

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

In the matter of:)	Case No. M2008-570
)	
MORTGAGE ONE)	Notice of Intent to Impose a Fine
FINANCIAL GROUP, INC.)	&
840 Dempsey Road)	Notice of Opportunity for a Hearing
Westerville, Ohio 43081)	
)	

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

MORTGAGE ONE FINANCIAL GROUP, INC. ("Respondent") is a corporation 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, MB.801623, is currently suspended. Respondent's business address of record is 840 Dempsey Road, Westerville, Ohio 43081.

NOTICE OF PROPOSED ACTION

In accordance with R.C. Chapter 119 and R.C. 1322.10(A)(2), the Division intends to levy a FINE in the amount of two thousand dollars (\$2,000.00) against Respondent for violations of the Ohio Mortgage Broker Act.

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 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."
- B. R.C. 1322.072(A) states that "[n]o person, in connection with any examination or investigation conducted by the superintendent of financial institutions under section 1322.01 to 1322.12 of the Revised, shall knowingly...circumvent, interfere with, obstruct, or fail to cooperate, including making a false or misleading statement, failing to produce records, or intimidating or suborning any witness[.]"
- C. R.C. 1322.06(B) requires that registrants "shall maintain records pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code, including copies of all mortgage loan origination disclosure statements prepared in accordance with section

1322.062 of the Revised Code, for four years. No registrant shall fail to comply with this division.”

- D. Ohio Admin. Code 1301:8-7-06(A) requires that registrants “shall maintain records pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code for four calendar years. If the loan is not serviced by the registrant, the retention period commences on the date the loan is closed or, if the loan is not closed, the date of the withdrawal or turndown of the loan application....”
- E. Ohio Admin. Code 1301:8-7-06(B) states that “[i]f a person...ceases to engage in business as a mortgage broker, such person shall nonetheless preserve the records required by this rule.
- F. In or around April 2008, the Superintendent issued a subpoena to Respondent pursuant to R.C. 1322.10(C). The subpoena commanded that Respondent to produce (i) any and all documents pertaining to the mortgage loan transaction of James Ferguson and Eva Rollison for property located at 989 Southern Boulevard Northwest, Warren, Ohio 44485-2266, which loan closed on October 23, 2006 and (ii) any and all payroll records including, but not limited to payroll sheets for all employees of Mortgage One financial Group, Inc. for the months of January 1, 2006 through April 7, 2008.
- G. The registrant failed to respond to the Superintendent’s subpoena.

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

- 1. Respondent violated R.C. 1322.072(A) by failing to respond to the Superintendent’s subpoena.
- 2. Respondent violated R.C. 1322.06(B) and O.A.C. 1301:8-7-06(A) and (B) by failing to maintain records pertaining to business transacted pursuant to sections 1322.01 to 1322.12 of the Revised Code, including copies of all mortgage loan origination disclosure statements prepared in accordance with R.C. 1322.062 for four years.
- 3. Respondent’s violation of the Ohio Mortgage Broker Act’s recordkeeping requirements constitutes improper conduct in violation of R.C. 1322.07(C).
- 4. As a result of these violations, the Division may levy a fine of up to two thousand dollars (\$2,000.00) for each of Respondent’s violations.
- 5. Because Respondent violated R.C. 1322.072(A), 1322.06(B), Ohio Admin. Code 1301:8-7-06(A) and R.C. 1322.07(C), the Division is levying a fine of two thousand dollars (\$2,000.00).
- 6. A fine in the amount of two thousand dollars (\$2,000.00) 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 dollar (\$2,000.00) 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: Jacqueline Mallett, 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 imposing a two thousand dollar (\$2,000.00) fine.

Signed and sealed this 8th day of September 2008.

LEIGH A. WILLIS

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