

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

In the matter of:)	Case No. M2008-52
)	
CONSUMERS REAL ESTATE FINANCE CO.)	Notice of Intent to Deny Mortgage Broker
d/b/a Consumer Real Estate Finance Co.)	Renewal Application and Impose a Fine
655 Metro Place South, Suite 380)	&
Dublin, Ohio 43017)	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. In accordance therewith, the Division is accountable for the registration of mortgage brokers.

RESPONDENT

CONSUMERS REAL ESTATE FINANCE CO. d/b/a Consumer Real Estate Finance Co ("Respondent") is a company that held a certificate of registration to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent's mortgage broker certificate of registration expired on April 30, 2008, and Respondent filed an application to renew its certificate of registration. The renewal application remains pending. Respondent's business address of record is 655 Metro Place South, Suite 380, Dublin, Ohio 43017.

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 DENY Respondent's 2008 renewal application for a mortgage broker certificate of registration and impose a FINE.

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 mortgage broker certificate of registration 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. R.C. 1322.02(B) prohibits any person from acting as a “loan officer” without first having obtained a license from the superintendent.
- D. R.C. 1322.01(E) defines “loan officer” as an employee who originates mortgage loans in consideration of direct or indirect gain, profit, fees or charges.
- E. Pursuant to Ohio Admin. Code 1301:8-7-10(A) all loan officer licenses expire on the thirtieth day of April of each year without regard to the date of issuance.
- F. R.C. 1322.041(B) permits a loan officer licensed under Chapter 1322 to renew his/her license on an annual basis if the loan officer timely submits a renewal application and meets all the conditions imposed therein.
- G. On or around April 6, 2007, the Division issued a loan officer license to Joseph M.D. Jackson which authorized him to work as a loan officer for Respondent. Jackson’s loan officer license expired on April 30, 2007.
- H. Jackson failed to submit an annual renewal application by April 30, 2007.
- I. Jackson continued to work as a loan officer for Respondent after his license expired.
- J. Respondent’s records indicate that between May 1, 2007 and December 31, 2007, Jackson originated or acted as a loan officer on behalf of Respondent on at least twenty-two (22) loan transactions.
- K. Respondent’s records indicate that in 2007 Respondent paid Jackson commissions and other wages in excess of forty-four thousand dollars (\$44,000.00) for brokering mortgage loans on Respondent’s behalf after Jackson’s loan officer license expired.
- L. The twenty-two loans closed by Jackson had a total dollar value of \$2,601,339.00.
- M. According to Respondent’s Mortgage Loan Origination Disclosure Statement, Respondent made at least 2% of the principal amount of each loan plus a loan processing fee of five hundred ninety-five dollars (\$595) for each loan.
- N. In or around January 2008 the Division received an application form from Jackson to obtain a loan officer license to permit him to work as an employee for Respondent.

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

- 1. Respondent violated R.C. 1322.02(B) by permitting an unlicensed person to act as a loan officer and to originate mortgage loans for direct or indirect gain, profit, fees or charges.
- 2. Respondent violated R.C. 1322.07(C) by holding out an unlicensed individual to the public as a person permitted to act as a loan officer.
- 3. Because Respondent committed repeated and continued violations of R.C. 1322.02(B) and 1322.07(C), the Division may impose a two thousand dollar (\$2,000.00) fine for each of Respondent’s twenty-two violations.

4. Because Respondent violated R.C. 1322.02(B) and R.C. 1322.07(C), Respondent's Renewal Application should be denied pursuant to 1322.10 (A)(1)(a) and a fine of eighty-eight thousand dollars (\$88,000.00) should be imposed pursuant to R.C. 1322.10(A)(2).

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 Respondent's renewal application and ordering payment of an eighty-eight thousand dollar (\$88,000.00) 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 denying Respondent's renewal application and ordering payment of an eighty-eight thousand dollar \$88,000.00 fine.

Signed and sealed this 2nd day of May, 2008.

LEIGH A. WILLIS

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