

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

In the matter of:)	Case No. M2009-99
)	
REFERRAL MORTGAGE GROUP, L.L.C.)	Notice of Intent to Deny Mortgage Broker
60 West Franklin Street)	Renewal Application and Impose a Fine
Bellbrook, Ohio 45305)	&
)	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.

RESPONDENT

REFERRAL MORTGAGE GROUP, L.L.C. ("Respondent") is a company that held a certificate of registration to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent's mortgage broker certificate of registration expired on April 30, 2008, and Respondent filed an application to renew its certificate of registration. The renewal application remains pending. Respondent's business address of record is 60 West Franklin Street, Bellbrook, OH 45305.

NOTICE OF PROPOSED ACTION

In accordance with sections 1322.04 and 1322.10 of the R.C., and R.C. Chapter 119, the Division intends to DENY Respondent's 2008 renewal application for a mortgage broker certificate of registration and IMPOSE A FINE of \$1,000.

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 renew an applicant's mortgage broker certificate of registration if the Division finds that the applicant has violated "or failed 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. R.C. 1322.03(A)(3) requires a mortgage broker applicant that is a limited liability company to designate an operations manager.
- C. If the person designated as the operations manager pursuant to R.C. 1322.03 is no longer operations manager, the mortgage broker registrant must designate another person as the operations manager and, within ten days thereof, notify the division in writing of the designation. See R.C. 1322.04(D). Pursuant to 1301:8-7-12(I) of the Ohio Administrative

Code, “if the individual designated as the operations manager ceases to act as operations manager for any reason, including division (N) of this rule, the registrant shall (1) within thirty days designate another individual as the operations manager.”

- D. R.C. 1322.04(B)(3) lists as a condition for renewal of a certificate of registration that the applicant meets R.C. 1322.04(A)(9), the applicant’s operations manager successfully completed the examination required under division (A) of section 1322.051 of the Revised Code.
- E. 1301:8-7-12(N) of the Ohio Administrative Code states: “[a]n individual acting as an operations manager must hold an active loan officer license at all times while serving as operations manager. Should the individual’s license cease to be active for any reason, the individual’s operations manager approval is automatically terminated.”
- F. In its 2005 application for a certificate of registration, Respondent designated Michael James as its Operations Manager. Michael James was Respondent’s approved Operations Manager until April 30, 2008. In 2008, Michael James failed to submit an application to renew his loan officer license to the Division. Pursuant to Ohio Administrative Code 1301:8-7-12(N), since Michael James’s loan officer license was not renewed in 2008 his status as operations manager was terminated on April 30, 2008.
- G. Respondent has failed to designate another individual as Operations Manager prior to the Division commencing this action.
- H. Since Respondent has not designated an Operations Manager, it cannot fulfill the requirement of obtaining a renewal license in R.C. 1322.04(B)(3) and R.C. 1322.04(A)(9).
- I. 1301:8-7-12E)(4)(b) of the Ohio Administrative Code states in part: “[i]f a registrant is unable to designate an individual who meets the approval of the superintendent within one hundred eighty days of termination date of the individual last approved as the registrant’s operations manager, the superintendent may revoke the registrant’s certificate of registration for operating without an approved operations manager.”
- J. Since May 1, 2008 has been operating as a mortgage broker registrant without an approved operations manager. More than one hundred eighty days have passed since Respondent has had an approved operations manager in place.
- K. Respondent held a certificate of registration during the 2008 calendar year.
- L. R.C. 1322.052 requires every mortgage broker registrant’s operations manager to complete at least six (6) hours of approved continuing education (“CE”) every calendar year (by December 31st).
- M. Respondent’s operations manager failed to complete the required 6 hours of CE credit for the 2008 calendar year as required by R.C. 1322.052.
- N. Because Respondent failed to comply with R.C. 1322.052, Respondent has failed to meet the conditions of certificate of registration renewal in R.C. 1322.04(A)(6) and R.C. 1322.04(B)(3).
- O. 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.”

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

1. Because Respondent failed to have an approved Operations Manager within 180 days of the termination date of its last Operations Manager, the Division finds Respondent’s 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, thereby failing to meet the prerequisite for certificate of registration renewal found in R.C. 1322.04(B)(3). See R.C. 1322.04(A)(3)(9) & (10) and 1301:8-7-12(E)(4)(b) of the Ohio Administrative Code.
2. By not having an Operations Manager who has successfully completed the required examination in violation of R.C. 1322.04(A)(9), Respondent fails to meet the conditions of renewal under R.C. 1322.04(B)(3).
3. By failing to designate a person as an Operations Manager after its previous Operations Manager was no longer Operations Manager due to his failure to be a licensed loan officer, Respondent violated R.C. 1322.04(D).
4. Because Respondent failed to comply with R.C. 1322.052, Respondent has failed to meet the conditions of certificate of registration renewal in R.C. 1322.04(A)(6) and R.C. 1322.04(B)(3).
5. Due to Respondent’s violations of R.C. 1322.052 and R.C. 1322.04(D), a fine of \$1,000 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 denying Respondent’s renewal application under the Ohio Mortgage Broker Act and imposing a FINE of \$1,000.

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: Martha S. Rhea, Consumer Finance Attorney Examiner, 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. At the hearing, a corporation must have a representative that is permitted to practice before the Agency, such as an attorney.

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's renewal application and imposing a fine of \$1,000.

Signed and sealed this 19th day of March, 2009.

LEIGH A. WILLIS

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