



Ohio Department of Commerce

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January 22, 2002

Superintendent F. Scott O'Donnell
Division of Financial Institutions
77 South High Street, 21st Floor
Columbus, OH 43215

In The Matter Of: T.P.O.T.T. Inc., dba Crew Mortgage
Revocation of Mortgage Broker Certificate of Registration
Case No. 01-MB-11

Dear Superintendent O'Donnell:

Attached hereto please find my Report and Recommendation as Hearing Officer in the above-captioned matter. Also attached is the original hearing file, containing the transcript and exhibits.

Very truly yours,

A handwritten signature in black ink, appearing to read "D. Michael Quinn".

D. Michael Quinn
Hearing Officer

**STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS**

CASE NO. 01-MB-11

IN THE MATTER OF: **T.P.O.T.T., INC., dba CREW MORTGAGE AND
FUNDING
INTENT TO REVOKE MORTGAGE BROKER
CERTIFICATE OF REGISTRATION**

**REPORT AND RECOMMENDATION
ADMINISTRATIVE HEARING OFFICER D. MICHAEL QUINN
Issued
January 22, 2002**

I. FINDINGS OF FACT

A. BACKGROUND

The above-captioned matter came before this Hearing Officer, an attorney licensed to practice law in Ohio, who was duly appointed by the Ohio Division of Financial Institutions (hereinafter the "Division") to serve as Hearing Officer for a hearing in accordance with the Administrative Procedures Act, Chapter 119, Ohio Revised Code (hereinafter "O.R.C."). Said hearing was commenced on July 31, 2001, at the offices of the Division, 77 South High Street 21st floor, Columbus, Ohio. The hearing was held on July 31 and August 1 through 3, 2001 and the record closed on the last day.

The hearing was held, following the request from T.P.O.T.T., Inc., dba Crew Mortgage and Funding (hereinafter "Crew Mortgage" or "Respondent"), to consider a Notice of Intent by the Division to Revoke the Mortgage Broker Application of Respondent. The Notice was, *inter alia*, based upon charges that Respondent had engaged in improper, fraudulent or dishonest activities. The Division appeared through Mr. Glen Littlejohn (hereinafter "Littlejohn") and was represented by the Ohio Attorney General's Office, John Izzo and Chester Lyman, Assistant Attorneys General. Respondent appeared through President Scott McCann and was represented by Timothy Huey, Esq., of Columbus.

B. JURISDICTION

The Division issued a Notice of Intent to Deny, Notice of Opportunity for a Hearing (hereinafter referred to as the "NOH"), Case No 01-MB-11, against Respondent on April 18, 2001. Service was perfected on Respondent, and Respondent timely requested a hearing which the Division scheduled, all within the requirements of Chapter 119, O.R.C. *Exhibit No. 1*. The Division continued the original date of June 1 to June 21, 2001 and, upon request by Respondent's counsel, continued the hearing date to July 17, 2001. Upon request by Respondent's new counsel, this Hearing Officer continued the hearing to July 31, 2001, the date the hearing went forward.

C. POST-HEARING RULINGS

Two exhibits offered by the Division remain to be ruled upon. (See Transcript pages 811-813; 824; 990-993; 1037.) State's Exhibit 3H is a letter apparently signed by Goldberg, on Crew Mortgage letterhead, dated May 1, 2000. The letter is addressed to Mr. & Mrs. John A. White. Testimony by Bonnie White, kna Bonnie Vaught, was that she was never Mrs. John White (Transcript p. 165.). Testimony by Littlejohn (Transcript pp. 23-24) was that the letter came from an examination of the Respondent. No additional testimony, including testimony in opposition, was offered. It is left to the Hearing Officer to determine its admission and, if admitted, the appropriate use and weight to be given the document.

The State's Exhibit 3H does not appear to belong to the witness who appeared at the hearing. Given the similarity of the names it is likely that the Respondent, from which the state obtained the document, simply made a filing error. This is not to say that the State could not have

introduced it for some other reason, including to demonstrate that the activities of Goldberg involved other clients, or that these letters were accessible in other files for the Respondent to review. However, as those arguments were not proposed by the State, it is appropriate to limit the review of this issue to the matter for which the exhibit was introduced. Given that Ms. White could not identify the document, the objection to the admission of Exhibit 3H is sustained.

