

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

| | | |
|------------------------|---|--|
| In the matter of: |) | Case No. M2010-264 |
| |) | |
| TED F. SPANGLER |) | Notice of Intent to Refuse to Renew License |
| 772 Aspen Drive |) | Notice of Intent to Impose Fine |
| Tipp City, OH 45371 |) | & |
| |) | 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 ("OMBA"), codified in Ohio Revised Code ("R.C.") Chapter 1322. In accordance therewith, the Division is accountable for the licensing of individuals as residential mortgage loan originators.

RESPONDENT

TED F. SPANGLER ("Respondent") has applied to the Division to renew his loan originator license, that application remains pending. His address of record is 772 Aspen Drive, Tipp City, Ohio 45371. Respondent has no employer of record.

NOTICE OF PROPOSED ACTION

In accordance with sections 1322.041 and 1322.10 of the R.C., and R.C. Chapter 119, the Division intends to REFUSE to renew Respondent's loan originator license 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 issue a loan originator license if the Division finds that the applicant has violated "or failed to comply with any provisions 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 or license."
- 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)(2) prohibits any individual from acting as a loan originator without first obtaining a license from the Division and may only be employed or associated with one mortgage broker, person or entity listed in R.C. 1322.01(G)(2) at any one time.

- D. Prior to January 1, 2010, R.C. 1322.052 required every licensed loan officer to complete at least six (6) hours of approved continuing education ("CE") every calendar year (by December 31st).
- E. Respondent held loan officer license LO.005056 during the 2009 calendar year.
- F. Respondent failed to complete the required 6 hours of CE credit for the 2009 calendar year as required by R.C. 1322.052.
- G. R.C. 1322.041(B)(3) provides that a loan officer renewal license shall be issued if the applicant meets the conditions of R.C. 1322.041(A)(2) to (8).
- H. R.C. 1322.041(A)(2) provides that a loan officer license shall be issued if the applicant is in compliance with Chapter 1322.
- I. R.C. 1322.031(H)(3) permits a mortgage broker registrant to employ a loan officer on a temporary basis pending the transfer of that loan officer's license to that mortgage broker if the mortgage broker received written confirmation from the Division that the loan officer is licensed under Chapter 1322.
- J. Ohio Admin. Code 1301: 8-7-11(A) requires a loan officer to file a transfer application when he desires to change his employment from one mortgage broker registrant to another.
- K. Ohio Admin. Code 1301: 8-7-11(B) authorizes a loan officer to originate mortgage loans for a new employer when the Division prints a new license identifying the new employer or, after submission of a complete transfer application, when the new employer receives written confirmation from the Division in accordance with R.C. 1322.031(E)(2) now codified as R.C. 1322.031(H)(3).
- L. On or about May 1, 2009, Respondent was issued a 2009-2010 loan officer renewal license as an employee of South Dayton Mortgage Group, Inc. MB.802517.
- M. On or about August 28, 2009, Respondent was terminated by South Dayton Mortgage Group, Inc. At that time, Respondent's license was placed into escrow pursuant to Ohio Admin. Code 1301: 8-7-08(C)(3) and he was prohibited from originating residential mortgage loans or acting as a loan officer/originator under the OMBA. Originating mortgage loans or acting as a loan officer/originator while in escrow status is a violation of R.C. 1322.02(B).
- N. To date, Respondent has not submitted an application to the Division requesting a transfer of his license to a new employer.
- O. On or about April 30, 2010, Respondent submitted his 2010 loan originator renewal application pursuant to R.C. Chapter 1322 and the nationwide mortgage licensing system and registry. In his application, Respondent indicated that he had been employed as a loan officer for American Mortgage Service Company from August 2009 to the present.
- P. American Mortgage Service Company ("AMSC") is a registrant under the OMBA and holds registration MB.802615.
- Q. To date, AMSC has not filed a request to transfer Respondent's loan officer/originator license or to request written confirmation that Respondent was licensed to work, therefore, no written confirmation was provided.

- R. On or about August 31, 2009, Respondent originated a USDA/Rural Housing Service mortgage loan for a borrower named Pauley on behalf of AMSC for investor Chase Home Finance-RHS. USDA/Rural Housing Service loans are not exempt from regulation under R.C. 1322.02(G)(2). The Pauley loan closed on or about December 21, 2009.
- S. On or about February 2, 2010, Respondent originated a conventional residential refinance loan for borrowers named Imwalle on behalf of AMSC. The Imwalle loan closed on or about March 24, 2010.
- T. On or about February 22, 2010, Respondent originated a USDA/Rural Housing Service mortgage loan for a borrower named Sutton on behalf of AMSC for investor Chase Home Finance-RHS. USDA/Rural Housing Service loans are not exempt from regulation under R.C. 1322.02(G)(2). The Sutton loan closed on or about April 16, 2010.

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

- 1. Respondent failed to complete six hours of CE in calendar year 2009 in violation of R.C. 1322.052, as effective prior to January 1, 2010, and R.C. 1322.041(A)(2).
- 2. Because Respondent violated R.C. 1322.052 (as effective prior to January 1, 2010) and is not in compliance with R.C. 1322.041(A)(2), the Division is authorized under R.C. 1322.10(A)(1)(a) to refuse to issue a loan officer license.
- 3. Respondent originated two USDA/Rural Housing Service mortgage loans and a conventional residential refinance mortgage loan on behalf of an OMBA registrant without first transferring his license to that registrant in violation R.C. 1322.02(B), R.C. 1322.031(H)(3), Ohio Admin. Code 1301: 8-7-11(A) and Ohio Admin. Code 1301: 8-7-11(B).
- 4. Because Respondent violated R.C. 1322.02(B), R.C. 1322.031(H)(3), Ohio Admin. Code 1301: 8-7-11(A) and Ohio Admin. Code 1301: 8-7-11(B), the Division is authorized to refuse issuance of a renewal license pursuant to R.C. 1322.041(A).
- 5. Because Respondent does not meet the requirements of R.C. 1322.041(A) and violated R.C. 1322.052, R.C. 1322.02(B), R.C. 1322.031(H)(3), Ohio Admin. Code 1301: 8-7-11(A) and Ohio Admin. Code 1301: 8-7-11(B), pursuant to R.C. 1322.10(A)(1)(a) the Division has the authority to refuse to renew Respondent's loan officer license.
- 6. Because Respondent violated R.C. 1322.052, R.C. 1322.02(B), R.C. 1322.031(H)(3), Ohio Admin. Code 1301: 8-7-11(A) and Ohio Admin. Code 1301: 8-7-11(B), the Division is authorized under R.C. 1322.10(A)(2) to impose a fine upon Respondent.
- 7. Because Respondent violated R.C. 1322.052, R.C. 1322.02(B), R.C. 1322.031(H)(3), Ohio Admin. Code 1301: 8-7-11(A) and Ohio Admin. Code 1301: 8-7-11(B), a fine of four thousand five hundred dollars (\$4,500.00) should be imposed pursuant to R.C. 1322.10(A)(2).
- 8. A fine in the amount of four thousand five hundred dollars (\$4,500.00) is reasonable, appropriate, and necessary.

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 refusing

to renew Respondent's license and ordering payment of a four thousand five hundred dollar (\$4,500.00) fine.

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, 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 refusing to renew Respondent's license and ordering payment of a four thousand five hundred dollar (\$4,500.00) fine.

Signed and sealed this 6th day of July, 2010.

LEIGH A. WILLIS

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