

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

In the matter of:)	Case No. M2009-172
)	
ALL STATE HOME MORTGAGE, INC.)	Notice of Intent to Deny 2008 and 2009 Mortgage Broker
26250 Euclid Avenue, Suite 901)	Renewal Applications, Impose Fine
Euclid, Ohio 44132)	&
)	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

ALL STATE HOME MORTGAGE, INC. ("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 on or before April 30, 2008. Subsequently, Respondent filed a renewal application on or about April 22, 2009. Respondent's 2008 and 2009 renewal applications remain pending. Respondent's business address of record is 26250 Euclid Avenue, Suite 901, Euclid, OH 44132.

NOTICE OF PROPOSED ACTION

In accordance with sections R.C. 1322.04 and 1322.10, and R.C. Chapter 119, the Division intends to DENY Respondent's 2008 and 2009 renewal applications for a mortgage broker certificate of registration and impose a FINE.

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. 1322.02(B) prohibits any person from acting as a "loan officer" without first having obtained a license from the superintendent.
- C. R.C. 1322.01(E) defines "loan officer" as an employee who originates mortgage loans in consideration of direct or indirect gain, profit, fees or charges.

- D. R.C. 1322.07(C) prohibits mortgage brokers, registrants, licensees, or applicants for a certificate of registration or license from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings.
- E. Respondent's records indicate that Jessica Gazella acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 4806 Albertly Avenue, Parma, Ohio 44134 for borrower Susan L. Edmonds which closed on February 12, 2007. Jessica Gazella has never applied for or obtained a license to act as a loan officer under R.C. 1322.
- F. Respondent's records indicate that Jessica Gazella acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 1106 Agler Street, Fremont, Ohio for borrower Steve Bartlett which closed on January 31, 2007. Jessica Gazella has never applied for or obtained a license to act as a loan officer under R.C. 1322.
- G. Respondent's records indicate that John Abilay acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 4629 Bunnell Hill, Lebanon, Ohio 45036 for borrower Melissa Jablonski which closed on January 26, 2007. At this time, John Abilay was not licensed as a loan officer for All State Home Mortgage, Inc.
- H. Respondent's records indicate that John Abilay acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 4077 Giles Road, Chagrin Falls, Ohio borrower James DiCioccio which closed on January 29, 2007. At this time, John Abilay was not licensed as a loan officer for All State Home Mortgage, Inc.
- I. Respondent's records indicate that Ray Ochoa and/ or John Abilay acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 2384 Durbin Drive, Fremont, Ohio 43420 for borrower Daniel Wagner which closed on January 5, 2007. Ray Ochoa has never applied for or obtained a license to act as a loan officer under R.C. 1322.
- J. Respondent's records indicate that Herman Brooks acted as a loan officer on behalf of Respondent or originated a mortgage loan secured by real property located at 2903 8th Street NW, Canton, Ohio 44708 for borrower Terry Bergmeyer which closed on April 20, 2007. Herman Brooks had applied for but never received a license to act as a loan officer under R.C. 1322.
- K. Some of Respondent's records indicate that Matt Panguitti, a loan officer licensed for Respondent during the applicable time, was the individual that originated a mortgage loan for borrowers Paul and Darlene Sidari secured by real estate located at 6023 Belmere Drive, Parma, Ohio 44129. Matt Panguitti's signature appears on the Loan Application, mortgage broker agreement, and various other letters and disclosures pertaining to the transaction. However, the consumers indicate that they were only in contact with Rob Ansverins from All State Home Mortgage, Inc. regarding their loan. According to Respondent, Matt Panguitti did not receive compensation from this loan. Rob Ansverins did receive compensation as a result of this loan. Rob Ansverins has never applied for or obtained a license to act as a loan officer under R.C. 1322.
- L. R.C. 1322.064(A) prohibits registrants and licensees from failing to timely inform the buyer of any material change in the terms of the loan. R.C. 1322.064(A)(1)(c) includes in the definition of "material change" a change in the interest rate of more than .15%. R.C.

