

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

In the matter of:)	Case No. M2008-441
)	
THOMAS M. WEISS)	<u>DIVISION ORDER</u>
5264 Denise Court)	Mortgage Broker Registration Denial
Solon, OH 44139)	&
)	Notice of Appellate Rights

WHEREAS, 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, 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

WHEREAS, Thomas M. Weiss ("Respondent") is an individual that applied for a certificate of registration as a sole proprietor to engage in business as a mortgage broker pursuant to R.C. Chapter 1322, and said application remains pending; and

WHEREAS, on July 10, 2007, the Division issued Respondent a Notice which informed him that the Division had conducted an investigation of Respondent and, as a result thereof, alleged that:

1. Respondent, an applicant to the Division for a mortgage broker certificate of registration as a sole proprietor, previously was the owner and operations manager of Rockwell Bancorp, Inc. a corporation that held a mortgage broker certificate of registration under R.C. 1322.
2. On or about January 11, 2008, in Case No. M2007-671, the Division denied Rockwell Bancorp, Inc.'s 2007 renewal application for a mortgage broker certificate of registration. The reason for the denial of Respondent's 2007 renewal application was that on or about January 4, 2007, Rockwell Bancorp, Inc. was notified by the Ohio Secretary of State that the Secretary had cancelled the Articles of Incorporation/Certificate of Authority issued to Rockwell Bancorp, Inc., in accordance with R.C. 5733.20, due to Rockwell Bancorp, Inc.'s nonpayment of the corporate franchise tax within the time required by law.
3. R.C. 5733.20 requires the Ohio Secretary of State to cancel a corporation's Articles of Incorporation upon certification by the Ohio Department of Taxation of such corporation's failure to file a return or failure to pay the appropriate tax or fee. R.C. 5733.20 provides that, upon cancellation, "all the powers, privileges, and franchises conferred upon such corporation by such articles of incorporation or by such certificate of authority shall cease," subject to R.C. 1701.88, which proscribes

that the corporation “shall cease to carry on business and shall do only such acts as a required to wind up its affairs, or to obtain reinstatement...”

4. Rockwell Bancorp, Inc.’s corporate charter remains cancelled according to the Ohio Secretary of State’s records.
5. R.C. 1322.04(A)(10) lists as a condition for licensure of a mortgage broker certificate of registration applicant that “[t]he applicant’s financial responsibility, experience, character, and general fitness 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 sections 1322.01 to 1322.12 of the Revised Code.”
6. Due to the cancellation of Rockwell Bancorp, Inc.’s corporate charter, an entity of which Respondent was the owner, the Division does not believe that Respondent’s experience, character, and general fitness 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 sections 1322.01 to 1322.12 of the Revised Code.

WHEREAS, the Notice informed Respondent of the Division’s intent to deny the Respondent’s application for a certificate of registration and of the opportunity for a hearing regarding the denial if requested within thirty days from the mailing of the Notice. The Notice further cautioned Respondent that if the Ohio Division of Financial Institutions did not receive a written request for a hearing in its offices within thirty (30) days of the time of the mailing of the Notice, the Superintendent would issue an order denying Respondent’s application for a certificate of registration;

WHEREAS, the Notice was mailed to Respondent, via certified mail, on July 10, 2008, and service was perfected;

WHEREAS, the Division finds that the allegations contained in the Notice are true and that Respondent’s application for a mortgage broker certificate of registration should be denied;

Respondent Thomas M. Weiss’s application for a mortgage broker certificate of registration is hereby denied.

It is so ordered.

NOTICE OF RIGHT TO APPEAL

Respondent is hereby notified that this Order may be appealed, pursuant to R.C. 119.12, 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 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 20th day of August, 2008.

LEIGH A. WILLIS

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