

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

In the matter of:)	Case No. M2009-462
)	<u>Amended</u>
RMPF INVESTMENTS, LLC)	Notice of Intent to Revoke Mortgage
d/b/a 1ST CHOICE FINANCIAL)	Loan Certificates of Registration &
206 East Court Street)	Notice of Intent to Impose Fine,
Washington Court House, OH 43160)	or, in the alternative,
)	Notice of Intent to Issue Order to Cease & Desist
)	Evasion by Conducting Other Business
)	&
)	Notice of 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 Loan Act (“OMLA”), codified in Ohio Revised Code (“R.C.”) Chapter 1321.51 to 1321.61, and the rules adopted thereunder.

RESPONDENT

RMPF INVESTMENTS, LLC d/b/a 1ST CHOICE FINANCIAL (“Respondent”) is an Ohio limited liability corporation that is a Registrant under the OMLA and that holds eight (8) active mortgage loan certificates of registration issued by the Division, SM.501603.000 *et seq.* The business address of record for Respondent’s main office is 206 East Court Street, Washington Court House, Ohio 43160. Respondent also is a Check-Cashing Business under the Ohio Check Cashing Act, codified at R.C. 1315.21 to 1315.30 and holds eight (8) active check cashing licenses issued by the Division, CC.700262.000 *et seq.*

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1321.54(B), and pursuant to R.C. Chapter 119, the Division intends to REVOKE all of Respondent’s OMLA certificates of registration for all its authorized locations and to IMPOSE A FINE of twenty-five thousand dollars (\$25,000.00) against Respondent.

BASIS FOR PROPOSED ACTION

Pursuant to R.C. 1321.54(C) and 1321.55(A), the Division conducted an investigation and examination of Respondent, and as a result thereof, found the following:

- A. In accordance with R.C. 1321.54(B), the Division may revoke a person’s mortgage loan certificates of registration if the Division finds “that a registrant has continued to violate [sections 1321.51 to 1321.60 of the Revised Code], after receiving notice of the violation or violations from the division[.]”

- B. The Division is authorized by R.C. 1321.54(B) to impose a fine against a mortgage loan registrant of twenty-five thousand dollars where “the registrant has continued to violate those sections, after receiving notice of the violation or violations from the [D]ivision.”
- C. R.C. 1321.57(H)(1) prohibits a registrant from charging or receiving any fees in addition to the interest and charges provided for in R.C. 1321.57.
- D. In or around February, 2009, the Division conducted an examination of Respondent and found that Respondent charged or received fees in excess of those provided for in 1321.57.
- E. In response to the violation of R.C. 1321.57, the Division, on May 1, 2009, sent via certified mail, return receipt requested, a Notice of Violation and cover letter, informing Respondent of the violation, the Division’s contemplated action, and the grounds for the action if Respondent did not cease and desist the violation. The Notice of Violation stated the following:
 - a. The Respondent has made a business practice of issuing its loan proceeds in the form of a check or money order for which it then charges the borrower a fee to cash. This fee is improper and in violation of R.C. 1321.57(H)(1), which limits the permissible fees that can be “charged or received” by an OMLA registrant.
 - b. The business of cashing one’s own loan proceeds check, whether written on the Respondent’s own account, as a certified check, or as a money order, is not an other business permissible pursuant to R.C. 1321.51(H)(2) [sic], but rather is part of the underlying loan transaction.
 - c. The Respondent by charging a fee under the auspices of its check cashing license to cash the loan proceeds check provided to its OMLA customers at the same location where the loan is made, is in the alternative to paragraph 2 above, conducting another business that tends to conceal an evasion of the OMLA, sections R.C. 1321.51 to 1321.60.
- F. From about October 2009 through May 2010, the Division again conducted examinations of Respondent and found that Respondent had not ceased and desisted charging or receiving fees in excess of those provided for in R.C. 1321.57, and, instead, had continued the same business practice noted in the May 1, 2009 Notice of Violation.

As a result of the above findings, the Division finds:

- 1. Respondent violated R.C. 1321.57(H)(1) by issuing its loan proceeds in the form of a check or money order for which it then charges the borrower a fee to cash, and by doing so, Respondent has charged and received an impermissible additional fee.
- 2. Because Respondent continued to violate R.C. 1321.57(H)(1) after receiving written notice of the violation as required by R.C. 1321.54(B), the Division has the authority to revoke Respondent’s mortgage loan certificates of registration and impose a fine.

3. Because Respondent continued to violate R.C. 1321.57(H)(1) after having received written notice from the Division as required by R.C. 1321.54(B), each and every one of Respondent's certificates of registration should be revoked and a fine of twenty-five thousand dollars (\$25,000.00) should be imposed pursuant to 1321.54(B).
4. A fine of twenty-five thousand dollars (\$25,000.00) is reasonable, appropriate and necessary.
5. In the alternative, Respondent has conducted another business, check cashing at its registered lending places of business, that tends to conceal an evasion of the OMLA and shall cease and desist the business practice of issuing loan proceeds in the form of a check or money order and charging the borrower a fee to cash it at each and every one of its registered lending locations.

NOTICE OF HEARING ON PROPOSED ACTION

Respondent is hereby notified, pursuant to R.C. Chapter 119 and R.C. 1321.551 that Respondent is entitled to a hearing on this matter. Pursuant to R.C. 1321.551 and in accordance with *Goldman v. State Med. Bd* (1996), 110 Ohio App.3d 124, 673 N.E.2d 677, a hearing has been scheduled for Tuesday and Wednesday, July 13 & 14, 2010 at 9:30 a.m. in Room 1960, located on the 19th Floor of the Vern Riffe Center for Government and the Arts, 77 South High Street in Columbus.

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, limited liability corporation, or limited partnership must have a representative that is permitted to practice before the Agency, such as an attorney.

Signed and sealed this 3rd day of June, 2010.

LEIGH A. WILLIS

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