

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

In the matter of:)	Case No. M2007-137
)	
NOVASTAR MORTGAGE, INC.)	Notice of Intent to Revoke Mortgage Broker and
8140 Ward Parkway)	Second Mortgage Registrations
Kansas City, MO 64114)	&
)	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, as codified in Ohio Revised Code ("R.C.") Chapter 1322, and the Mortgage Loan Act, as codified in R.C. 1321, and the rules adopted thereunder.

RESPONDENT

NOVASTAR MORTGAGE, INC. ("Respondent") is a foreign corporation that holds separate registrations issued by the Division to conduct business in Ohio as a mortgage broker and second mortgage lender. Its business address of record is 8140 Ward Parkway, Kansas City, MO 64114.

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1322.10(A)(1)(a), and pursuant to R.C. Chapter 119, the Division intends to REVOKE Respondent's mortgage broker and second mortgage certificates of registration.

BASIS FOR PROPOSED ACTION

Pursuant to R.C. 1322.10(B), the Division conducted an investigation of Respondent, and as a result thereof, alleges the following:

- A. In accordance with R.C. 1322.10(A)(1)(a), the superintendent of the Division may revoke a mortgage broker certificate of registration if the superintendent finds "a violation of or failure to comply with any provision of sections 1322.01 to 1322.12 of Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration."
- B. R.C. 1322.03(A)(7) requires every foreign business entity registered as a mortgage broker in the State of Ohio to maintain a license or registration with the Ohio Secretary of State in order to transact business in this state.
- C. R.C. 1321.53(A)(1) requires every foreign business entity registered as a second mortgage lender in the State of Ohio to maintain a license or registration with the Ohio Secretary of State in order to transact business in this state.
- D. R.C. 5733.20 requires the Ohio Secretary of State to cancel a corporation's Articles of Incorporation upon certification by the Ohio Department of Taxation of such corporation's failure to file a return or failure to pay the appropriate tax or fee.

- E. R.C. 5733.20 provides that, upon cancellation, “all the powers, privileges, and franchises conferred upon such corporation by such articles of incorporation or by such certificate of authority shall cease,” subject to R.C. 1701.88, which proscribes that the corporation “shall cease to carry on business and shall do only such acts as are required to wind up its affairs, or to obtain reinstatement...”
- F. On or about February 6, 2007, Respondent was notified by the Ohio Secretary of State that the Secretary has cancelled the Articles of Incorporation/Certificate of Authority issued to Respondent, in accordance with R.C. 5733.20, due to Respondent’s nonpayment of the corporate franchise tax within the time required by law.
- G. As of February 6, 2007, Respondent is no longer authorized to conduct business in the State of Ohio.

As a result of the findings listed above, the Division has determined that Respondent’s certificates of registration should be REVOKED, pursuant to R.C. 1322.10(A)(1)(a).

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 Respondent’s mortgage broker certificate of registration.

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: Jason K. Wright, Consumer Finance Associate Counsel, 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 revoking Respondent’s mortgage broker certificate of registration.

Signed and sealed this 13th day of April 2007.

RICHARD F. KECK

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