

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

In the matter of:)	
)	Case No. 05-0102MBR
AMERIMORTGAGE, INC.)	
3503 Whipple Ave. NW)	Notice of Intent to Assess Fine and
Canton, OH 44718)	Revoke Mortgage Broker
)	Certificates 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, and the rules adopted thereunder.

RESPONDENT

Respondent Amerimortgage, Inc., ("Respondent") is an Ohio corporation and holds an active mortgage broker certificate of registration issued by the Division pursuant to R.C. Chapter 1322. The business address of record for Respondent's main office is 3503 Whipple Ave. NW, Canton, OH 44718. Respondent's main office operates under the mortgage broker certificate of registration number MB#540. Respondent has one licensed branch office located at 550 South Cleveland Ave. Suite G Office 15, Westerville, OH 43081 which operates under certificate of registration number MB#3465.

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:

1. Meriruth Hughes-Stemple is licensed with the Division as a loan officer for Amerimortgage, Inc.
2. On or about May 21, 2004, Meriruth Hughes-Stemple submitted an application for a Mortgage Broker Certificate of Registration to the Division to qualify her own mortgage business.
3. In support of her application for a certificate of registration to start her own business, Meriruth Hughes-Stemple submitted a "Schedule A" Disclosure Form. In the

employment history section of the disclosure form, Respondent listed as employer “franchise owner branch of Amerimortgage, Inc.” with the address of 1675 State Road, Cuyahoga Falls, OH 44221.

4. In support of her application for a certificate of registration, Meriruth Hughes- Stemple also submitted a “Schedule C” resume which listed under “Experience” during the periods from 2000 to present, (as of May 2004), that she had been a Mortgage Broker Franchise Owner of Amerimortgage, Inc. at 1675 State Rd., Cuyahoga Falls, OH 44223.
5. Meriruth Hughes-Stemple provided the Division disclosure forms and other documentation indicating that she had been a franchise owner of an Amerimortgage, Inc. branch at 1675 State Road, Cuyahoga Falls, OH 44223. Amerimortgage, Inc. has never held a certificate of registration for a branch office at this location.
6. Upon information provided to the Division by Meriruth Hughes-Stemple, the Division believes that from March 2004, Meriruth Hughes-Stemple has been operating an unauthorized branch office on behalf of Amerimortgage, Inc. at 122 Broad Blvd., Cuyahoga Falls, OH 44221.
7. R.C. 1322.02(A) states in part: “No person, on the person’s own behalf or on behalf of any other person, shall act as a mortgage broker without first having obtained a certificate of registration from the superintendent of financial institutions for every office to be maintained by the person for the transaction of business as a mortgage broker in this state.”
8. Upon information provided to the Division, Respondent has had Meriruth Hughes-Stemple act as a loan officer for Amerimortgage, Inc. without first having obtained a certificate of registration from the Division of Financial Institutions for the office from which she was working.
9. By allowing a loan officer to operate a branch of Amerimortgage, Inc. from a location without first having obtained a certificate of registration for that location, Amerimortgage, Inc. has violated R.C. 1322.02(A).
10. In connection with her application, Meriruth Hughes-Stemple also submitted a Franchise Agreement between Amerimortgage, Inc. and Meriruth Hughes- Stemple dated April 1, 2000. This agreement, which was executed by Respondent’s president and operations manager Samuel Urban of Amerimortgage, Inc. and Meriruth C. Hughes-Stemple provided that Ms. Hughes-Stemple procure her own office space, equipment, and credit bureau access service. The agreement also provided that Meriruth C. Hughes-Stemple pay 15% of all origination fees, yield spread fees for a franchise fee.

11. R.C. 1322.03(E) states: “A certificate of registration, or the authority granted under such a certificate, is not transferable or assignable and cannot be franchised by contract or any other means.”
12. The Division believes that during the period of May 2, 2002 to the present Respondent has violated R.C. 1322.03(E) by franchising Amerimortgage, Inc.’s certificate of registration and performing according to a contract which violates the Ohio Mortgage Broker Act.
13. In response to her application for a certificate of registration and in effort to qualify herself as an operations manager, Meriruth Hughes-Stemple submitted her 2001, 2002, and 2003 W-2s and her 2002 and 2003 1099s. Listed as “Payer” on the 1099 forms was Amerimortgage, Inc.
14. 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. ‘Loan Officer’ also includes an employee who solicits financial and mortgage information from the public for sale to another mortgage broker.”
15. R.C. 1322.01(C) defines ‘employee’ as “an individual for whom a mortgage broker, in addition to providing a wage or salary, pays social security and unemployment taxes, provides workers compensation coverage, and withholds local, state, and federal income taxes. ‘Employee’ also includes any shareholder, member, or partner of a registrant who acts as a loan officer or operations manager of the registrant, but for whom the registrant is prohibited by law from making income tax withholdings.”
16. The Ohio Mortgage Broker Act requires mortgage brokers to withhold local, state, and federal taxes for its loan officers. Amerimortgage, Inc. failed to withhold local, state, and federal taxes for the majority of its loan officer Meriruth Hughes-Stemple’s earnings.

FINDINGS

Based upon the allegations above, the Division determines the following:

1. By operating a branch office of Amerimortgage, Inc. without a certificate of registration, Respondent has violated R.C. 1322.02(A).
2. By signing a Franchise Agreement and operating a franchised branch of Amerimortgage, Inc. Respondent violated R.C. 1322.03(E).
3. By allowing Meriruth Hughes- Stemple to be licensed as a loan officer for Amerimortgage, Inc. without withholding her local, state, and federal taxes, Amerimortgage, Inc. has violated the requirement of R.C. 1322.01 (C) and R.C. 1322.01(E) that mortgage brokers withhold the taxes of their loan officers.

PROPOSED ACTION

Based upon the allegations and findings above, the Division intends to REVOKE the Mortgage Broker Certificates of Registration MB#540 and MB#3465 of Amerimortgage, Inc. and to LEVY A FINE in the amount of \$30,000 for the violation of R.C. 1322.02(A), R.C. 1322.03(E), R.C. 1322.01(C) and (E).

NOTICE OF OPPORTUNITY FOR A HEARING ON PROPOSED ACTION

Therefore, pursuant to R.C. Chapters 1322 and 119, Respondents are hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to issue an ORDER REVOKING the mortgage broker certificates of registration MB#540 and MB#3465 of Amerimortgage, Inc. and to impose a FINE of \$30,000.

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 REVOKING the mortgage broker certificates of registration MB#540 and MB#3465 of Amerimortgage, Inc. and assessing a fine of \$30,000.

Signed and Sealed this ____ day of _____, 2005.

Robert M. Grieser
Deputy Superintendent of Financial Institutions

CC: Timothy C. Winslow, In House Counsel—Division of Financial Institutions
Emily Smith, Asst. Attorney General, Executive Agencies
l:/legal/martha/filings..amerimortgage notice suspend.doc