The second exhibit to be offered by the Division which must be ruled upon is State's Proffered Exhibit 11, two pages to supplement Respondent's Exhibit 1, the Daft vs. Crew Mortgage complaint (Transcript pp. 992-993). Proffered Exhibit 11 is a Notice of Dismissal as to certain defendants in the case.

As Respondent's Exhibit 1 was admitted into evidence, it is just, in these proceedings, to also admit State's Exhibit 11, both exhibits subject to the weight the Hearing Officer determines to accord the exhibits. It is appropriate to note here that, like so many of the exhibits and so much of the testimony, and remarks by counsel, these exhibits appear to only go to the question of whether an additional person might have been assisting Goldberg and Rivera in their inappropriate conduct. Since that is not the issue before this hearing officer and only tangentially impacts the question of supervision, very little weight is afforded any of the documents or testimony going to that question.

C. REVOCATION OF MORTGAGE BROKER CERTIFICATE OF REGISTRATION

1. Respondent is an Ohio limited liability corporation with its principal place of business in Euclid, Ohio. *State's Exhibits 9 and 10.*
2. Respondent first applied to the Division for a mortgage broker certificate of registration on, or about, October 6, 1994, and the certificate issued November 11, 1994. Respondent has been a mortgage broker registrant since that time. *State's Exhibit No. 9.*
3. Scott S. McCann (hereinafter "McCann") is, and was at all times relevant hereto, President, Secretary and sole owner of Respondent. *State's Exhibits No. 9 and 10; Transcript pp. 9; 963-964.*
4. Anthony E. Goldberg, aka Tony Goldberg, aka Anthony E. Goldberg-Rugalev (hereinafter "Goldberg") was employed as a loan officer by Crew Mortgage at all times relevant hereto.

Transcript pp. 30, 155, 230, 301, 353; State's Exhibit 3G (letter from Crew Mortgage).

5. Roger Rivera (hereinafter "Rivera") was employed as a loan officer by Crew Mortgage at all times relevant hereto. *Transcript pp. 406, 481-482.*

THE CHRONOLOGY

6. Approximately June or July of 1999, Sandra Daft (see paragraph 20, below) closed on a first mortgage loan utilizing Goldberg, on behalf of Crew Mortgage, as her mortgage loan broker.
7. On Settlement Date November 16, 1999, Ms. Bonnie L. White (nka Bonnie L. Vaught) (hereinafter "White") closed on a loan to refinance her home. Goldberg, on behalf of Crew Mortgage, acted as mortgage broker for this loan. *State's Exhibits 3A and 3B; Transcript pp. 155 et seq.*
8. On Settlement Date December 21, 1999, Mr. Kelly A. Sellers (hereinafter "Sellers") closed on a loan to refinance his home. Goldberg, on behalf of Crew Mortgage, acted as mortgage broker for this loan. *State's Exhibits 4A and 4B; Transcript pp. 229 et seq.*
9. By letter dated February 28, 2000, James F. Mong, Esq. (hereinafter "Mong"), an attorney representing White, sent a letter to Crew Mortgage and McCann. The letter alerted Respondent to "a number of irregularities in the refinancing of [White's] property." The letter referenced earlier attempts by Mong to place phone calls to "a Crew Mortgage officer." *State's Exhibit 3G; Respondent's Exhibit 4.*
10. By letter dated March 24, 2000, Mong, again, sent a letter to Crew Mortgage and McCann. The letter alerted Respondent to a number of specific overcharges in the refinancing of White's property. This letter was also sent to the Division. *State's Exhibit 3G; Respondent's Exhibit 4.*
11. By letters dated March 30, 2000, the Division responded to Mong and forwarded a copy of Mong's March 24 letter to Respondent, to McCann's attention. *Respondent's Exhibit 4.*

