

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

In the matter of:)	Case No. 04-0103MBR
)	
MICHAEL A. THOENNES)	Notice of Intent to Revoke
D.B.A. American National Mortgage)	Mortgage Broker Certificates of Registration
38025 Second Street, Suite 101)	&
Willoughby, Ohio 44094)	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, and the rules adopted thereunder.

RESPONDENT

MICHAEL A. THOENNES, D.B.A. AMERICAN NATIONAL MORTGAGE ("Respondent") holds three active mortgage broker certificates of registration. Respondent's main business office is at 38025 Second Street, Suite 101, Willoughby, Ohio 44094 MB # 1388. Respondent also operates two branch offices at 1610 Mentor Avenue, Painesville, Ohio 44077 MB # 1899, and 1656 Henthorne Drive, Maumee, Ohio 43537 MB # 2552. Respondent operates under the mortgage broker identification number 801172. Michael A. Thoennes serves as the registrant's operations manager and resides at 3471 Colton Road, Shaker Heights, Ohio 44122. His date of birth is November 29, 1952.

NOTICE OF PROPOSED ACTION

In accordance with R.C. §1322.10(A)(1)(a), and pursuant to R.C. Chapter 119, the Division intends to **REVOKE** Respondent's mortgage broker certificates of registration.

BASIS FOR PROPOSED ACTION

Pursuant to R.C. §1322.10(B), the Division conducted an investigation of Respondent, and as a result thereof, alleges the following:

1. In accordance with R.C. §1322.10(A)(1)(a), the superintendent of the Division may revoke a mortgage broker certificate of registration if the superintendent finds that the registrant has violated or failed to comply with any provisions of sections 1322.01 to 1322.12 of the Ohio Revised Code or the rules under those sections or any other law applicable to the businesses conducted under a certificate of registration.
2. In accordance with R.C. §1322.02(B), the statute states in relevant part that, no person, on the person's own behalf or on the behalf of any other person, shall act as a loan officer without first having obtained a license from the superintendent.
3. In accordance with R.C. §1322.062(A), mortgage loan origination disclosure statements must contain the following:

- (a) The name, address, and telephone number of the buyer;
 - (b) The typewritten name of the loan officer and the number designated on the loan officer's license;
 - (c) The street address, telephone number, and facsimile number of the registrant and the number designated on the registrant's certificate of registration;
 - (d) The signature of the loan officer or registrant;
 - (e) A statement indicating whether the buyer is to pay for the services of a bona fide third party if the registrant is unable to assist the buyer in obtaining a mortgage;
 - (f) A statement that describes the method by which the fee to be paid by the buyer to the registrant will be calculated;
 - (g) A statement that the lender may pay compensation to the registrant;
 - (h) A description of all the services the registrant has agreed to perform for the buyer;
 - (i) A statement that the buyer has not entered into an exclusive agreement for brokerage services.
4. In accordance with R.C. §1322.08(A), no registrant shall fail to do any of the following:
 - (1) Maintain a special account;
 - (2) Deposit into the registrant's special account any bona fide third-party fee the registrant receives;
 - (3) Pay bona fide third-party fees to a bona fide third party from the registrant's special account.
5. On March 1 and March 2, 2004, an examiner with the Division of Financial Institutions, examined Respondent's offices pursuant to the Division's authority under R.C. §1322.06.
6. Upon the examination of Respondent's offices, it was determined that the Registrant was using and employing two individuals as loan officers who were not authorized by the Division to conduct such business. The two employees that were originating loans without a valid loan officer's license were Eric Keita and Steve Gilmore. Their licenses had been cancelled by operation of law because they did not take their loan officer's examination within 90 days of being approved by the Division.
7. Further examination of Respondent's offices found that the mortgage loan origination disclosure statements for the Painesville, Ohio office failed to contain the following:
 1. Telephone number of the buyer;
 2. The typewritten name of the loan officer and the number designated on the loan officer's license;
 3. The number designated on the registrant's certificate of registration;
 4. The signature of the loan officer or registrant;
 5. A statement indicating whether the buyer is to pay for the services of a bona fide third party if the registrant is unable to assist the buyer in obtaining a mortgage;
 6. A statement that describes the method by which the fee to be paid to the registrant by the buyer will be calculated;
 7. A statement that the buyer has not entered into an exclusive agreement with the registrant.

8. A description of all the services the registrant has agreed to perform for the buyer.
8. Moreover, the Examiner further found that the Registrant did not accurately disclose the compensation it received from loan transactions. Specifically, the examiner concluded that the Registrant charges an application fee, processing fee, and occasionally an underwriting fee, all which do not appear on the mortgage loan origination disclosure statements.
9. Lastly, the Examiner's report concluded that the Registrant did not process all the fees received at closing on behalf of third-party service providers through the special account as required by R.C. §1322.08(A). Here, the Registrant received credit reports and appraisal fees through loan proceeds but did not use the special account to pay these fees.

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

1. Respondent's use of employees to originate loans without a loan officer's license is in violation of the Ohio Mortgage Broker Act section 1322.02(B).
2. Respondent's failure to disclose the required information on the mortgage loan origination disclosure statements is in violation of the Ohio Mortgage Broker Act section 1322.062(A).
3. Respondent's failure to deposit third-party fees into the special account is in violation of the Ohio Mortgage Broker Act section 1322.08(A).

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 revoking Respondent's certificates of registration MB #1388, MB #1899, and MB #1656.

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: Timothy Winslow—Staff 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 his position, arguments, or contentions in writing, and, at the hearing, may present evidence and examine witnesses appearing for and against Respondent.

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 revoking Respondent's certificates of registration.

Signed and sealed this _____ day of _____, 2004.

ROBERT M. GRIESER

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

CERTIFIED MAIL