



State of North Carolina
OFFICE OF THE COMMISSIONER OF BANKS

MICHAEL F. EASLEY
GOVERNOR

JOSEPH A. SMITH, JR.
COMMISSIONER OF BANKS

September 9, 2004

The Hon. Michael Easley
Governor, State of North Carolina
20301 Mail Service Center
Raleigh, NC 27699-0301

Dear Governor Easley:

This letter will summarize the activities of the Office of Commissioner of Banks ("OCOB") to administer and enforce the Mortgage Lending Act ("MLA") during the year ended June 30, 2004. It will also identify areas of concern to OCOB regarding the mortgage lending industry for the current year and beyond.

Licensing

The MLA requires that mortgage lenders, brokers and loan officers, other than exempt persons (such as depository institutions and their employees) must be licensed to engage in mortgage lending or brokerage. The year ended June 30, 2004, was the second year of such requirement and, accordingly, licensing activities involved the renewal of previously granted licenses and the issuance of new licenses.

During the period in question, OCOB staff approved renewal applications for 550 mortgage lenders, 650 mortgage brokers and 9,525 loan officers (of whom 1,100 are inactive). In addition, 350 "exclusive broker" licenses and 1,050 "limited loan officer" licenses were renewed. New licenses were issued during the period for 75 mortgage lenders, 125 mortgage brokers, and 3,500 loan officers. While the number of active licensees had varied during the period in question, there is no evidence whatsoever that North Carolina's anti-predatory lending law and the MLA have had any adverse effect on the number of competitors in the marketplace.

During the period July 1, 2003 to June 30, 2004, OCOB staff denied 406 applications for licensure under the MLA. Of these denials, (i) 158 were not appealed or pursued and are final; (ii) 149 were resolved through issuance of a license after further review and, in some cases, correction of the relevant applications; (iii) 80 were appealed to the Commissioner and (iv) 19 were in process. During this period, 122 appeals (including some appeals from the prior year) were heard by the Commissioner, resulting in 54 affirmations of denials and 68 orders overturning denials and allowing the issuance of licenses. At that date, 19 appeals remained to be heard. Eleven decisions of the Commissioner regarding these denials have been appealed to the Banking Commission to date. All but one of such appeals have resulted in the affirmation of the Commissioner's decision. One decision was reversed to affirm the OCOB staff's denial of a license. Four denials have been appealed to Wake County Superior Court. Of these four appeals one is still pending in the Wake County Superior Court and the remaining three were upheld by the court and have now been appealed to the North Carolina Court of Appeals.

In addition, during the year ended July 30, 2004, Mortgage Division staff proposed the revocation of 62 licenses because of (i) false or misleading statements in the licensees original or renewal applications or (ii) activities by licensees in violation of North Carolina law. Of the 62 proposed revocations: (i) 30 were overturned after a hearing, as a result of which the license remained in effect; (ii) two licensees were suspended; and (iii) 30 licenses were revoked or surrendered. As our enforcement activities, discussed below, continue, it is likely that the number of revocations and suspensions will increase.

In my report to you last year regarding OCOB's mortgage activities, I said that improvement of the efficiency and effectiveness of licensing, both renewals and new applications, was a major objective of the agency. Thanks to prudent investment in new technology and the diligent efforts of OCOB Mortgage Division staff, led by director George King, I believe that we have made substantial progress on this objective.

Examinations

The MLA authorizes OCOB to conduct examinations of mortgage lenders and brokers to ensure compliance with the statute and other laws relevant to mortgage lending. Implementation of an examination program was an objective for future action in my last report to you. During the year ended June 30, 2004, OCOB staff organized examination teams and developed an examination protocol. Implementation of our examination program began in the spring of 2003 and, under a newly appointed examination team leader, the pace of examinations will increase during this year.

Enforcement

Enhancement of our investigation function was also an objective stated in my last report. Enforcement continues to be a priority for OCOB. During the year ended June 30, 2004, over 1,100 of the 1,500 formal consumer complaints received by this agency related to residential mortgage transactions. These complaints related to a variety of circumstances, but the message

from the marketplace is clear: more work on mortgage lending needs to be done. OCOB investigative personnel are fully employed, both in matters conducted by this agency alone and in concert with other agencies of state government and both state and federal law enforcement. During this year, I have asked our investigators to focus on high-impact cases involving material breaches of our laws and mortgage fraud.

Conclusion

The mortgage lending industry in North Carolina continues to be large, diverse and very competitive. A great deal of hard and effective work has been done by my colleagues in OCOB's Mortgage Division, but much remains to be done. In addition to our continuous efforts to improve our operations, we will be looking at ways to enhance our efforts with regard to the regulation of interstate mortgage operations, which account for roughly one-third of the firms serving North Carolinians today. I believe that we have had substantial success during the last year in enforcing the MLA and policing the mortgage market generally. My colleagues and I look forward to continuing these very important activities in the future.

Very truly yours,



Joseph A. Smith, Jr.
Commissioner of Banks

JAS/is

Cc: The Hon. Richard H. Moore
Chairman, State Banking Commission