

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

In the matter of:

PHOENIX FUNDING, INC.
106 West Ash Street
Suite 303
Piqua, Ohio 45356

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) Case No. 03-MB-R-03-33

) **ORDER OF REVOCATION & FINE**
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WHEREAS, 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

WHEREAS, Phoenix Funding, Inc. ("Respondent") is an Ohio corporation registered with the Division as a mortgage broker pursuant to R.C. Chapter 1322. The business address of record for Respondent's main office is 106 W. Ash Street, Suite 303, Piqua, Ohio 45356, which office operates under the registration number MB 2244. Said registrant also holds a license to operate a branch office at 21 Perry Street, Vandalia, Ohio 45377, under the registration number MB 2462.

WHEREAS, on February 24, 2003, the Division made service upon Respondent by U.S. certified mail as shown by return receipt of its Notice of Intent to Assess Fine and Revoke Mortgage Broker Certificates of Registration & Notice of Opportunity for a Hearing ("the Notice") to Phoenix Funding, Inc.; and

WHEREAS, the Notice contained allegations and findings that:

(A) Mark Musselman is the President and Operations Manager of Respondent Phoenix Funding, Inc. Notwithstanding the Divisions' prior notice by fax on December 30, 2002 of a pending scheduled examination of Respondent for January 21 and 22, 2003, the examination was unable to be undertaken, as the offices were closed and no longer being used by Respondent. Repeated calls during January 2003 by the Division seeking Mark Musselman in connection with the scheduled examination went unanswered or unreturned. Respondent as a mortgage broker has a duty to maintain its records for a period of four years in accordance with R.C. § 1322.06, and such records are subject to examination upon demand of the Division.

(B) Sometime during late August 2002, Respondent moved its Vandalia branch office from its licensed location at 21 Perry Street, Vandalia, Ohio 45377 to 303 Corporate

Center, Vandalia, Ohio 45377. This relocation was not reported or noticed to the Division as required by O.A.C. §1301:8-7-03(C).

(C) Respondent is required by law to maintain an office in Ohio in order to conduct a mortgage broker business per R.C. 1322.02(A)(1). Respondent has closed its offices in Ohio and the Division has determined that Respondent no longer operates an Ohio office as required by R.C. 1322.02(A)(1).

WHEREAS, Phoenix Finding, Inc. failed to respond and request a hearing in writing to the Division within thirty (30) days of its receipt of the above-referenced Notice of Opportunity for a Hearing in this matter as required by the notice provided pursuant to R.C. Chapter 119.

WHEREAS, in determining the fine set forth herein consideration was given to the seriousness of the violations; the registrant's good faith efforts to prevent the violation; the registrant's history of violations and compliance; and the Respondent's financial resources, as well as other relevant factors.

NOW THEREFORE, the Division adopts the facts set forth in the allegations as true, and finds and holds that the acts set forth therein establish that Respondent has knowingly failed to cooperate with an examination in violation of R.C. 1322.072(A).

It is hereby ORDERED and DECREED that:

- A. Phoenix Finding, Inc. failed to maintain the records of its transactions in a manner permitting examination in violation of R.C. 1322.06.
- B. Phoenix Finding, Inc. failed to provide prior notice of the relocation of its branch office location in violation of O.A.C. §1301:8-7-03(C).
- C. Phoenix Finding, Inc. has failed to maintain an office in Ohio in violation of R.C. 1322.02(A)(1).
- D. Phoenix Finding, Inc. has knowingly failed to cooperate with an examination in violation of R.C. 1322.072(A).
- E. Phoenix Finding, Inc. be and is hereby assessed a fine of \$10,000 pursuant to R.C. 1322.10(A)(2). Such fine shall be due and owing upon the entry of this Order and shall be made payable to the Ohio Superintendent of Financial Institutions for deposit in accordance with R.C. 1322.21.

- F. Phoenix Finding, Inc.'s mortgage broker certificates of registration, MB 2244 and MB 2462 be and are hereby revoked, which revocation is immediate and effective upon execution by the Superintendent of the Division of Financial Institutions of this Order, and on such date it will become a final order.

IT IS SO ORDERED

The signature has been removed for
security purposes

F. Scott O'Donnell
Superintendent of Financial Institutions

3-28-03

Date

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