

Ted Strickland
Governor

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

Kimberly A. Zurz
Director

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|----------------------------|---|-----------------------------------|
| In the matter of: |) | Case No. M2008-118 |
| |) | |
| MICHAEL W. ELSASSER |) | <u>DIVISION ORDER</u> |
| 6750 Hamilton Road |) | Loan Officer Fine |
| Middletown, Ohio 45044 |) | & |
| |) | Notice of Appellate Rights |
| |) | |

The Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division") and charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act, as codified in Ohio Revised Code ("R.C.") Chapter 1322 and the Ohio Mortgage Loan Act, codified in R.C. Chapter 1321, the Division finds that this Order is necessary and appropriate, in the interest of the public, and is consistent with the purposes of the Ohio Mortgage Broker Act and the Ohio Mortgage Loan Act;

On or around October 10, 2008, the Division of Financial Institutions issued notice to Michael W. Elsasser ("Respondent") that the Division intended to impose a fine because as operations manager, sole share holder and President of Mortgage First f/k/a 3M Mortgage, Inc. he had: (1) improperly retained up front fees collected from buyers in violation of R.C. 1322.08(B); (2) funded loans under the name of 3M Mortgage, Inc. without first obtaining a registration under R.C. 1321.51 to 1321.60 in violation of R.C. 1321.52(A) and R.C. 1322.07(C); (3) funded loans under the name of Mortgage First without first obtaining a registration under R.C. 1321.51 to 1321.60 in violation of R.C. 1321.52(A) and R.C. 1322.07(C); (4) collected loan origination fees in excess of the fee permitted under R.C. 1321.59(D) in violation of R.C. 1322.07(C); (5) failed to maintain a special account required by R.C. 1322.08(A) and Ohio Admin. Code 1301: 8-7-05; and (6) improperly influenced appraisals in violation of 1322.07(G) and Ohio Admin. Code 1301: 8-7-23.

Respondent requested an administrative hearing, which was held on January 22, 2009. Respondent's attorney appeared. A Report and Recommendation was filed with the Division on May 7, 2009, recommending the Division recompute the fine based on seven (7) violations found and re-examine the fine amount in conformance with the findings. (A copy of the Report and Recommendation is attached hereto). Objections were filed by Respondent's attorney.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report and Recommendation, the transcript of testimony and exhibits, all applicable laws and the objections filed. As a result, the Division makes the following findings and conclusions. Any finding and/or conclusion not specifically addressed below is approved, adopted and incorporated herein.

The Division hereby adopts the Recommendation. In accordance with the Recommendation, the Division has weighed the evidence and considered the factors listed within R.C. 1322.10(A)(2)(a) through (e). The Division hereby imposes a fine of four thousand dollars (\$4,000.00) against Michael W. Elsasser.

Respondent, Michael W. Elsasser, is hereby ordered to pay the Division a fine in the amount of four thousand dollars (\$4,000.00). Payment shall be in the form of a cashier's check or money order, made payable to "Consumer Finance Fund," and, within ninety (90) days of Respondent's receipt of this Order, shall be submitted with a copy of this Order to: Ohio Division of Financial Institutions, Attn: Lori A. Massey, Consumer Finance Attorney Examiner, 77 South High Street, 21st Floor, Columbus, Ohio 43215-6120.

It is so ordered.

NOTICE OF RIGHT TO APPEAL

Respondent is hereby notified that pursuant to R.C. 119.12, this Order may be appealed by filing a notice of appeal with the Ohio Division of Financial Institutions setting forth the order appealed from and the grounds for the appeal. A copy of such notice of appeal must, pursuant to R.C. 119.12, also be filed with the court of common pleas of the county in which the place of business of the Respondent is located, or the county in which the Respondent is a resident. A notice of appeal must be filed within fifteen (15) days after the date of mailing of this Order.

Signed and sealed this 26th day of October, 2009.

LEIGH A. WILLIS

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