12. Approximately during March of 2000, Mrs. Sellers called Crew Mortgage and spoke with McCann about problems the Sellers experienced with their transaction. *Transcript pp. 304 - 306, 319.*
13. By letter dated April 6, 2000, McCann, as President of Crew Mortgage, replied to Mong, indicating that he had received the Division's March 30 correspondence, with the attached letter from Mong, but only received it April 6. McCann also indicated that he had "made certain" that Goldberg's actions "had not previously happened, nor will it ever happen in the future." *State's Exhibit 3G; Respondent's Exhibit 4.*
14. On Settlement Date May 23, 2000, Ms. Colleen M. Rudd (hereinafter "Rudd") closed on a loan to refinance her home. Goldberg, on behalf of Crew Mortgage, acted as mortgage broker for this loan. *State's Exhibits 3A and 3B; Transcript pp. 155 et seq.*
15. On Settlement Date July 17, 2000, Mr. Paul A. Ward and Ms. Magaleen M. Ruark Ward (hereinafter "Ward") closed on a loan to refinance their home. Rivera, on behalf of Crew Mortgage, acted as mortgage broker for this loan. *Exhibits 6A, 6B; Transcript pp. 405, et seq.*
16. On Settlement Date August 26, 2000, Mr. Jay S. Zimmerman and Ms. Melissa J. Finnicum (hereinafter "Zimmerman") closed on a loan to refinance their home. Goldberg, on behalf of Crew Mortgage, acted as mortgage broker for this loan. *State's Exhibits 2A, 2B; Transcript pp. 60, et seq.*
17. Sellers filed, with the Division, an undated letter and complaint form against Crew Mortgage. *State's Exhibit 4G; Respondent's Exhibit 2; Transcript p. 304.*
18. By letter of November 6, 2000, Crew Mortgage, through McCann, responded to the Seller's letter complaint of unknown date, which complaint had been forwarded to Crew Mortgage by the Division. *State's Exhibit 4G; Respondent's Exhibit 3; Transcript p. 348.*
19. On Settlement Date November 15, 2000, Ms. Sandra K. Daft (hereinafter "Daft") closed on a second mortgage loan on her home (hereinafter "halted Daft transaction"). Goldberg and Rivera, on behalf of Crew Mortgage, acted as mortgage broker for this loan. This transaction was stopped by Daft, prior to the checks being

distributed, when she discovered irregularities in the transaction. *State's Exhibits 8A, 8B; Transcript pp. 478, et seq.; 490 - 496.*

20. Approximately two or three weeks after the November 15 Daft transaction, about December 1, 2000, Rivera visited Daft at her home to "redo the second mortgage. *Transcript pp. 496 - 497.*
21. Approximately during December 2000, or January 2001, Daft closed on a second mortgage loan through Goldberg and Rivera on behalf of Crew Mortgage (hereinafter "Daft second mortgage"). Daft did not stop this transaction. *Transcript pp. 494 - 495.*

THE WHITE TRANSACTION

22. In the White transaction (paragraph 7, above), Metro Research, Inc. was listed as a creditor on the Closing Instructions and Fee Sheet and the Settlement Statement. The listed amount of debt was \$2,461.86. *State's Exhibits 3B, 3E.*
23. A disbursement check was prepared by the title agency, made payable to Metro Research, Inc., for the account of White, in the amount of \$2, 461.86. This check was endorsed "Multivisions, Inc. dba Metro Research TV, Inc., Anthony Goldberg" followed by an account number. *State's Exhibit 3C; Transcript p. 23.*
24. White did not owe money to Metro Research, Inc. *Transcript pp. 158 - 159; 161 - 162.*
25. An "invoice" and cover letter from Goldberg to White stated the total fees "generated by an outside consulting firm, amounted to \$4,093.57. The invoice itself was on the letterhead of "Metro Research." White did not have any consulting agreement. *State's Exhibit 3F; Transcript pp. 23; 162.*
26. The Settlement Statement and the Credit Report both list White's debt to American General as \$3, 005.00. *State's Exhibits 3B and 3D.*
27. American General was a creditor of White's, who understood her debt to American General to be close to \$2,000. White also understood that Goldberg overpaid American General and received a check from American General to reimburse for the overpayment. That reimbursement check was made payable to White but endorsed and cashed by Goldberg. *Transcript p. 159.*

