

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

In the matter of:)	Case No. M2009-96
)	
MARK D. McCOOL)	Notice of Intent to Impose a Fine
5677 Pioneer Ridge)	&
Lawrenceburg, IN 47025)	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. In accordance therewith, the Division is accountable for the registration of mortgage brokers and the licensure of residential mortgage loan officers.

RESPONDENT

MARK D. McCOOL ("Respondent") is an individual who holds a loan officer license issued pursuant to R.C. Chapter 1322. Respondent's home address of record is 5677 Pioneer Ridge, Lawrenceburg, Indiana 47025. Respondent's employer of record is United Capital Mortgage of Ohio, Inc., 100 Merchant Street, Suite 175, Cincinnati, Ohio 45246.

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1322.10 and R.C. Chapter 119, the Division intends to FINE Respondent.

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)(2) to "[i]mpose a 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."
- B. R.C. 1322.02(A)(1) provides that "[n]o person, on the person's own behalf or on behalf of any other person, shall act as a mortgage broker without first having obtained a certificate of registration from the superintendent of financial institutions for every office to be maintained by the person for the transaction of business as a mortgage broker in this state."
- C. R.C. 1322.02(A)(2) provides that "[n]o person shall act or hold that person's self out as a mortgage broker under the authority or name of a registrant or person exempt from

sections 1322.01 to 1322.12 of the Revised Code without first having obtained a certificate of registration from the superintendent for every office to be maintained by the person for the transaction of business as a mortgage broker in this state.”

- D. On July 16, 2007, the Division received a mortgage broker main office application and a mortgage broker branch office application from Priority Partners Lending Group, Inc. (“Priority Partners”). On December 21, 2007, the Division approved the applications and issued Priority Partners a certificate of registration for its main office in Grandville, Michigan and a certificate of registration for its branch office in Cincinnati.
- E. Priority Partners operations manager was Respondent, who holds loan officer license number LO.029289.
- F. Pursuant to R.C. 1322.01(H), the operations manager is the individual responsible for the everyday operations, compliance requirements, and management of a mortgage broker business.
- G. Priority Partners’ branch office in Cincinnati is the same registered location as former OMBA registrant Mortgagewise, Inc., MB.803550. Mortgagewise, Inc.’s owner was Respondent, and its certificate of registration was cancelled on January 7, 2008.
- H. Priority Partners’ records indicate that on or about November 12, 2007, it held itself out as a registered mortgage broker to buyer Beverly A. Gilbert. Priority Partners’ records indicate that Respondent was the loan officer responsible for taking Ms. Gilbert’s mortgage loan application.
- I. Priority Partners’ records indicate that on or about November 16, 2007, it held itself out as a registered mortgage broker and held itself out under the name and authority of registrant Mortgagewise, Inc. to buyer Tilford R. Hammock. Priority Partners’ records indicate that Respondent was the loan officer responsible for taking Mr. Hammock’s mortgage loan application.
- J. OAC 1301:8-7-06(G) provides, in part, that any books, accounts or records required to be maintained by this rule may be maintained, in their original form, on microfiche or other electronic media provided the registrant obtains the Division’s prior approval.
- K. Despite the absence of the Division’s approval, Respondent kept records only by electronic means and shredded hardcopy loan files after they were scanned.

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

- 1. As a result of the actions described in paragraphs H and I above, Respondent violated R.C. 1322.02(A)(1) by acting on behalf of Priority Partners as a mortgage broker without first having obtained a certificate of registration from the Division.
- 2. As a result of the actions described in paragraph I above, Respondent violated R.C. 1322.02(A)(2) by acting or holding Priority Partners out as a mortgage broker under the authority of another registrant’s OMBA certificate of registration number.
- 3. As a result of the actions described in paragraphs H and I above, Respondent violated R.C. 1322.07(C).

4. As a result of the actions described in paragraph K above, Respondent, as Priority Partners' operations manager, violated R.C. 1322.07(C).
5. Because Respondent violated R.C. 1322.02(A)(1) and (2), R.C. 1322.07(C), and OAC 1301:8-7-06(G), a fine should be imposed pursuant to R.C. 1322.10(A)(2).
6. A fine in the amount of two thousand five hundred dollars (\$2,500.00) 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 imposing a two thousand five hundred dollar (\$2,500.00) fine 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: Anthony D. Siciliano, Consumer Finance General 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 imposing a two thousand five hundred dollar (\$2,500.00) fine.

Signed and sealed this 18th day of February, 2009.

LEIGH A. WILLIS

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