1322.064(B) defines “Timely” disclosures as “the registrant provid[ing] the buyer with the revised information not later than twenty-four hours after the change occurs, or twenty-four hours before the loan is closed, whichever is earlier.”

- M. Respondent’s records indicate that Respondent assisted Paul and Karen Burris in obtaining a mortgage loan secured by real estate located at 6181 Main Street, Oxford, Ohio 45056. Paul and Karen Burris applied for a mortgage loan with an interest rate of 7.650% on May 2, 2007, and obtained a mortgage loan with an interest rate of 9.175% on May 25, 2007. By failing to timely disclose to the buyers the change in interest rate for the loan in this transaction, Respondent violated R.C. 1322.064(A)(1)(c).
- N. Respondent’s records indicate that Respondent assisted Keith Phillips in obtaining a mortgage loan secured by real estate located at 41 W. Cook Rd., Mansfield, Ohio 44907. Keith Phillips applied for a mortgage loan with an interest rate of 6.125% on May 7, 2007, and obtained a mortgage loan with an interest rate of 9.375% on June 29, 2007. By failing to timely disclose to the buyers the change in interest rate for the loan in this transaction, Respondent violated R.C. 1322.064(A)(1)(c).
- O. Respondent’s records indicate that Respondent assisted Mack Hamilton in obtaining a mortgage loan secured by real estate located at 821 S. Detroit Ave., Toledo, Ohio 43609. Mack Hamilton applied for a mortgage loan with an interest rate of 7.750% on April 27, 2007, and obtained a mortgage loan with an interest rate of 9.9% on July 3, 2007. By failing to timely disclose to the buyers the change in interest rate for the loan in this transaction, Respondent violated R.C. 1322.064(A)(1)(c).
- P. Respondent’s records indicate that Respondent assisted Paul and Darlene Sidari in obtaining a mortgage loan secured by real estate located at 6023 Belmere Drive, Parma, Ohio 44129. Paul and Darlene Sidari applied for a mortgage loan with an interest rate of 8.00% on May 23, 2007, and obtained a mortgage loan with an interest rate of 11.4% on July 16, 2007. By failing to timely disclose to the buyers the change in interest rate for the loan in this transaction, Respondent violated R.C. 1322.064(A)(1)(c).
- Q. R.C. 1322.07(F) prohibits mortgage brokers, registrants, licensees, or applicants for a certificate of registration or license from knowingly instructing, soliciting, proposing, or otherwise causing a buyer to sign in blank a mortgage related document.
- R. Respondent’s records include several mortgage loan origination disclosure statements and a Notice of Escrow of Taxes & Regular Monthly Payment which the consumers signed that included blanks. Consequently, Respondent violated R.C. 1322.07(F) by allowing each buyer to sign these documents.
- S. 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.”

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

- 1. Respondent’s actions listed in paragraphs E through K violate R.C. 1322.07(C).
- 2. Respondent’s actions listed in paragraphs M through P violate R.C. 1322.064(A)(1)(c).
- 3. Respondent’s actions listed in paragraph R violate R.C. 1322.07(F).

4. Because Respondent violated R.C. 1322.07(C), R.C. 1322.064(A)(1)(c), and R.C. 1322.07(F), 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) and R.C. 1322.04(A)(10).
5. Because Respondent violated R.C. 1322.07(C), R.C. 1322.064(A)(1)(c), and R.C. 1322.07(F), the Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew Respondent's mortgage broker certificate of registration.
6. Because Respondent committed repeated and continued violations of R.C. 1322.064(A)(1)(c) and 1322.07(C), the Division may impose a two thousand dollar (\$2,000.00) fine for each of Respondent's violations. Because Respondent violated R.C. 1322.07(F), the Division may impose a one thousand dollar fine for this violation.
7. A fine in the amount of fifteen thousand dollars (\$15,000.00) 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 denying Respondent's renewal applications under the Ohio Mortgage Broker Act and ordering payment of a fifteen thousand dollar (\$15,000.00) 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: 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 applications and ordering payment of a fifteen thousand dollar \$15,000.00 fine.

Signed and sealed this 29th day of April, 2009.

LEIGH A. WILLIS

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