

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

In the matter of:)	Case No. 2009-69
)	
AMERICAN UNION)	ORDER OF REGISTRATION SUSPENSION &
MORTGAGE OHIO, LLC)	NOTICE OF INTENT TO DENY RENEWAL
Route 60 & Park Manor Drive, Suite 320)	&
Pittsburgh, Pennsylvania 15205)	NOTICE OF EXPEDITED 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

AMERICAN UNION MORTGAGE OHIO, LLC ("Respondent") is a company that holds a certificate of registration to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent's business address of record is Route 60 and Park Manor Drive-Suite 320, Pittsburgh, PA 15205 and it conducts business under certificate of registration number MB.899009. Respondent also holds registrations for one (1) branch office from which it conducts business under OMBA and to which the Order also applies.

BASIS FOR ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.10(B), and has found the following:

- A. R.C. 1322.05(A) provides: "No registrant shall conduct business in this state unless the registrant has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of at least fifty thousand dollars and an additional penal sum of ten thousand dollars for each location, in excess of one, at which the registrant conducts business."
- B. R.C. 1322.05(F) provides: "No registrant shall fail to comply with this section. Any registrant that fails to comply with this section shall cease all mortgage broker activity in this state until the registrant complies with this section."
- C. On February 23, 2009, the Division received notice of the proposed cancellation of the bond (bond no. 44BSBEL4303) issued by the Hartford Fire Insurance Co. to cover Respondent's mortgage broker business as required by R.C. 1322.05. This cancellation notice was provided to the Division in accordance with law thirty days prior to its effective date of March 28, 2009.

- D. Respondent no longer holds a valid bond to conduct business as a mortgage broker as required by R.C. 1322.05(A) and (F), and has yet to surrender its mortgage broker certificates of registration to the Division.
- E. Pursuant to R.C. 1322.10(F)(1)(b), the Division may in the public interest automatically suspend the mortgage broker certificate of registration of any registrant who fails to maintain its bond as required by R.C. 1322.05(F).

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

- 1. Respondent is without bond in violation of R.C. 1322.05(A) and (F), and it is in the public interest to suspend Respondent's certificates of registration pursuant to its authority under R.C. 1322.10(F).
- 2. In accordance with R.C. 1322.10(F) and O.A.C. 1301:8-7-27, Respondent is entitled to an expedited hearing to be scheduled within thirty days of the date of this Order to determine whether the suspension shall be confirmed or terminated.

ORDER OF TEMPORARY SUSPENSION

Based upon the allegations and findings above, the Division pursuant to R.C. 1322.10(F), hereby SUSPENDS Respondent's mortgage broker certificates of registration MB.803298 and MB.803298.001-BR.

IT IS SO ORDERED.

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.

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 2004 application for a certificate of registration, Respondent designated Alan Dmochowski as its Operations Manager. Alan Dmochowski was Respondent's approved Operations Manager until April 30, 2008. In 2008, Alan Dmochowski 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 Alan Dmochowski'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. 1301:8-7-12(E)(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.

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) and (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).

NOTICE OF HEARING ON SUSPENSION ORDER

Therefore, pursuant to R.C. 1322.10 (F)(4), R.C. Chapter 119 and Section 1301:8-7-27 of the Ohio Administrative Code, Respondent is hereby notified that a hearing shall be held at **9:30 a.m. on Thursday, May 14, 2009** regarding the continuation or termination of the suspension imposed herein. The hearing will be held **in the West Conference Room located on the 23rd Floor of the Vern Riffe Center for Government and the Arts, 77 South High Street in Columbus.**

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.

Signed and sealed this 20th day of April 2009.

LEIGH A. WILLIS

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