

-STATE OF OHIO  
DEPARTMENT OF COMMERCE  
**DIVISION OF FINANCIAL INSTITUTIONS**  
77 South High Street, 21<sup>st</sup> Floor  
Columbus, Ohio 43215-6120

In the matter of:	)	
	)	<b>Case No. 04-0020MBD</b>
<b>DYNUS FINANCIAL GROUP LLC</b>	)	
4675 Cornell Road- Suite 190	)	<b>Notice of Intent to Assess Fine and</b>
Cincinnati, OH 45241	)	<b>Deny Renewal of Mortgage Broker</b>
	)	<b>Certificates of Registration &amp;</b>
	)	<b>Notice of Opportunity for a Hearing</b>
	)	

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**JURISDICTION**

The Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), is charged with the responsibility of enforcing the Ohio Mortgage Broker Act, codified in Ohio Revised Code ("R.C.") Chapter 1322, and the rules adopted thereunder.

**RESPONDENT**

Respondent Dynus Financial Group LLC ("Respondent") is an Ohio limited liability company that holds an active mortgage broker certificate of registration issued by the Division pursuant to R.C. 1322. The business address of record for Respondent is 4675 Cornell Road- Suite 190, Cincinnati, OH 45241 and operates under certificate of registration number MB 3934.

**NOTICE OF PROPOSED ACTION**

In accordance with R.C. 1322.04, and pursuant to R.C. Chapter 119, the Division intends to ASSESS A FINE and DENY RENEWAL of Respondent's mortgage broker certificate of registration.

**ALLEGATIONS**

Pursuant to R.C. 1322.10(B) and R.C. 1322.04(B), the Division conducted an investigation into the affairs of Respondent, and as a result thereof, alleges the following:

1. R.C. 1322.03(A)(3) requires a mortgage broker applicant to designate an operations manager.

2. R.C. 1322.03(A)(4) requires a mortgage broker applicant to provide evidence that its designated operations manager has at least three years experience in the mortgage and lending field.
3. R.C. 1322.01(H) defines “Operations Manager” as “the individual responsible for the everyday operations, compliance requirements, and management of a mortgage broker business.”
4. R.C. 1322.04(A)(9) requires that a mortgage broker applicant’s operations manager to have successfully completed the examination for operations managers as set forth in R.C. 1322.051.
5. If the person designated as operations manager according to R.C. 1322.03(A)(3) is no longer the operations manager, R.C. 1322.04(D)(1) requires the registrant to designate another person as the operations manager. Within ten days after the designation of the operations manager, the registrant is required by R.C. 1322.04(D)(2) to notify the Superintendent of Financial Institutions in writing of the designation.
6. R.C. 1322.04(B)(3) requires the Division to find that a mortgage broker renewal registrant applicant is in compliance with R.C. 1322.04(A)(2) to (10) as a condition for renewal of the mortgage broker’s certificate of registration.
7. R.C. 1322.04(D)(3) requires a registrant to submit any additional information that the Division requires to establish that a newly designated operations manager has the three years experience required by R.C. 1322.03(A)(4).
8. The Division was notified in May 2003 that Respondent would have a Change of Operations Manager effective August 1, 2003. Accordingly, the Division sent Respondent a Change of Operations Manager package on May 22, 2003.
9. On July 24, 2003, the Division, at the request of Respondent, sent the Respondent another Change in Operations Manager package.
10. On August 8, 2003, the Division received a Change of Operations Manager application from Respondent wherein Respondent designated Shelley Coffey as its Operations Manager. This submission by Respondent for a Change in Operations Manager was however incomplete and additional information was requested by the Division.
11. On October 2, 2003, Shelley Coffey advised the Division that she was withdrawing her application for Operations Manager of Dynus Financial Group LLC.
12. On November 2, 2003, the Division received a Change in Operations Manager application designating Paul Koester for the Operations Manager position of

Dynus Financial Group LLC. On November 4, 2003, the Division sent Respondent a letter advising it that Paul Koester was approved to take the Operations Manager test.

13. Notwithstanding the Division's approval, Paul Koester failed to take the Operations Manager exam when in the employ of Dynus Financial Group LLC. Therefore, Dynus Financial Group LLC continued to lack a qualified person in its Operations Manager position who has met all the requirements of an Operations Manager under the Ohio Mortgage Broker Act.
14. On or about January 6, 2004 the Division received another Operations Manager submission request from the Respondent designating Phillip Henderson as its Operations Manager. The Division upon review promptly notified Respondent that Phillip Henderson would not be approved for the Operations Manager position.
15. On January 12, 2004 the Division received from the Respondent another Change of Operations Manager application designating R. Edward Mitchell as Operations Manager.
16. In a letter dated March 12, 2004, the Division notified Respondent that the January 12, 2004 submission was incomplete and set forth the deficiencies. This letter stated that the requested information be submitted to the Division no later than March 31, 2004.
17. The Division received no response to this letter.
18. By not having an Operations Manager who has successfully completed the required examination in violation of R.C. 1322.04(A)(9), Respondent fails to meet the conditions of renewal under R.C. 1322.04(B).
19. Respondent has in violation of R.C. 1322.04(D)(3) failed to submit requested additional information to the Division to establish the experience requirements provided under the Mortgage Broker Act, and Respondent thereby fails to meet the conditions of renewal under R.C. 1322.04(B).
20. Respondent is in violation of R.C. 1322.04(A)(3) which requires a renewal applicant's operations manager to meet the experience requirements provided under the Mortgage Broker Act, and Respondent thereby fails to meet the conditions of renewal under R.C. 1322.04(B).
21. R.C. 1322.04(B) states as a condition of renewal the completion of at least six hours of continuing education by the Operations Manager during the immediately preceding calendar year as required by R.C. 1322.052.