28. A disbursement check was prepared by the title company, made payable to "American Gen" (sic), for the account of White, in the amount of \$3,005.00. This check was made payable to "Multivisions, Inc. dba Metro TV, Auth. By Sharrie K. Blue, Branch Mgr. - Gahanna" and endorsed "Anthony Goldberg" followed by an account number, over "Metro TV, Inc.". *State's Exhibit 3C; Transcript p. 23.*
29. The Settlement Statement was prepared at the instruction of Goldberg, on behalf of Crew Mortgage. The Credit Report is from a third party and there is no indication, either within the exhibit or from testimony, that the credit report was altered. The only way to reconcile White's testimony regarding American General and the documents presented is that Goldberg took the American General disbursement check, cashed it for his own use, and later submitted the \$3,005, or some figure over the \$3,005, to American General as the actual amount White owed. Based upon Goldberg's behavior in the Sellers' transaction (see below), and the documents and testimony presented, this is the finding made.
30. White had a preexisting relationship with Goldberg that caused her to trust him. *Transcript p. 155.*
31. Goldberg gave White notice of the closing the day before and caused the closing to be rushed. White did not examine the documents she was asked to sign at the closing and was encouraged not to by Goldberg. *Transcript p. 156 - 158.*
32. Goldberg was in control of the preparation of the White transaction documents by preparing, directing the preparation, or assisting in the preparation of the White Loan Application, Settlement Statement and other closing documents. *Transcript pp. 156-157; 206-207.*

THE SELLERS TRANSACTION

33. Sellers met Goldberg when Sellers purchased a TV satellite dish two years prior to the loan transaction (see paragraph 8, above). *Transcript pp. 243-247.*
34. In the Sellers transaction (see paragraph 8, above) Multimedia Systems was listed as a creditor, in the amount of \$7,931.00 in the

Loan Application and the Settlement Statement. *State's Exhibits 4A, 4B.*

35. In the Sellers' transaction, Futurecare Consultants Corp. was listed as a creditor, in the amount of \$6,937.00 in the Loan Application and in the amount of \$6,932 on the Settlement Statement. *State's Exhibits 4A, 4B.*
36. A disbursement check was prepared by the title agency, made payable to Multimedia, for the account of Sellers, in the amount of \$7,931.00. This check was endorsed "Multimedia, DBA (Multivisions, Inc.)", followed by an account number, followed by "Anthony Goldberg." *State's Exhibit 4C; Transcript pp. 312-313, 322-323.*
37. A disbursement check was prepared by the title agency, made payable to Futurecare, for the account of Sellers, in the amount of \$6,932.00. This check was endorsed "Futurecare, d.b.A. (sic) (Metro TV, Inc.)," followed by an account number, followed by "Anthony Goldberg." *State's Exhibit 4C; Transcript pp. 312-313, 322-323.*
38. Sellers did not owe money to Multimedia, or Multimedia Systems at the time of the loan transaction or prior to the transaction. *Transcript pp. 231, 298.*
39. Sellers did not owe money to Futurecare or Futurecare Consultants at the time of the loan transaction or prior to the transaction. *Transcript pp. 231, 298.*
40. Goldberg caused Sellers to sign a loan application, which had not been filled out with information relating to the Sellers' proposed loan transaction. Goldberg took control of the application, before and after Sellers signed it. *Transcript pp. 234, 248.*
41. Goldberg had Sellers sign transaction documents in blank. *Transcript pp. 248-249, 253.*
42. Goldberg had Sellers initial and sign the Loan Application in two different pens and write two different dates next to his two different signatures, even though it was all being done on the one day, December 21, 1999. *State's Exhibit 4A; Transcript pp. 249-250, 267-269, 292-293.*

43. Sellers did not, and does not, understand the significance of his being asked to sign the Loan Application in two different pens and affixing two different dates thereto. *Transcript pp. 267-272.*
44. Goldberg did not contact Sellers for the next five months. After Sellers contacted Respondent and spoke with McCann, Goldberg scheduled the closing. *Transcript pp. 234, 243-247.*
45. Goldberg caused the closing to be rushed. *Transcript pp. 271, 288, 330, 331.*
46. Goldberg controlled the preparation of the transactional documents, the timing and method of closing and the disbursements after closing. *Transcript pp. 248, 251, 253, 332-333.*
47. As part of the Seller transaction, Goldberg promised to pay Sellers' credit cards. *Transcript pp. 235, 254-255, 291, 303-306.*
48. Upon receiving statements, for approximately three months, from companies indicating that Goldberg was not paying the credit cards and other bills he promised to pay, Mr. Sellers called McCann and Mrs. Sellers visited McCann. Sellers informed McCann that Goldberg had promised to pay their bills for them, had been paying some, but that now the credit companies were calling the Sellers demanding payment. *Respondent Exhibit 2; Transcript pp. 238-240, 257, 299-300, 304-307, 319.*
49. Sellers had a preexisting relationship with Goldberg that predisposed him to trust Goldberg. *Transcript pp. 243-247.*
50. Sellers is significantly unsophisticated and appears easily manipulated concerning financial transactions, as evidenced by his dealings with Goldberg and his responses on cross-examination. *Transcript pp. 248-250, 251, 261, 273, 281-283.*
51. Sellers complained to the Division and filed a complaint form. *Respondent's Exhibit 2; Transcript pp. 241, 290, 304, 315-316.*

