

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

In the matter of:	)	
<b>AMERIBANC MORTGAGE, INC.</b>	)	Case No. 04-MB-R-01-01
<b>750 Brooksedge Blvd.</b>	)	
<b>Westerville, Ohio 43081</b>	)	<b>Notice of Intent to Fine &amp; Revoke</b>
	)	<b>Mortgage Broker Certificate of Registration</b>
	)	<b>&amp;</b>
	)	<b>Notice of Opportunity for a Hearing</b>
	)	

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**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.

Ameribanc 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 office is 750 Brooksedge Blvd., Westerville, Ohio 43081. Said registrant holds a license to operate this Ohio office under the registration number MB 1479.

**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:

Michael A. Davis is the operations manager and president of Ameribanc Mortgage, Inc. and a corporate officer of Buckeye Land Title Agency, Inc. In June 2001 he informed Ohio Bar Title Insurance Co. (hereinafter OBT) that his title company was severing its relationship with OBT as its underwriter for title insurance. Notwithstanding the severance of this relationship, mortgage loans arranged by Respondent in 2002 and 2003 continued to denote Ohio Bar Title Insurance Co. as the title insurer, even though Respondent knew or should have known that such representations were false. Said conduct constitutes a continued course of misrepresentation as well as improper and dishonest dealings in violation of R.C. § 1322.07(B) and (C).

In the fall of 2003, Ameribanc Mortgage, Inc. arranged for the refinancing of a home mortgage loan for Michael Hitesman of Columbus, Ohio. Funds were transferred on October 31, 2003 by the proposed new lender, Mortgage Network, Inc., into the account of Ameribanc Escrow Co., an account on which Michael A Davis is the sole signatory. However, the payoff check to Washington Mutual, the holder of Mr. Hitesman's prior mortgage, was returned due to

insufficient funds. Despite assurances to Mr. Hitesman from Mr. Davis that the payment would be forthcoming, no payoff was ever made to Washington Mutual resulting in Mr. Hiteman facing competing claims of two mortgages on the same property. Similarly, in the November 2003 refinancing of Margaret Suszek's Gahanna, Ohio home by Ameribanc Mortgage, Inc., the check drawn on the account of Ameribanc Escrow Co. to payoff her mortgage holder, Key Bank, also was returned for insufficient funds and never paid. In the case of Fred and Susan Darst in the November 2003 refinancing of their Gahanna, Ohio home by Ameribanc Mortgage, Inc. the check of Ameribanc Escrow Co. to Union Savings Bank to payoff the mortgage was never sent. The Division has information that at least thirty-five other consumers who arranged home loan refinancings through Ameribanc Mortgage, Inc. during the period of October to December 2003, and whose refinancing funds were transferred to Ameribanc Escrow Co., have also never had their prior mortgage note holders paid. Respondent knew or should have known that the funds transferred to Ameribanc Escrow Co. were not properly being set aside for their intended purpose and were not available to be paid over to the prior mortgage note holders. Said conduct constitutes a continued course of misrepresentation as well as improper and dishonest dealings in violation of R.C. § 1322.07(B) and (C).

In addition to being an officer and owner of Respondent Ameribanc Mortgage, Inc., Michael A. Davis was also an officer of Buckeye Land Title Agency, Inc. and had been so since June 2001. Respondent has since June 2001 often referred and placed its title business through Buckeye Land Title Agency, Inc. But despite having an affiliated business arrangement as that term is set forth in 12 U.S.C. § 2602(7) of the Real Estate Settlement Procedures Act (RESPA), Respondent failed to provide an Affiliated Business Arrangement Disclosure Statement to consumers as required by 24 CFR § 3500.15(b) in violation of 12 U.S.C. § 2607. Such a disclosure statement would have informed consumers of the connected business relationship between Ameribanc Mortgage, Inc. and Buckeye Land Title Agency, Inc. Respondent's failure to provide the disclosure required by RESPA constitutes improper and dishonest dealings in violation of R.C. § 1322.07(C).

### **FINDINGS**

Based upon the allegations above, the Division has determined that Respondent, Ameribanc Mortgage, Inc. knew or should have known that the loans it was brokering falsely listed Ohio Bar Title Insurance Co. as the underwriter of the title insurance policy in violation of R.C. § 1322.07(B) and (C); knew or should have known that the funds transferred to Ameribanc Escrow Co. were not properly being set aside for their intended purpose and were not available to be paid over to the prior mortgage note holders in violation of R.C. § 1322.07(B) and (C); and failed to provide the affiliated business disclosure in relation to Ameribanc Mortgage, Inc. and Buckeye Land Title Agency, Inc. as required by RESPA in violation of R.C. § 1322.07(C).

### **PROPOSED ACTION**

Based upon the allegations and findings above, the Division intends to REVOKE the Mortgage Broker Certificate of Registration MB 1479 for AMERIBANC MORTGAGE, INC. and LEVY a FINE of \$100,000.

**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 REVOKING the mortgage broker certificate of registration MB 1479 for AMERIBANC MORTGAGE, INC. effective upon the issuance of this order, and to impose a FINE of \$100,000.

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, 21<sup>st</sup> 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 certificate of registration MB 1479 for AMERIBANC MORTGAGE, INC. and assessing a FINE of \$100,000.

Signed and Sealed this \_\_\_\_ day of \_\_\_\_\_, 2004.

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ROBERT M. GRIESER  
Deputy Superintendent of Consumer Finance

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