

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

In the matter of:	)	Case No. M2007-699
	)	
<b>MIDWEST FINANCIAL BANC, INC.</b>	)	<b>Notice of Intent to Deny Mortgage Broker Renewal Application</b>
2730 Observatory Avenue – 2 <sup>nd</sup> Floor	)	&
Cincinnati, Ohio 45208	)	<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 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 registration of mortgage brokers.

**RESPONDENT**

**MIDWEST FINANCIAL BANC, INC.** (“Respondent”) is a company that held a certificate of registration to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent’s mortgage broker certificate of registration expired on April 30, 2007, and Respondent filed an application to renew its certificate of registration. The renewal application remains pending. Respondent’s business address of record is 2730 Observatory Avenue – 2<sup>nd</sup> Floor, Cincinnati, Ohio 45208.

**NOTICE OF PROPOSED ACTION**

In accordance with sections 1322.04 and 1322.10 of the R.C., and R.C. Chapter 119, the Division intends to DENY Respondent’s 2007 renewal application for a mortgage broker certificate of registration.

**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 refuse to renew an applicant’s mortgage broker certificate of registration if the Division finds that the applicant has violated “or failed 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[.]”
- B. R.C. 1322.03(A)(3) requires a mortgage broker applicant that is a corporation to designate an operations manager.
- C. If the person designated as the operations manager pursuant to R.C. 1322.03 is no longer operations manager, the mortgage broker registrant must designate another person as the operations manager and, within ten days thereof, notify the division in writing of the designation. See R.C. 1322.04(D). Pursuant to 1301:8-7-12(I) of the Ohio Administrative Code, “if the individual designated as the operations manager ceases to act as operations manager for any reason... the registrant shall (1) within thirty days designate another individual as the operations manager.”

- D. R.C. 1322.04(B)(3) lists as a condition for renewal of a certificate of registration that the applicant meets R.C. 1322.04(A)(9), the applicant's operations manager successfully completed the examination required under division (A) of section 1322.051 of the Revised Code.
- E. 1301:8-7-12(E)(4)(b) of the Ohio Administrative Code states: "If the individual fails to successfully complete the examination within ninety days of being notified by the superintendent that he or she has been approved to sit for the examination, the superintendent may consider the pending application for a mortgage broker certificate of registration that is dependent on the operations manager's approval withdrawn, or the superintendent may suspend the registrant's mortgage broker certificate of registration until an individual is approved. If a registrant is unable to designate an individual who meets the approval of the superintendent within one hundred eighty days of termination date of the individual last approved as the registrant's operations manager, the superintendent may revoke the registrant's certificate of registration for operating without an approved operations manager."
- F. On June 11, 2007, the Division mailed a letter to Respondent indicating that its renewal application was incomplete in part because its operations manager had not submitted the required loan officer renewal application.
- G. On July 18, 2007, the Division sent a letter to Respondent stating that the Division was unable to approve Tracy Sturgill as the new operations manager because she did not meet the experience requirements.
- H. On October 1, 2007, the Division sent a letter to Respondent stating that the Division was unable to approve Pamela Grooms as the new operations manager because she did not meet the experience requirements.
- I. On November 19, 2007, the Division received a letter from Respondent requesting to change its operations manager to James R. Mahone.
- J. On March 20, 2008, the Division received an e-mail from James R. Mahone stating that he wished to withdraw his application for operations manager.
- K. As of March 26, 2008, Respondent had not provided the Division with written notification of a newly designated operations manager, as mandated by R.C. 1322.04(D) and 1301:8-7-12(I)(1) of the Ohio Administrative Code.
- L. Since on or about May 1, 2007, Respondent has been operating as a mortgage broker registrant without an approved operations manager.

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

- 1. Because Respondent failed to have an approved Operations Manager within 180 days of the termination date of its last Operations Manager, the Division finds 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, thereby failing to meet the prerequisite for certificate of registration renewal found in R.C. 1322.04(B)(3). See R.C. 1322.04(A)(3)(9) & (10) and 1301:8-7-12(E)(4)(b) of the Ohio Administrative Code.

2. 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)(3).

**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 denying Respondent's renewal application 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: Stephen DeFrank, Consumer Finance Attorney Examiner, 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. At the hearing, a corporation must have a representative that is permitted to practice before the Agency, such as an attorney.

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 Respondent's renewal application.

Signed and sealed this 8<sup>th</sup> day of April, 2008.

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**LEIGH A. WILLIS**

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