THE RUDD TRANSACTION

52. Rudd knew Goldberg prior to seeking to obtain a loan through Goldberg and Respondent. *Transcript p. 368.*

53. In the Rudd transaction (paragraph 14, above), H-R Credit Corporation is listed as a creditor on the Settlement Sheet and the Loan Application. The amount of debt listed is \$4,954. *State's Exhibit 5A, 5B; Transcript pp. 354-355.*
54. In the Rudd transaction, Excel Personal Services is listed as a creditor on the Loan Application and Excell Personell Services is listed as a creditor on the Settlement Statement. The amount of debt listed is \$3,500. The references are to one and the same entity. *State's Exhibit 5A, 5B; Transcript pp. 354-355.*
55. A disbursement check was prepared by the title agency, made payable to H-R Credit, for the account of Rudd, in the amount of \$4,954.00. This check was endorsed "For Deposit Only 'H-R Credit' Anthony Goldberg D.B.A. 'H-R Credit' " followed by an account number. *State's Exhibit 5C.*
56. A disbursement check was prepared by the title agency, made payable to Excel Personell, for the account of Rudd, in the amount of \$3,500.00. This check was endorsed "For Deposit Only 'Excell Personell'," signed "Anthony Goldberg, dba 'Excell Personnel" followed by an account number *State's Exhibit 5C.*
57. At the time of, or prior to, the transaction, Rudd did not owe money to a company by the name of H-R Credit Corporation. *Transcript pp. 354-355, 386.*
58. At the time of, or prior to, the transaction, Rudd did not owe money to a company by the name of Excell Personell Services, or any variation of that name. *Transcript pp. 354-355, 386.*
59. Rudd trusted Goldberg and believed that Goldberg knew what he was doing and was working in Rudd's best interest. *Transcript pp. 387-388.*
60. Goldberg caused Rudd to sign and initial the Loan Application without information pertaining to the Rudd transaction being written on the form prior to that signing. *Transcript pp. 354, 356, 390-391.*
61. Goldberg contacted Rudd and gave approximately 24 hours notice of the loan closing. *Transcript pp. 353, 371.*

62. Goldberg caused closing to be rushed. *Transcript pp. 373, 398-400, 402-404.*
63. Goldberg controlled the preparation of the Rudd transactional documents by preparing, directing the preparation, or assisting in the preparation of the Rudd Loan Application and Settlement Statement, the timing and method of closing and the disbursements after closing. *Transcript pp. 353, 354, 358, 371, 388-391, 397-398, 402-404.*
64. The agent from the title agency may or may not have participated in rushing the closing and may or may not have deliberately assisted Goldberg in carrying out his scheme. *Transcript p. 384.*
65. Rudd raised questions during the closing about H-R Credit and Excel Personnel showing up as creditors. Goldberg indicated that he would explain those entries to Rudd later, but never did. Rudd neglected to pursue the question further and, after the closing, forgot about the issue. *Transcript pp. 383-388.*
66. Rudd recalled that there was a question of the two unknown creditors when the Division contacted Rudd, about February 2001. *Transcript pp. 374-375.*

THE WARD TRANSACTION

67. Ward knew of Rivera through Rivera's connection with Quality Foods prior to the loan transaction. *Transcript p.416-417.*
68. Ward sought to refinance an existing home loan to consolidate bills. *Transcript pp. 445-446.*
69. In the Ward transaction (paragraph 15, above), United Improvement was listed as a creditor, to receive a disbursement check, on the Settlement Sheet. The amount of debt listed was \$9,777. *State's Exhibit 6B; Transcript pp. 407-408, 426, 428.*
70. In the Ward transaction, G.Y.A. Group Inc. was listed as a creditor on the Settlement Sheet and the Loan Application. The amount of debt listed was \$9,463. *State's Exhibits 6A, 6B; Transcript pp. 407-408, 426, 428.*