22. During 2003, the Operations Manager of Respondent, Dynus Financial, failed to complete the requisite six hours of continuing education as set forth by R.C. 1322.052.
23. Respondent fails to meet the conditions of renewal under the terms of R.C. 1322.04(B)(2).
24. Respondent's failure to qualify a new designated operations manager within a reasonable amount of time since May 2003, or otherwise submit the materials necessary to qualify its designated operations manager in a timely manner, is an improper business practice and conduct in violation of R.C. 1322.07(C) and Respondent thereby fails to meet the conditions of renewal under R.C. 1322.04(B)(3) and R.C. 1322.04(A)(6).
25. Respondent completed its 2004 Mortgage Broker Renewal Application and on April 30, 2004 submitted the application to the Division. The application was signed by Orlando Carter, President, in front of a Notary Public.
26. The 2004 Mortgage Broker Renewal Application asks: "Does the registrant, owner, partner, shareholder, member, officer, director, operations manager have any unpaid civil judgment against him/her? If yes, a certified copy of the judgment entry and proof of payment history MUST be attached to this application or this application will not be processed."
27. Respondent responded "No" to the above question on the renewal application.
28. There exists a civil judgment, Case No. A0307854, in the Court of Common Pleas of Hamilton County against Respondent Dynus Financial Group LLC filed on April 6, 2004. Upon information and belief, this judgment is unpaid.
29. According to R.C. 1322.07(A), no mortgage broker, registrant, licensee or applicant for a certificate of registration or license under sections 1322.01 to 1322.12 of the Revised Code shall obtain a certificate of registration or license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application.
30. Respondent made a substantial misrepresentation on its 2004 Mortgage Broker Renewal Application by failing to disclose the above civil judgment against it.

### **FINDINGS**

Based upon the allegations above, the Division has determined the following:

1. Respondent Dynus Financial does not have an Operations Manager who has successfully completed the required examination in violation of R.C. 1322.04(A)(9).

2. Respondent has failed to submit the requested additional information to the Division to establish the experience of its designated operations manager in violation of R.C. 1322.04(D)(3).
3. Respondent is in violation of R.C. 1322.04(A)(3) which requires a renewal applicant's operations manager to meet the experience requirements provided under the Mortgage Broker Act as set forth in R.C. 1322.03(A)(4).
4. Respondent is in violation of the continuing education requirements set forth as a condition of renewal pursuant to R.C. 1322.04(B)(2).
5. Respondent failed to qualify a new designated operations manager within a reasonable time since March 2003 and otherwise failed to submit the materials necessary for the Division to qualify a new operations manager in a timely manner in violation of R.C. 1322.07(C).
6. Respondent violated R.C. 1322.07(A) through its failure to disclose an unpaid civil judgment and its false affirmative denial of such a judgment.
7. Respondent fails for the reasons set forth herein to meet the conditions for renewal as set forth in R.C. 1322.04(B).

### **PROPOSED ACTION**

Based upon the allegations and findings above, the Division intends to DENY THE RENEWAL of the Mortgage Broker Certificate of Registration MB 3934 for Dynus Financial Group LLC and LEVY A FINE in the amount of \$5,000.00 for the violation of R.C. 1322.04 and R.C. 1322.03(A)(3).

### **NOTICE OF OPPORTUNITY FOR A HEARING ON PROPOSED ACTION**

Therefore, pursuant to R.C. Chapters 1322 and 119, Respondents are hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to issue an ORDER DENYING THE RENEWAL of the mortgage broker certificate of registration MB 3934 for Dynus Financial Group LLC and to impose a FINE of \$5,000.00.

**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 to:**

**State of Ohio**  
**Department of Commerce**  
**Division of Financial Institutions**  
**Attn: Attorney Timothy C. Winslow**  
**77 South High Street, 21<sup>st</sup> Floor**  
**Columbus, Ohio 43215-6120**

**At the hearing, Respondent may appear in person, by Respondent's attorney, or by such other representative as is permitted to practice before the Agency, 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 DENYING THE RENEWAL of the mortgage broker certificate of registration MB 3934 for Dynus Financial Group LLC and assessing a FINE of \$5,000.00.

Signed and Sealed this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

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Robert M. Grieser  
Deputy Superintendent of Financial Institutions

Cc: Timothy C. Winslow, In House Counsel—Division of Financial Institutions  
Emily Smith, Asst. Attorney General, Business & Government Regulation

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