W. Second Street)	
Suite 200)	
Port Clinton, Ohio 43452)	Notice of Intent to Assess Fine and Suspend
)	Mortgage Broker Certificate of Registration
)	&
)	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 enforcing the Ohio Mortgage Broker Act, codified in Ohio Revised Code ("R.C.") Chapter 1322.

Bayview Mortgage, Inc. ("Respondent") is an Ohio corporation registered with the Division as a mortgage broker pursuant to R.C. Chapter 1322. The business address of record for Respondent's main office is 122 W. Second Street, Suite 200, Port Clinton, Ohio 43452. Said registrant also holds a license to operate a branch office at 1080 Fishinger Road, Columbus, Ohio 43221, under the registration number MB 4532.

ALLEGATIONS

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

In February 2003 the Registrant's branch office in Columbus, Ohio sent out a direct mailing to potential customers seeking to solicit business. The mailing consisted of a pink telephone message note referring to the consumer by his or her first name, leaving a phone number to call back, and a message of "great news- please call" signed by a person identified as Micah. Consumers are simply urged to return the call to find out about some "good news." Micah Reese, a loan officer at the Columbus branch location, is the person to whom return calls were to have been directed. The Division contends, that these solicitations are an improper and dishonest business practice in violation of R.C. § 1322.07(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)). The February 2003 direct mailing of the Registrant's Columbus, Ohio branch failed to state the identity

of the mortgage broker, provided only the telephone number of the Registrant's branch and provided no address for the Registrant. In addition, the solicitation did not set forth or provide the Registrant's Columbus office's certificate of registration number.

A mortgage broker registrant is required by law to state and clearly indicate their identity in all advertisements pursuant to R.C. § 1322.09 and O.A.C. § 1301:8-7-07(A)(1). In addition, a mortgage broker registrant must state their street address in all advertisements, and may not solely provide their telephone number-- R.C. § 1322.09 and O.A.C. § 1301:8-7-07(A)(2). A Registrant is required by R.C. § 1322.09 and O.A.C. § 1301:8-7-07(A)(1) to provide their certificate of registration number in all advertisements.

FINDINGS

Based upon the allegations above, the Division has determined that Respondent, Bayview Mortgage, Inc.'s branch in Columbus, Ohio, has failed to state and clearly indicate its identity in its advertisements in violation of R.C. § 1322.09 and O.A.C. § 1301:8-7-07(A)(1); has failed to state in advertisements its street address, and instead provided only a telephone number to contact in violation of R.C. § 1322.09 and O.A.C. § 1301:8-7-07(A)(2); and has failed to set forth in said advertisements its certificate of registration number in violation of R.C. § 1322.09 and O.A.C. § 1301:8-7-07(A)(1).

Further, the Division finds that the above-referenced advertisements cause confusion over the nature and purpose of the solicitation, as well as confusion over the identity of the business making the solicitation, in a manner such as to constitute improper and dishonest dealings in violation of R.C. § 1322.07(C).

PROPOSED ACTION

Based upon the allegations and findings above, the Division intends to SUSPEND the Mortgage Broker Certificate of Registration MB 4532 for BAYVIEW MORTGAGE, INC. for a period of six months and LEVY a FINE of \$5,000.

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 SUSPENDING the mortgage broker certificate of registration MB 4532 for BAYVIEW MORTGAGE, INC. for a period of six months effective upon the issuance of this order, and to impose a FINE of \$5,000.

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 to:

State of Ohio
Department of Commerce
Division of Financial Institutions
Attn: Attorney Timothy C. Winslow
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.

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 SUSPENDING the mortgage broker certificate of registration MB 4532 for BAYVIEW MORTGAGE, INC.'s Columbus, Ohio branch office for a period of six months and assessing a FINE of \$5,000.

Signed and Sealed this _____ day of _____, 2003.

F. SCOTT O'DONNELL
Superintendent of Financial Institutions

Cc: Timothy C. Winslow, In House Counsel—Division of Financial Institutions
Paula Paoletti, Asst. Attorney General, Business & Government Regulation

s:/legal/tcw/filings..Bayviewsuspendhrnotice2.doc