

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

In the matter of:)	Case No. M2006-9992754
)	
SOUTHEAST FINANCIAL SERVICES, INC.)	<u>DIVISION ORDER</u>
16004 Broadway Avenue)	Denial of Mortgage Broker Renewal
Maple Heights, Ohio 44137)	&
)	Notice of Appellate Rights
)	

Southeast Financial Services, Inc. (“Respondent”) submitted a mortgage broker renewal application (“Application”) to the Division of Financial Institutions (“Division”) for the licensing years 2005 and 2006. On April 27, 2006, the Division notified Respondent that it intended to deny its Application because: (1) the mortgage loan origination disclosure statement which Respondent was using did not disclose all the information required by section 1322.062(A). Specifically, the statement lacked the name, address and phone number of the buyer in violation of 1322.062(A)(1)(a); the loan officer’s typed name and license number in violation of 1322.062(A)(1)(b); the phone number, fax number, and registration number in violation of 1322.062(A)(1)(c); and a statement that the buyer has not entered into an exclusive arrangement for brokerage services in violation of 1322.062(A)(1)(i); (2) the mortgage loan origination disclosure statements which were provided to buyers failed to accurately disclose broker fees. A pattern and practice of consistently underestimating the ultimate cost to buyers of services in the disclosures constitutes a continued course of misrepresentations in violation of 1322.07(B); (3) Respondent was paying fees to non-employees for referrals, in violation of 1322.071(B)(3); (4) Respondent was using their special account for purposes other than paying bona fide third-party fees, in violation of 1322.08. Specifically, Respondent was using the special account to pay health care expenses and phone bills among other general office expenses; (5) Respondent’s advertisements did not disclose the number designated on their mortgage broker registration as required by 1322.09; (6) Respondent was not maintaining the final settlement or closing statements in chronological order as required by 1301:8-7-06(A)(3); (7) Unlicensed individuals, including but not limited to, Michael Bombik, John Hopkins, Gwen Taylor and Donald Fennell, were acting as loan officers in violation of 1322.02(B); (8) In 2004, Respondent attested in a

sworn statement that information it provided about civil, administrative actions or orders that it was subject to on its 2005 mortgage broker renewal application it submitted to the Division was complete and accurate when it was not as Respondent did not disclose it had been named as a defendant in Case No. CV-03-498611, in the Cuyahoga County Court of Common Pleas; (9) In 2004, Respondent provided untruthful information to the Division regarding civil, administrative actions or orders that it was subject to as Respondent did not disclose it had been named as a defendant in Case No. CV-03-498611, in the Cuyahoga County Court of Common Pleas; (10) Respondent's consistent non-compliance with the Ohio Mortgage Broker Act shows Respondent's financial responsibility, experience, character and general fitness do not 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 the Ohio Mortgage Broker Act; (11) Respondent's actions, as committed by its officers, shareholders, employees, or itself, violated R.C. 1322.07(A), which prohibits a mortgage broker applicant from "mak[ing] any substantial misrepresentation in any registration or license application"; (12) Respondent's actions, as committed by its officers, shareholders, employees, or itself, violated R.C. 1322.07(B), which prohibits a mortgage broker applicant from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statements required by state law"; (13) Respondent's actions, as committed by its officers, shareholders, employees, or itself, violated R.C. 1322.07(C), which prohibits a mortgage broker applicant from "[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings"; and (14) Respondent does not meet the conditions for renewal, as set forth in R.C. 1322.04(B)(3).

Respondent requested an administrative hearing, which was held on January 10, 2007. Respondent appeared with counsel. A Report and Recommendation ("Report") was filed with the Division on April 24, 2007, recommending that the Division deny Respondent's Application. Timely objections were filed.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, the transcript of testimony and exhibits, Respondent's objections, as well as all applicable laws. (A copy of the Report is attached hereto).

The Division notes that Anthony C. Sava is the President of Respondent and testified at the hearing, not Anthony J. Sava, as found in the Report on page 2.

The Division disapproves paragraph 8 on page 10 of the Report.

The interpretation of R.C. 1322.07 in the Report is in error. R.C. 1322.07(A), (B), and (C) do not require a deliberative act for their violation. In contrast to 1322.07(E) and (F), which contain language of intent by use of the term “knowingly,” R.C. 1322.07(A), (B), and (C) do not employ such language. (See *Shehabi v. Ohio Dept. of Comm.* (Feb. 26, 2007), Trumbull C.P. No 2006 CV 1930, unreported).

The Division notes that the second sentence of **III. Recommendation** is stricken from the record as it does not apply to this case.

The Division adopts the recommendation found page 11 of the Report. Therefore, the Division denies the mortgage broker renewal application of Southeast Financial Services, Inc.

It is so ordered.

NOTICE OF APPELLATE RIGHTS

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 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 18th day of May 2007.

RICHARD F. KECK

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