

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

In the matter of:)	Case No. M2009-110
)	
LIBERTY MORTGAGE COMPANY, INC.)	Notice of Intent to Fine
473 East Rich Street)	Mortgage Broker Registrant
Columbus, Ohio 43215)	&
)	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, and the rules adopted thereunder. In accordance therewith, the Division is accountable for the registration of mortgage brokers.

RESPONDENT

LIBERTY MORTGAGE COMPANY, INC. ("Respondent") is a corporation that holds a certificate of registration number MB.802721.000 issued by the Division to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent's address of record is 473 East Rich Street, Columbus, Ohio 43215.

NOTICE OF PROPOSED ACTION

In accordance with R.C. Chapter 119 and R.C. 1322.10(A)(2), the Division intends to impose a fine in the amount of one thousand dollars (\$1,000.00) against Respondent for violating the Ohio Mortgage Broker Act and the rules adopted thereunder.

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. 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(A)).
- C. In February 2009, 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 consists of a document entitled open-end mortgage with the potential customer's name, address, lender's name (in this case, Builders Fin Corp), and an

amount of indebtedness to the lender (in this case \$119,505). The advertisement mimics a genuine mortgage. The cover letter to the mortgage is entitled "ENDORSEMENT" and contains the message of "PLEASE CALL ME AT (614) 458-1875 REGARDING THE ENCLOSED DOCUMENT." The Division contends that dissemination of this advertisement constitutes an improper and dishonest business practice in violation of R.C. 1322.07(C).

- D. A mortgage broker registrant is required by law to clearly identify itself by disclosing in all advertisements its true name, street address and number as designated on its certificate of registration. (See R.C. 1322.09 and O.A.C. 1301:8-7-07(B)(1) and (2)). Respondent failed to include its true name and number as designated on its certificate of registration.
- E. 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.
- F. 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).

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

- 1. Because Respondent violated R.C. 1322.07(B), 1322.07(C), 1322.09 and O.A.C. 1301:8-7-07(B)(1) and (2), the Division has the authority to impose a fine against Respondent.
- 2. A fine in the amount of one thousand dollars (\$1,000.00) 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 imposing a fine of one thousand dollars (\$1,000.00) 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: Jacqueline Mallett, 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 imposing a fine in the amount of one thousand dollars (\$1,000.00) on Respondent.

Signed and sealed this 26th day of February 2009.

LEIGH A. WILLIS

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