71. In the Ward transaction, H&R Reasources was listed as a creditor on the Settlement Sheet and the Loan Application. The amount of debt listed was \$9,238. *State's Exhibits 6A, 6B; Transcript pp. 407-408, 426, 428.*
72. In the Ward transaction, National Research Co. was listed as a creditor on the Settlement Sheet and the Loan Application. The amount of debt listed was \$2,522. *State's Exhibits 6A, 6B; Transcript pp. 407-408, 426, 428.*
73. A disbursement check, dated 7/21/00, was prepared by the title agency, made payable to United Improvement & P. Ward and M. Ruark, for the account of Ward/Ruark, in the amount of \$9,777.00. This check was endorsed "United Improvement, P. Ward, M. Ward, For Deposit Only " *State's Exhibit 6C; Transcript pp. 408-409, 426.*
74. Ruark is the maiden name of Ward's wife. When they originally purchased the house they were not married and took title in both their names. *Transcript p. 409.*
75. Neither Ward nor Ruark endorsed, or authorized the disbursement check made payable to United Improvement and them. *Transcript p. 409, 448.*
76. A disbursement check, dated 7/21/00, was prepared by the title agency, made payable to G.Y.A. Group Inc., for the account of Ward/Ruark, in the amount of \$9,463.00. This check was endorsed " G.Y.A. Group Inc., For Deposit Only." *State's Exhibit 6C.*
77. A disbursement check, dated 7/21/00, was prepared by the title agency, made payable to H&R Resources, for the account of Ward/Ruark, in the amount of \$9,238.00. This check was endorsed " H&R Resources, For Deposit Only." *State's Exhibit 6C.*
78. A disbursement check, dated 7/21/00, was prepared by the title agency, made payable to National Research Co., for the account of Ward/Ruark, in the amount of \$2,522.00. This check was endorsed " National Res. Co, For Deposit Only." *State's Exhibit 6C.*
79. The Ward credit report does not list any debt owed to United Improvement, H&R Resources, G.Y.A. Group Inc. or National Research Co. *State's Exhibit 6D.*

80. At the time of, or prior to, the transaction, Ward did not owe money to any company by the name of United Improvement. *Transcript pp. 407, 426, 428.*
81. At the time of, or prior to, the transaction, Ward did not owe money to any company by the name of H&R Resources. *Transcript pp. 407, 426, 428.*
82. At the time of, or prior to, the transaction, Ward did not owe money to any company by the name of G.Y.A. Group Inc. *Transcript pp. 407, 426, 428.*
83. At the time of, or prior to, the transaction, Ward did not owe money to any company by the name of National Research Co. *Transcript pp. 407, 426.*
84. Ward trusted Rivera. *Transcript pp. 413, 467-468.*
85. Rivera caused Ward to sign and initial the Loan Application without information pertaining to the Ward transaction being written on the form prior to that signing. *Transcript pp. 412, 462.*
86. Ward received word from Rivera that the refinance closing would be held July 17, 2000, the same day Rivera called. It was held in the evening. *Transcript pp. 409-411, 449, 464.*
87. Rivera participated in causing the closing to be rushed. *Transcript pp. 419, 425, 434, 450, 457, 463, 466, 470.*
88. Rivera controlled the preparation of the Ward transactional documents by preparing, directing the preparation, or assisting in the preparation of the Ward Loan Application and Settlement Statement, the timing and method of closing and the disbursements after closing. *Transcript pp. 409-412, 449, 460-464.*
89. The agent from the title agency participated in rushing the closing and may or may not have deliberately assisted Rivera in carrying out his scheme. *Transcript pp. 419, 425, 434, 450, 457, 463, 466, 470.*
90. After the closing, Ward picked up disbursement checks from Crew Mortgage. *Transcript p. 418.*

