

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

In the matter of: ) Case No. M2009-1177  
)  
ELYHUE E. DUFF ) Notice of Intent to Refuse Issuance of Loan Officer License  
1723 Van Lynn Road ) &  
Akron, OH 44306 ) Notice of Opportunity for a Hearing  
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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 administering and enforcing the Ohio Mortgage Broker Act, codified in Ohio Revised Code ("R.C.") Chapter 1322. In accordance therewith, the Division is accountable for the licensing of individuals as residential mortgage loan officers.

**RESPONDENT**

ELYHUE E. DUFF ("Respondent") has applied to the Division for a loan officer license. His address of record is 1723 Van Lynn Road, Akron, Ohio 44306, and his date of birth is January 21, 1936. Respondent's employer of record is CMCO Mortgage, LLC, 7851 Freeway Circle, Middleburg Heights, Ohio 44130.

**NOTICE OF PROPOSED ACTION**

In accordance with sections 1322.041 and 1322.10 of the R.C., and R.C. Chapter 119, the Division intends to REFUSE to issue Respondent a loan officer license.

**BASIS FOR PROPOSED ACTION**

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.031(B), and has found the following:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to issue a loan officer license if the Division finds that the applicant has violated "or failed to comply with any provisions 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 under a certificate of registration or license."
- B. R.C. 1322.041(A) as effective in December 2009, provided that a loan officer license shall be issued if the applicant meets the conditions of R.C. 1322.041(A)(1) to (6).
- C. R.C. 1322.041(A)(2) provides that a loan officer license shall be issued if the applicant is in compliance with Chapter 1322.
- D. R.C. 1322.041(A)(6) as effective in December 2009, provided that a loan officer license shall be issued if the applicant's 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.

- E. R.C. 1322.07(A) prohibits an applicant from obtaining a “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.”
- F. On or about January 20, 1998, in Case No. 040997-1, the Ohio Division of Real Estate and Professional Licensing issued an Order suspending Respondent’s real estate license for one year and imposing a one thousand dollar (\$1,000.00) fine for committing criminal acts while acting in his capacity as a representative sales associate.
- G. On or about December 21, 1998, in Case No. 250298-1, the Ohio Division of Real Estate and Professional Licensing issued an Order revoking Respondent’s real estate license for engaging in conduct requiring a real estate license while his license was under suspension.
- H. On or about August 9, 2006, in Case No. 2004-000600, the Ohio Division of Real Estate and Professional Licensing issued an Order fining Respondent one thousand dollars (\$1,000.00) for engaging in conduct requiring a real estate license without a license.
- I. On or about December 1, 2009, Respondent submitted an application for a loan officer license pursuant to R.C. Chapter 1322.
- J. Loan officer application Question Number Eight (8) asked “Have you ever had any type of approval or application to conduct business (such as a license or certificate or authority) denied, revoked, suspended, or refused to be renewed; or have you ever been fined by any state or federal regulatory authority or court in relation to any claim of misconduct in a business transaction?” Respondent answered “No,” failing to disclose the fine imposed, the suspension and revocation of his real estate license. Therefore, Respondent made a false or fraudulent representation of a material fact or an omission of a material fact required by state law, or making a substantial misrepresentation in a license application in violation of R.C. 1322.07(A).

As a result of the findings listed above, the Division has determined that:

- 1. Respondent’s actions, as listed above, show Respondent’s 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 as required for issuance of a loan officer license pursuant to R.C. 1322.041(A) as effective in December 2009.
- 2. Because Respondent does not meet the character and fitness requirement, the Division is authorized to refuse issuance of a loan officer license pursuant to R.C. 1322.041(A).
- 3. Respondent failed to disclose the fine imposed against and the suspension and revocation of his real estate licensee on his loan officer license application in violation of R.C. 1322.07(A).
- 4. Because Respondent violated with R.C. 1322.07(A), the Division has the authority to refuse to issue Respondent a loan officer license.
- 5. Because Respondent violated R.C. 1322.07(A), Respondent is not in compliance with Chapter 1322 and the Division has the authority to refuse to issue Respondent a loan officer license.

6. Because Respondent does not meet the requirements of R.C. 1322.041(A) and violated R.C. 1322.07(A), pursuant to R.C. 1322.10(A)(1)(a) the Division has to authority to refuse to issue Respondent a loan officer license.

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

Therefore, pursuant to R.C. Chapters 1322 and 119, Respondent is hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to issue an order refusing to issue Respondent a loan officer license under the Ohio Mortgage Broker Act.

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: Ohio Division of Financial Institutions, Attn: Lori A. Massey, Consumer Finance Attorney, 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 refusing to issue Respondent a loan officer license.

Signed and sealed this 14<sup>th</sup> day of April, 2010.

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**LEIGH A. WILLIS**

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