

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

DIVISION OF BANKING

SPRINGFIELD, ILLINOIS

IN THE MATTER OF:)
)
Clear Choice Financial Services) No. 2009-DB-113
1515 South Federal Highway, Suite 113)
Boca Raton, FL 33432)

ORDER TO CEASE AND DESIST

The SECRETARY OF THE DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION (the "Secretary"), by and through his delegated representative, hereby issues to Clear Choice Financial Services this ORDER TO CEASE AND DESIST (the "Order"). This Order is authorized by and issued pursuant to the provisions of Section 46(d) of the Illinois Banking Act [205 ILCS 5/46(d)] (the "Act").

FINDINGS

The Secretary is of the opinion and finds as follows:

1. Clear Choice Financial Services, a business entity located at 1515 South Federal Highway, Suite 113, Boca Raton, Florida has engaged in a marketing program designed to solicit prospective Illinois customers in a mortgage refinancing program, (the "Program");
2. As part of the Program, Clear Choice Financial Services, delivered or caused to be delivered certain solicitation materials to a customer of an Illinois state-chartered bank;
3. These solicitation materials specifically identify or use a name similar to that of the referenced Illinois state-chartered bank;
4. Section 46(d) of the Act provides that unless otherwise expressly permitted by law, no person, firm, partnership or corporation may use a name similar to that of an existing Illinois state-chartered bank when marketing to or soliciting business from customers if

the similar name is used in a manner that could cause a reasonable person to believe that the marketing materials or solicitation originated from or is endorsed by the existing Illinois state-chartered bank or that the existing Illinois state-chartered bank is in any way responsible for the marketing or solicitation materials;

5. In addition, Section 46(d) provides that unless otherwise expressly permitted by law, no person, firm, partnership or corporation may use the name of an existing bank when marketing to or soliciting business from customers or perspective customers if the reference to the existing bank is made without the consent of the existing bank;
6. Clear Choice Financial Services has utilized a name similar to that of an existing Illinois state-chartered bank when marketing to or soliciting business from customers and the similar name is used in a manner that could cause a reasonable person to believe that the marketing materials or solicitation originated from or is endorsed by the previously referenced Illinois state-chartered bank or that the existing Illinois state-chartered bank is responsible for the marketing or solicitation materials. Specifically, the marketing or solicitation materials were delivered to an established customer of the Illinois State-chartered bank whose name is similar to that used in the Clear Choice Financial Services marketing or solicitation materials; and
7. The Illinois state-chartered bank whose name is similar to that used in the Clear Choice Financial Services marketing or solicitation materials did not originate, endorse or consent to these marketing or solicitation materials.

CONCLUSIONS

BASED ON THE ABOVE FINDINGS, THE SECRETARY IS OF THE OPINION AND CONCLUDES that Clear Choice Financial Services has violated the provisions of Section 46(d) of the Act.

ORDER

BASED ON THE FINDINGS AND CONCLUSIONS STATED ABOVE, IT IS HEREBY ORDERED:

Clear Choice Financial Services shall CEASE AND DESIST from using the name of any existing Illinois state-chartered bank or any similar name of an existing Illinois state-chartered bank in connection with marketing or solicitation materials.

IT IS HEREBY FURTHER ORDERED:

This ORDER shall be effective on the date it is signed and the provisions of this ORDER shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this ORDER shall have been modified, terminated, suspended or set aside by the Secretary, or a court of competent jurisdiction.

ORDERED THIS 16th DAY OF DECEMBER, 2009.

ILLINOIS DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
BRENT E. ADAMS, SECRETARY

DIVISION OF BANKING

By:

JORGE A. SOLIS
Director

You are hereby notified that this Order is an administrative decision. Pursuant to 38 Ill. Adm. Code, Section 392, any party may file a request for a hearing on an administrative decision. The request for a hearing shall be filed within 10 days after the receipt of an administrative decision. Notice must be served upon the Secretary by causing a copy of said Notice to be delivered to the Illinois Department of Financial and Professional Regulation, Division of Banking, 320 West Washington Street, Springfield, Illinois, 62786. A hearing shall be held within 30 days after the receipt by the Secretary of a request for a hearing. Absent receipt of a request for a hearing as set forth above, this Order shall constitute a final administrative Order subject to the Administrative Review Law [735 ILCS 5/3-101, *et seq.*].