THE DAFT TRANSACTION

91. Daft knew Goldberg and Rivera because they all worked at Columbus Quality Foods prior to the loan transaction. Daft knew and trusted Goldberg and Rivera. *Transcript pp. 483, 486-487, 559-560.*
92. In the halted Daft transaction (paragraph 19, above), Advantage Marketing was listed as a creditor on the Settlement Sheet and the Loan Application. The amount of debt listed was \$6,593.22. *State's Exhibits 8A, 8B; Transcript pp. 484, 490.*
93. In the halted Daft transaction, National Credit Solutions was listed as a creditor on the Settlement Sheet and the Loan Application. The amount of debt listed was \$6,598. *State's Exhibits 8A, 8B; Transcript pp. 484, 490.*
94. In the halted Daft transaction, Daft's monthly income was listed as \$5,228.32 on the Loan Application. This equates to an annual income of \$62,739.84. *State's Exhibit 8A; Transcript p. 487.*
95. In the halted Daft transaction, the original cost of Daft's home was listed as \$125,000 on the Loan Application. *State's Exhibit 8A; Transcript p. 487.*
96. At the time of, or prior to, the halted Daft transaction, Daft did not owe money to any company by the name of Advantage Marketing. *Transcript pp. 484, 490.*
97. At the time of, or prior to, the halted Daft transaction, Daft did not owe money to any company by the name of National Credit Solutions. *Transcript pp. 484, 490.*
98. At the time of, or prior to, the halted Daft transaction, Daft's annual income was approximately \$23,000. *Transcript pp. 484, 490.*
99. The actual original cost of Daft's home was approximately \$76,000. *Transcript pp. 487.*
100. Goldberg or Rivera or both controlled the halted Daft transaction and related documents by preparing, directing the preparation, or assisting in the preparation of the Daft Loan Application and Settlement Statement, and the timing and method of closing. *Transcript pp. 482-483, 486.*

101. Goldberg caused Daft to sign and initial the Loan Application without information pertaining to the halted Daft transaction being written on the form prior to that signing. *Transcript pp. 483, 486-487.*
102. Goldberg or Rivera, or both, caused the closing to be rushed. *Transcript pp. 559-560.*
103. After the closing of the halted Daft transaction, Daft discovered the two creditors listed on the closing documents to which she did not owe money. Daft contacted the title agency and told them to halt disbursement of funds because she didn't know the two creditors. *Transcript pp. 490, 495-496, 572.*
104. After the halted Daft transaction, Rivera came to Daft's home to discuss the halted transaction and to convince Daft to resubmit the second mortgage application. *Transcript pp. 496-497.*
105. Rivera and McCann both stated to Daft that it would cost her between \$10,000 and \$13,000 for her to obtain her loan, and that was the standard fee in the industry. \$13,000 was approximately the amount of the combination of the loans attributed to the two fictitious creditors listed on the halted Daft transaction documents. *Transcript pp. 495-497, 576-577.*
106. Rivera and McCann told Daft that the standard fee for brokering a mortgage loan was \$10,000 to \$13,000, and later they told Daft the standard fee was \$6,000, and Daft believed those statements. *Transcript pp. 497, 587, 612-613.*
107. Daft originally understood that Respondent was going to charge \$300 for brokering a loan for Daft. *State Exhibit 8B; Transcript pp. 500, 580, 613.*
108. Rivera, with the participation of Goldberg or McCann or both, attempted to keep Daft from providing investigators with any information about her loan transactions by threatening Daft and otherwise suggesting she should not speak to the state. *Transcript pp. 501-512.*
109. Daft understood that she was threatened by McCann and Rivera, that Respondent falsified her income on the loan application, significantly overcharged her and found the two fictitious creditors

on the halted Daft transaction, but continued to do business with Respondent by later obtaining a second mortgage (see Paragraph 21, above). *Transcript pp. 492-495, 500, 501-508, 577, 580, 612-613.*

110. Daft is significantly unsophisticated and appears easily manipulated concerning financial transactions, as evidenced by her dealings with Goldberg and her responses to questions during the hearing. In addition to knowing Goldberg and Rivera on a social basis, her supervisor at work recommended she seek a loan through Rivera and Goldberg. Goldberg and Rivera took advantage of that naiveté. *Transcript pp. 490, 525-526, 559-560, 568-569, 570-571.*

