

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

In the matter of:)	Case No. M2007-466
)	2nd AMENDED
NEW YORK FINANCIAL GROUP, INC.)	Notice of Intent to Deny Mortgage Broker
3901 Lakeside Avenue, Suite 203)	Certificate of Registration Application
Cleveland, Ohio 44114)	&
)	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.

RESPONDENT

NEW YORK FINANCIAL GROUP, INC. ("Respondent") is a corporation that has applied to the Division for a mortgage broker certificate of registration pursuant to R.C. Chapter 1322. Respondent's principal business address is 3901 Lakeside Avenue, Unit 203, Cleveland, Ohio 44114.

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1322.10 and R.C. Chapter 119, the Division intends to DENY Respondent's application for an Ohio mortgage broker certificate of registration.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.03(B) and has found the following:

1. The Division may only issue a mortgage broker certificate of registration if it finds that all conditions enumerated in R.C. 1322.04(A)(1) through (10) have been met.
2. R.C. 1322.04(A)(3) requires that the Respondent's designated operations manager, namely Daniel Gallagher, "meets the experience requirements provided in division (A)(4) of section 1322.03 of the Revised Code[.]" R.C. 1322.03(A)(4) requires that the Division be provided "[e]vidence that the [designated operations manager]...possesses at least three years of experience in mortgage and lending field, which experience may include employment with or as a mortgage broker or with a financial institution, mortgage lending institution, or other lending institution, or possesses at least three years of experience related specifically to the business of mortgage loans that the superintendent determines meets the requirements of division (A)(4) of this section[.]"

3. O.A.C. 1301:8-7-12(G) clarifies the three years, or thirty-six months, experience requirement mandated by R.C. 1322.03(A)(4) must have been lawfully gained within the previous six years.
4. Based on the information in the Division's possession, Respondent's designated operations manager does not meet the three years, or thirty-six months, experience requirement as mandated and defined by R.C. 1322.03(A)(4), R.C. 1322.04(A)(3), and O.A.C. 1301:8-7-12(G).
5. Further, based on the information in the Division's possession, Daniel Gallagher, president and 100% owner of Respondent, was paid as an independent contractor for Premier Mortgage Funding, Inc.. As Daniel Gallagher was paid as an independent contractor, Daniel Gallagher originated loans on his own behalf which required him to obtain a mortgage broker certificate of registration. Daniel Gallagher did not obtain a certificate of registration in violation of R.C. 1322.02(A)(1).

As a result, the Division has determined that:

- A. Due to Respondent's failure to designate an operations manager who meets the requirements of R.C. 1322.03(A)(4) and O.A.C. 1301:8-7-12(G), the Division cannot find that Respondent meets a requirement for the issuance of a certificate of registration. See R.C. 1322.04(A)(3).
- B. Due to Daniel Gallagher's violation of R.C. 1322.02(A)(1), the Division cannot find Respondent's experience and character and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act. See R.C. 1322.04(A)(10).

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 mortgage broker certificate of registration application.

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: Mark L. Rhea, Consumer Finance Licensing Attorney, 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. Note: At the hearing, corporations 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 mortgage broker certificate of registration.

Signed and sealed this 31st day of December 2007.

LEIGH A. WILLIS

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