

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

In the matter of:)	Case No. M2006-9992754
)	Notice of Intent to Deny Mortgage Broker
SOUTHEAST FINANCIAL SERVICES, INC)	Certificate of Registration Renewal
16004 Broadway Avenue)	&
Maple Heights, Ohio 44137)	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, codified in Ohio Revised Code ("R.C.") Chapter 1322.

RESPONDENT

SOUTHEAST FINANCIAL SERVICES, INC. ("Respondent") is a corporation that held a certificate of registration issued by the Division to engage in business as a mortgage broker pursuant to the Ohio Mortgage Broker Act. Respondent's mortgage broker certificate of registration expired on April 30, 2005, and Respondent filed a 2005 and 2006 application to renew its certificate of registration and those applications remains pending. Respondent's business address is 16004 Broadway Avenue, Maple Heights, Ohio 44137.

NOTICE OF PROPOSED ACTION

In accordance with sections 1322.04(B) and 1322.10(A)(1)(a) of the R.C., and R.C. Chapter 119, the Division intends to DENY Respondent's renewal application for a mortgage broker certificate of registration.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.10(B), and alleges the following:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew an applicant's mortgage broker certificate of registration if the Division finds that the applicant has violated "or fail[ed] to comply with any provision 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[.]"
- B. The Division conducted an examination of Respondent's office on September 3-4, 2003; October 18, 2004 and December 22-23, 2005.
- C. During all three exams the Division examiner found that the mortgage loan origination disclosure statement which Respondent was using did not disclose all the information required by section 1322.062(A). Specifically, the statement lacked the name, address and phone number of the buyer in violation of 1322.062(A)(1)(a); the loan officer's typed name and license number in violation of 1322.062(A)(1)(b); the phone number, fax number, and registration number in violation of 1322.062(A)(1)(c); and a statement that the buyer has not entered into an exclusive arrangement for brokerage services in violation of 1322.062(A)(1)(i).

- D. During the 2004 and 2005 exams the Division examiner noted that the mortgage loan origination disclosure statements which were provided to buyers failed to accurately disclose broker fees. A pattern and practice of consistently underestimating the ultimate cost to buyers of services in the disclosures constitutes a continued course of misrepresentations in violation of 1322.07(B).
- E. During all three exams the Division examiner noted that Respondent was paying fees to non-employees for referrals, in violation of 1322.071(B)(3). Specifically, in the 2003 and 2004 exam, the examiner noted that Respondent was paying Midwest Homes, Inc., referral fees, which are not disclosed to the borrower. In the 2005 exam, the examiner noted that fees were being paid, among others, to past customers.
- F. During all three exams the Division examiner noted that Respondent was using their special account for purposes other than paying bona fide third-party fees, in violation of 1322.08. Specifically, Respondent was using the special account to pay health care expenses and phone bills among other general office expenses.
- G. During the 2005 exam the Division examiner noted that Respondent's advertisements did not disclose the number designated on their mortgage broker registration as required by 1322.09.
- H. During all three exams the Division examiner noted that Respondent was not maintaining the final settlement or closing statements in chronological order as required by 1301:8-7-06(A)(3).
- I. During the 2005 exam, the examiner noted that unlicensed individuals, including but not limited to, Michael Bombik, John Hopkins, Gwen Taylor and Donald Fennell, were acting as loan officers in violation of 1322.02(B).
- J. On or around April 6, 2004, Respondent attested in a sworn statement that information it provided about civil, administrative actions or orders that it was subject to on its 2005 mortgage broker renewal application it submitted to the Division was complete and accurate when it was not as Respondent did not disclose it had been named as a defendant in Case No. CV-03-498611, in the Cuyahoga County Court of Common Pleas.
- K. On or around April 16, 2004, Respondent provided untruthful information to the Division regarding civil, administrative actions or orders that it was subject to as Respondent did not disclose it had been named as a defendant in Case No. CV-03-498611, in the Cuyahoga County Court of Common Pleas.

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

- 1. Respondent's consistent non-compliance with the Ohio Mortgage Broker Act, as described above, shows Respondent's financial responsibility, experience, character and general fitness do not command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act. (R.C. 1322.04(A)(10)).

2. Respondent's actions, as committed by its officers, shareholders, employees, or itself, listed in Paragraphs L and M violated R.C. 1322.07(A), which prohibits a mortgage broker applicant from "mak[ing] any substantial misrepresentation in any registration or license application[.]"
3. Respondent's actions, as committed by its officers, shareholders, employees, or itself, listed in Paragraphs L and M violated R.C. 1322.07(B), which prohibits a mortgage broker applicant from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statements required by state law[.]"
4. Respondent's actions, as committed by its officers, shareholders, employees, or itself, listed in Paragraphs L and M violated R.C. 1322.07(C), which prohibits a mortgage broker applicant from "[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings."
5. Respondent does not meet the conditions for renewal, as set forth in R.C. 1322.04(B)(3).

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 denying Respondent a mortgage broker certificate of registration under the Ohio Mortgage Broker Act.

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: Carrie V. Moore, Consumer Finance Staff Attorney, 77 South High Street, 21st Floor, Columbus, Ohio 43215-6120.

At the hearing, Respondent may appear 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 denying Respondent a loan officer license.

Signed and sealed this 27th day of April 2006.

ROBERT M. GRIESER

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