II. CONCLUSIONS OF LAW

A. JURISDICTIONAL ISSUES

1. Chapter 119 was complied with in all respects relating to the instant hearing.

B. REVOCATION OF MORTGAGE BROKER CERTIFICATE OF REGISTRATION

2. Goldberg, Rivera and McCann were acting on behalf of, or with authority from, Respondent during all times relevant hereto.
3. The acts of employees Goldberg and Rivera, and President McCann are attributable to Respondent.
4. By no later than April 6, 2000, Respondent had actual knowledge of two separate complaints indicating that, at least, Goldberg had listed fictitious creditors and had loan applications signed in blank by the applicants on two different transactions: the White and Sellers transactions.
5. Respondent took no action to adequately supervise or otherwise control the actions of Goldberg after learning of the activities, and allowed Goldberg and Rivera to continue listing fictitious creditors on loan applications and having loan applications signed in blank by the applicants. In addition, no testimony was presented to show that the Respondent reviewed the files of borrowers to question why the Rudd, Ward, Zimmerman and Daft transactions showed creditors on the loan applications or settlement sheets which were not listed on the credit reports. Respondent, through McCann, therefore is shown to have knowingly intended for the activities of Goldberg and Rivera to continue, presumably to its benefit and the benefit of its owner.
6. Respondent, through Goldberg, Rivera and McCann, caused fictitious creditors to be listed on the loan applications of customers White, Sellers, Rudd, Ward, Zimmerman and Daft, conduct that constitutes improper, fraudulent or dishonest dealings.

7. Respondent, through Goldberg, converted money belonging to the actual creditors of Sellers through false information, conduct that constitutes improper, fraudulent or dishonest dealings.
8. Respondent, through Goldberg, Rivera and McCann, caused false applicant information to be listed on the halted Daft transaction Application Form, conduct that constitutes improper, fraudulent or dishonest dealings.
9. Respondent, through Goldberg, Rivera and McCann, caused customers to sign loan application documents in blank, conduct that constitutes improper, fraudulent or dishonest dealings.
10. Respondent, through the actions of Goldberg, Rivera and McCann, charged customers fees in excess of the fees listed on the transaction documents, conduct that constitutes improper, fraudulent or dishonest dealings.
11. Respondent, through Rivera and with Goldberg or McCann or both, interfered with an investigation of the Division by threatening Daft, a witness, conduct that constitutes improper, fraudulent or dishonest dealings, in violation of section 1322.07, O.R.C.
12. Section 1322.07, O.R.C., prohibits any registrant under section 1322.01 to 1322, O.R.C., to engage in conduct that constitutes improper, fraudulent, or dishonest dealings.
13. Respondent engaged in conduct that constitutes improper, fraudulent or dishonest dealings, in violation of section 1322.07, O.R.C.

III. RECOMMENDATION

The sole issue to be determined at this hearing is whether Crew Mortgage violated section 1322.07, O.R.C., by any of its actions; in this case, by the actions of its employees or officers. If other persons were involved in some scheme with Crew Mortgage, Crew Mortgage would be no less guilty of violating the law. Finding that there was a second violator does not exonerate the first.

The determination whether Crew Mortgage violated section 1322.07, O.R.C., must be made in this administrative hearing and is not impacted by

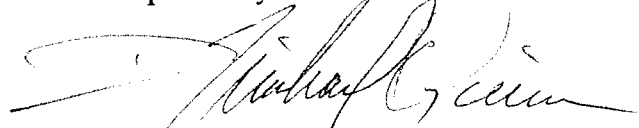
other proceedings in some other forum. Similarly, as counsel frequently pointed out, this is not an action against Mr. McCann, but against Crew Mortgage. Mr. McCann's conduct constituted violations, as did the conduct of Goldberg and Rivera, but the Division's action herein is to determine if the licensee, Crew Mortgage, violated the section. A great deal of testimony was elicited which was not beneficial to that determination.

Goldberg, Rivera and McCann took advantage of unsophisticated borrowers. As a result, those borrowers in a position to testify about what happened to them are unsophisticated. It will not be held against them, or the Division, that their testimony is not polished or that they are not knowledgeable about lending practices.

Crew Mortgage, through McCann, had notice that these activities were taking place and did not act to correct them. Regardless whether Crew Mortgage, through McCann, had originally participated in the scheme, once on notice Crew Mortgage did not act to halt the scheme, which is tantamount to intent. The question is not whether a harm was done, but whether the Respondent was responsible for the harm. Based on the testimony, and timeline, presented, the answer must be yes.

The actions of Respondent - listing fictitious creditors and other false information on loan documents; converting borrowers' and creditors' money; causing customers to sign blank loan documents; charging excess fees; and interfering with an investigation of the Division - have been found to constitute violations of section 1322.07, O.R.C., engaging in conduct that constitutes improper, fraudulent, or dishonest dealings. Therefore the **Recommendation** by this Hearing Officer to the Superintendent of the Division of Financial Institutions is to **REVOKE** the Mortgage Broker Certificate of Registration of T.P.O.T.T., Inc., dba Crew Mortgage and Funding.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "D. Michael Quinn", is written over the typed name.

D. Michael Quinn
Hearing Officer
January 22, 2002