

Ted Strickland
Governor

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

Kimberly A. Zurz
Director
DIVISION OF FINANCIAL
INSTITUTIONS
2007 JUL 16 AM 11:14

In the matter of:)	Case No. M2006-9992831
ACE FUNDING, INC.)	
27801 Euclid Avenue # 560)	<u>DIVISION ORDER</u>
Euclid, OH 44132)	Denial of Mortgage Broker
)	Certificate of Registration Application &
)	Notice of Appellate Rights

Respondent, Ace Funding, Inc. ("Respondent") has applied to the Division of Financial Institutions ("Division") for a mortgage broker certificate of registration under R.C. 1322. On June 7, 2006 the Division notified Respondent that it intended to deny its application for a mortgage broker certificate of registration. Ace Home Loan, Inc., a company with the same owner, sole shareholder, and Operations Manager as Respondent, and held a mortgage broker certificate of registration under R.C. 1322, inaccurately answered its 2004, 2005, and 2006 mortgage broker certificate of registration renewal applications. The Division alleged that the actions of Respondent Ace Funding Inc.'s owner and President Neal Wolf in: (i) failing to give the Division notice pursuant to R.C. 1322.05(B)(1) of actions brought under the Ohio Mortgage Broker Act by buyers against Ace Home Loan, Inc.; and in (ii) wrongfully denying in Ace Home Loan, Inc.'s 2004, 2005, and 2006 renewal applications that Ace Home Loan, Inc. or any owner, thereof had been named in any civil action that involved consumer or real estate lending or brokering- caused the Division to believe that Respondent's character and general fitness do not command the confidence of the public and do not warrant the belief that its business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act as required by R.C. 1322.04(A)(10).

Pursuant to R.C. 1322.10(A)(1)(a), the Superintendent of Financial Institutions may refuse to issue a certificate of registration if the superintendent finds a violation of or failure 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 under a certificate of registration.

Respondent requested an administrative hearing regarding the denial of renewal of its certificate of registration, and a hearing was held on October 24, 2006¹. A Report and Recommendation ("Report") was filed with the Division on March 30, 2007, recommending that the Division deny the issuance of a certificate of registration to Ace Funding, Inc.² No 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, as well as all applicable laws. As a result, the Division makes the following findings and conclusions. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (The Hearing Examiner's Report is attached).

In the Report and Recommendation, the name of the Ace Home Loan, Inc. is inaccurately referred to as "Ace Home Loans, Inc." Accordingly, the report is hereby amended to reflect the accurate name of Ace Home Loan, Inc.

The Division modifies the date of the hearing in the Findings of Fact, Jurisdiction and Procedural History section of the Report and Recommendation, in the first sentence of the fourth paragraph in that section to October 24, 2006.

The Division modifies I. Findings of Fact B. Mortgage Broker Certificate of Registration paragraph 5 to substitute "filed" for "fined." The Division modifies I. Findings of Fact B. Mortgage Broker Certificate of Registration paragraph 9 to substitute "breach" for "bread." The Division notes that "fined" and "bread" were used in error and the substituted words reflect the hearing officer's intent.

The Division disapproves Paragraph 5 in the II. Conclusions of Law, B. Mortgage Broker Certificate of Registration section. The interpretation of R.C. 1322.07 in the Report is in error. (Report, Paragraph 5 of the Conclusions of Law, Mortgage Broker Certificate of Registration). R.C. 1322.07(A), (B), and (C) do not require a deliberative act for their violation. In contrast to

¹ The hearing was combined with one on the Division's proposed denial of Ace Home Loan, Inc.'s renewal application for a mortgage broker certificate of registration. Ace Home Loan, Inc. is a company for whom Neal Wolf, the owner, sole shareholder, and proposed Operations Manager of Ace Funding, Inc. was also the owner, sole shareholder and Operations Manager. See *In re Ace Home Loan, Inc.*, Case no. M2006-2830.

² The Report and Recommendation also dealt with the Division's action against Ace Home Loan, Inc. Case no. M2006-2830. A separate order of the Division addresses the Report as to the denial of the company's renewal application for a mortgage broker certificate of registration.

1322.07(E) and (F), which use the term “knowingly,” R.C. 1322.07(A), (B), and (C) do not employ such language. Accordingly, an applicant that fails to carefully read and answer each question in a loan officer application, swears to its veracity, and then files such application with the Division creates a prima facie violation of R.C. 1322.07(A), (B), and (C) when such answers are patently untrue. A claim that the false statements were the result of error is one for which the burden is placed upon the Respondent to show. It is not the Division’s burden to prove intent. Respondent has not carried the burden. Therefore, the Division finds that Ace Home Loan, Inc. through the actions of its owner and Operations Manager Neal Wolf violated R.C. 1322.07(A), (B), and (C) in its 2004, 2005, and 2006 mortgage broker certificate of registration renewal applications.

The Division disapproves any assertion or inference in Paragraph 6 in the II. Conclusions of Law, B. Mortgage Broker Certificate of Registration section that intention is a necessary element for the Division to prove for a violation of R.C. 1322.07(A), (B), and/or (C).

Lastly, the Division approves the hearing officer’s recommendation that Respondent’s application for a certificate of registration be denied. The Division finds that Ace Home Loan, Inc. through the actions of its owner and Operations Manager Neal Wolf violated R.C. 1322.07(A), (B), and (C), R.C. 1322.051(B)(1), R.C. 1322.031(E)(2). Ace Home Loan, Inc.’s violations through the actions of Neal Wolf, the owner of Ace Home Loan, Inc. and Ace Funding, Inc. as well as Mr. Wolf’s carelessness when completing the renewal applications on behalf of Ace Home Loan, Inc. demonstrates that Ace Funding, Inc. fails to have the general fitness to command the confidence of the public and does not warrant the belief that its business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act as required by R.C. 1322.04(A). Respondent fails to meet the conditions for a certificate of registration under R.C. 1322.04(A).

For the reasons stated above, the Division hereby denies the application for a certificate of registration of Ace Funding, Inc.

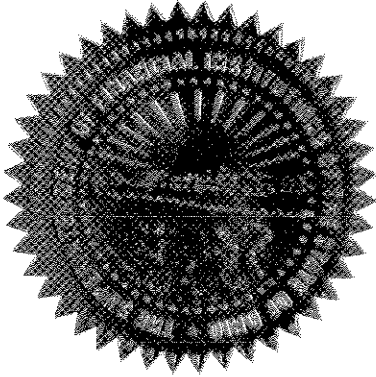
It is so ordered.

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, pursuant to R.C. 119.12, 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 13TH day of JULY 2007



Richard F. Keck
RICHARD F. KECK
Acting Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce