

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

In the matter of:)	Case No. M2008-543
)	
TRI-STATE MORTGAGE COMPANY)	Notice of Intent to Fine Mortgage Broker Registrant
8170 Corporate Park Drive, Suite 200)	&
Cincinnati, OH 45242)	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. In accordance therewith, the Division is accountable for the registration of mortgage brokers.

RESPONDENT

TRI-STATE MORTGAGE COMPANY ("Respondent") is an Ohio corporation that held a certificate of registration issued by the Division to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent failed to renew its certificate of registration in 2008, therefore, its license under the Ohio Mortgage Broker Act terminated effective April 30, 2008. Respondent's address of record is 8170 Corporate Park Drive, Suite 200, Cincinnati, OH 45242.

NOTICE OF PROPOSED ACTION

In accordance with R.C. Chapter 119 and R.C. 1322.10(A)(2), the Division intends to levy a fine in the amount of three thousand dollars (\$3,000.00) against Respondent for violating R.C. 1322.07(G) and R.C. 1322.064(A)(2).

BASIS FOR PROPOSED ACTION

Pursuant to R.C. 1322.10(B), the Division has conducted an investigation of Respondent. As a result thereof, the Division has found the following:

- A. The Division is authorized by R.C. 1322.10(A)(2) to impose a fine against a mortgage broker registrant of not more than one thousand dollars for each day a violation of a law or rule is committed, repeated, or continued.
- B. On or about April 14, 2008 and April 15, 2008, the Division conducted an examination of Respondent. Respondent had vacated its offices at 8170 Corporate Park Drive, Cincinnati, Ohio 45242 and the examination of Respondent's records occurred at the offices of Ross Mortgage Corp., 9155 Governors Way, Suite B, Cincinnati, Ohio 45249.
- C. The examination found certain violations of the Ohio Mortgage Broker Act.
- D. R.C. 1322.064(A)(2) requires registrants to timely inform the buyer "if any fees payable by the buyer to the registrant or lender increase by more than ten percent or one hundred dollars, whichever is greater." R.C. 1322.064(B) "deem[s] disclosures timely if the

- registrant provides 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.”
- E. On or about January 18, 2008, a loan for borrower Susan K. Cole secured by real estate located at 830 Carrington Place, Unit 103, Loveland, Ohio 45140 was closed. This loan was originated by Respondent. On September 19, 2007, Susan K. Cole signed a Good Faith Estimate for this loan which did not include a loan origination fee. Respondent’s mortgage loan file included a Good Faith Estimate prepared on January 12, 2008 that was not signed by the borrower that listed a loan origination fee of \$952. At settlement, the borrower paid a loan origination fee to Respondent of \$1,190. From January 12, 2008 to January 18, 2008, the loan origination fee increased more than 10% and \$100. Respondent failed to provide disclosure required by R.C. 1322.064(A)(2) to the borrower of this change. Consequently, Respondent violated R.C. 1322.064(A)(2).
- F. R.C. 1322.07(G) prohibits mortgage brokers, registrants, licensees, or applicants for a certificate of registration or license from knowingly compensating, instructing, inducing, coercing, or intimidating a person licensed or certified under Chapter 4763 of the Revised Code for the purpose of corrupting or improperly influencing the independent judgment of the person with respect to the value of the dwelling offered as security for repayment of a mortgage loan.”
- G. 1301:8-7-23(B) of the Ohio Administrative Code states: “Without limiting the scope or applicability to other acts or practices that may violate division (G) of section 1322.07 of the Revised Code a person is attempting to instruct or induce “a person licensed or certified under Chapter 4763 of the Revised Code for the purpose of corrupting or improperly influencing the independent judgment of the person with respect to the value of the dwelling offered as security for repayment of a mortgage loan” if: (1) In the case of any refinance loan...a registrant, licensee, mortgage broker employee, or person acting at their discretion identifies on the appraisal order form or communicates by any other means to any person licensed or certified under chapter 4763 of the Revised Code either the loan amount or any other express or implied statement of the anticipated or desired appraisal value.”
- H. Respondent included in the appraisal order form, faxed to the appraiser, the mortgage loan amounts and/or approximate property values for the following loans which were refinances: (1) Bryan Crowley and Mary Ellen Crowley, 5521 Sprucewood Lane, Cincinnati, Ohio 45239 which closed April 8, 2008; (2) Scott A. Davis and Jackie M. Davis, 1400 Hart Road, Warren, Ohio 45036 which closed March 4, 2008; (3) Michelle R. Magin, 8110 Mulberry Road, Maineville, Ohio 45039 which closed August 28, 2007; (4) William K. McCoy & Clara A. McCoy, 4176 Heritage Glen Drive, Cincinnati, Ohio 45245 which closed on July 6, 2007; (5) Robert Ward and Chandra Ward, 8805 Monsanto Drive, Cincinnati, Ohio 45231 which closed on October 15, 2007; (6) Leslie W. Papa, 6381 Paxton Woods Drive, Loveland, Ohio 45140 which closed on December 3, 2007; (7) Lawrence W. Kieffer and Pamela J. Polley, 236 Compton Ridge Drive, Cincinnati, Ohio 45215 which settled on November 1, 2007; (8) Elinora B. Park, 6671 Sherbourne Court, Mason, Ohio 45040 which closed on February 15, 2008.

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

1. Because Respondent violated R.C. 1322.07(G) and R.C. 1322.064(A)(2), the Division has the authority to impose a fine against Respondent.
2. A fine in the amount of three thousand dollars (\$3,000.00) 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 imposing a fine of three thousand dollars (\$3,000.00) on Respondent.

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 by Respondent's attorney, 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.

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 imposing a fine in the amount of three thousand dollars (\$3,000.00) on Respondent.

Signed and sealed this 8th day of April, 2009.

LEIGH A. WILLIS

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