

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

In the matter of:)	Case No. M2008-530
)	
ROBERT E. PAYT)	ORDER OF SUMMARY SUSPENSION,
dba DIAL BANC)	NOTICE OF INTENT TO DENY RENEWAL
6160 Riverside Drive, Suite 105)	&
Dublin, OH 43017)	NOTICE OF HEARING

DIVISION ORDER

WHEREAS, 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 ("OMBA"), codified in Ohio Revised Code ("R.C.") Chapter 1322. In accordance therewith, the Division is accountable for the registration of residential mortgage brokers; and

WHEREAS, Robert E. Payt dba Dial Banc ("Respondent") is a sole proprietor that holds a certificate of registration to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent's business address of record is 6160 Riverside Drive, Suite 105, Dublin, Ohio 43017 and he conducts business under certificate of registration number MB.801561; and

WHEREAS, R.C. 1322.10(F)(1)(b) provides that the Division may, in the public interest, suspend, without a prior hearing, the certificate of registration of a mortgage broker registrant that fails to maintain its bond as required by R.C. 1322.05(A) and (F); and

WHEREAS, Respondent is without a bond in violation of R.C. 1322.05(A) and (F), and it is in the public interest to suspend Respondent's certificate of registration pursuant to its authority under R.C. 1322.10(F)(1)(b); and

Pursuant to R.C. 1322.10(F)(1)(b), mortgage broker certificate of registration number MB.801561 issued to Respondent is hereby SUSPENDED.

It is so ordered.

**NOTICE OF INTENT TO DENY MORTGAGE BROKER
CERTIFICATE OF REGISTRATION RENEWAL**

In accordance with section 1322.10 of the R.C., and R.C. Chapter 119, the Division intends to DENY Respondent's mortgage broker certificate of registration renewal application.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.10(B), and has found the following:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to revoke a mortgage broker certificate of registration if the Division finds that the registrant has violated "or fail[ed] to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted[.]"
- B. Respondent holds certificate of registration number MB.801561.
- C. R.C. 1322.05(A) provides: "No registrant shall conduct business in this state unless the registrant has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of at least fifty thousand dollars and an additional penal sum of ten thousand dollars for each location, in excess of one, at which the registrant conducts business."
- D. R.C. 1322.05(F) provides: "No registrant shall fail to comply with this section. Any registrant that fails to comply with this section shall cease all mortgage broker activity in this state until the registrant complies with this section."
- E. On June 5, 2008, the Division received notice of the cancellation of the bond (bond no. 0498012) issued by Insurance Partners Group Ltd. to cover Respondent's mortgage broker business as required by R.C. 1322.05. The effective date of the bond cancellation was June 15, 2008.
- F. Section 1301:8-7-06(H)(1) of the Ohio Administrative Code ("OAC") requires every mortgage broker registrant to maintain an alphabetical index of all buyers for whom the registrant has obtained mortgage loans, which lists the dates the loan obtained for the buyers, the amounts of the loans, the individual responsible for originating the loan, and the identity of the lenders that funded or purchased the loan.
- G. In a compliance examination conducted pursuant to R.C. 1322.06 on or about April 16 and 17, 2007, it was determined that Respondent was not maintaining the alphabetical index required by OAC 1301:8-7-06(H)(1).
- H. R.C. 1322.08(A) and OAC 1301:8-7-05 require every mortgage broker registrant to maintain a special account for deposit and payment of any bona fide third-party fees.
- I. In a compliance examination conducted pursuant to R.C. 1322.06 on or about April 16 and 17, 2007, it was determined that Respondent was not maintaining the special account required by R.C. 1322.08(A) and OAC 1301:8-7-05.
- J. R.C. 1322.071(B)(2) prohibits a mortgage broker registrant from receiving, directly or indirectly, a premium on the fees charged for services performed by a bona fide third party.

- K. In a compliance examination conducted pursuant to R.C. 1322.06 on April 16 and 17, 2007, it was determined that Respondent received a \$25.00 premium on a fee charged for services performed by a bona fide, third party appraiser in violation of R.C. 1322.071(B)(2).
- L. R.C. 1322.072 prohibits a mortgage broker registrant from knowingly failing to cooperate with an investigation.
- M. On February 5, 2008, the Division issued a compliance examination letter to Respondent at Respondent's address of record outlining the issues uncovered in the April 16-17, 2007 compliance examination and requesting a written response within thirty days. Respondent failed to respond to the Division's February 5, 2008 letter, which was not returned by the U.S. Postal Service to the Division. On April 24, 2008, the Division issued a second compliance examination letter by certified mail to Respondent at Respondent's address of record outlining the issues uncovered in the April 16-17, 2007 compliance examination and requesting a written response within thirty days. Respondent failed to claim the letter which was returned to the Division by the U.S. Postal Service marked "Unclaimed." Respondent's failure to accept and respond to the compliance examination letters issued by the Division is a violation of R.C. 1322.072.
- N. Because Respondent failed to comply with R.C. 1322.05, OAC 1301:8-7-06(H)(1), R.C. 1322.08(A), OAC 1301:8-7-05, R.C. 1322.071(B)(2), and R.C. 1322.072, the Division is authorized under R.C. 1322.10(A)(1)(a) to deny the renewal of Respondent's mortgage broker certificate of registration.

NOTICE OF HEARING

Therefore, pursuant to R.C. 1322.10(F)(4), R.C. Chapter 119 and Section 1301:8-7-27 of the Ohio Administrative Code, Respondent is hereby notified that a hearing shall be held on **Thursday, September 4, 2008** on the continuation or termination of the suspension imposed herein and on the Notice of Intent to Deny your mortgage broker certificate of registration renewal. Said hearing will be held in the **West Conference Room located on the 23rd Floor of the Vern Riffe Center for Government and the Arts, 77 South High Street in Columbus.**

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. At the hearing, a corporation must have a representative that is permitted to practice before the Agency, such as an attorney.

Signed and sealed this 6th day of August, 2008.

LEIGH A. WILLIS

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