

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

In the matter of:)	
)	Case No. 04-0386LOD
STEPHEN S. WALBURN)	
1001 Tall Tree Ct.)	Notice of Intent to Deny
Westerville, OH 43081)	Loan Officer License &
)	Notice of Opportunity for a Hearing
)	

JURISDICTION

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 the rules adopted thereunder.

RESPONDENT

Respondent Stephen S. Walburn ("Respondent") was the designated and authorized operations manager (OM# 006608) of Ameribanc Mortgage Lending, Inc., 100 Dorchester Square, Suite 102, Westerville, OH 43081, a mortgage broker certified by the Division pursuant to R.C. 1322. Respondent submitted an application to become a loan officer on February 24, 2004 with American Equity Home Loans, LLC, a mortgage broker having its main office at 2355 Derr Road, Springfield, OH 45503, which holds the certificate of registration number MB 2216. Respondent's home address of record is 1001 Tall Tree Ct., Westerville, Ohio 43081.

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1322.041 and 1322.10, and pursuant to R.C. Chapter 119, the Division intends to DENY Respondent's application for a loan officer license.

ALLEGATIONS

Pursuant to R.C. 1322.031(B) and 1322.10(B), the Division conducted an investigation of the Respondent and the mortgage broker businesses to which he was associated, and as a result thereof, alleges the following:

1. For over six years up until January 2004 Respondent worked for Ameribanc Mortgage, Inc.

2. Ameribanc Mortgage, Inc. was a mortgage broker company controlled by a Michael A. Davis, which held a certificate of registration number MB 1479 and last operated at 750 Brooksedge Blvd., Westerville, Ohio 43081.
3. Respondent was the Vice-President of Operations for Ameribanc Mortgage, Inc. and throughout 2003 maintained his office and regular place of business at 750 Brooksedge Blvd., Westerville, Ohio 43081.
4. Respondent was also at the same time after April 4, 2003, the President of Ameribanc Mortgage Lending, Inc. and its registered Operations Manager, which business held a separate certificate of registration, MB 4737, and was represented to the Division as being at 100 Dorchester Square, Suite 102, Westerville, OH 43081.
5. A receiver was appointed by the Franklin County Court of Common Pleas in January 2004 over both Ameribanc Mortgage, Inc. and Ameribanc Mortgage Lending, Inc. as a result of a lawsuit over the non-payment of some \$5 million dollars that should have been disbursed to payoff consumer mortgages in refinancing transactions involving Ameribanc Mortgage, Inc.
6. As a result of this misappropriation of monies, the Division filed to revoke the mortgage broker certificate of registration of Ameribanc Mortgage, Inc. on February 3, 2004 and subsequently by Order the Division revoked its certificate MB 1479 on March 8, 2004.
7. Despite becoming the Operations Manager of Ameribanc Mortgage Lending, Inc. in April 2003 the Respondent continued to broker loans on behalf of Ameribanc Mortgage, Inc. in violation of R.C. 1322.03(A)(3) and 1322.02(B).
8. Despite the fact that Ameribanc Mortgage, Inc. had no authorization from the Division to use 100 Dorchester Square, Suite 102, Westerville, OH 43081 as a branch office as required by R.C. 1322.02(A)(2), a loan officer employed by Ameribanc Mortgage, Inc. maintained an office and brokered loans throughout 2003 from that location.
9. Despite being both the Vice President of Operations for Ameribanc Mortgage, Inc. and the Operations Manager for Ameribanc Mortgage Lending, Inc. responsible for said latter registrant's compliance, and despite being aware that Ameribanc Mortgage, Inc. was using the 100 Dorchester Square, Suite 102, Westerville, Ohio office to broker loans, Respondent never reported this unlawful branch office to the Division or took any action to cease this violation of R.C. 1322.02(A)(2).

10. Respondent was aware Buckeye Land Title Agency, Inc. was controlled by Michael Davis and had an affiliated business relationship with Ameribanc Mortgage, Inc., but Respondent failed to disclose this relationship to the borrowers for whom he arranged loans as required by 24 CFR § 3500.15(b) in violation of 12 U.S.C. § 2607. Such failure to disclose an affiliated business relationship also constitutes a violation of R.C. 1322.07(C).
11. Respondent was aware of problems in the prompt payment and handling of escrow payments encountered in using Buckeye Land Title Agency, Inc. by October 2003, yet Respondent placed at least eleven consumer loans in November and December 2003 with said title agency, which eleven consumers were left with unpaid first mortgages notwithstanding the distribution of monies to the title company by the refinancing lender. Given Respondent's knowledge of the title's company's past problems in making timely payoffs, such placements were improper in violation of R.C. 1322.07(C).
12. Under R.C. 1322.041(A)(2), the superintendent of the Division may deny a license 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.
13. Under R.C. 1322.041(A)(5), the superintendent of the Division may deny a license if the superintendent finds that the applicant's character and general fitness cannot command the confidence of the public so as to warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of 1322.01 to 1322.12 of the Revised Code.

FINDINGS

Based upon the facts set forth in the allegations above, the Division has determined the following:

1. Respondent brokered loans on behalf of Ameribanc Mortgage, Inc. and remained in the employment of Ameribanc Mortgage, Inc. after being designated the Operations Manager for Ameribanc Mortgage Lending, Inc. in violation of R.C. 1322.03(A)(3) and 1322.02(B).
2. Respondent failed to disclose to buyers the affiliated business relationship between Ameribanc Mortgage, Inc. and Buckeye Land Title Agency, Inc. as required by 24 CFR § 3500.15(b) and 12 U.S.C. § 2607, and such failure constitutes improper, fraudulent, or dishonest dealings in violation of R.C. 1322.07(C).

3. Respondent continued to place buyers with Buckeye Land Title Agency, Inc. despite past knowledge of problems with procuring timely payoffs from said title company. As an operations manager, Respondent knew or should have known, that the title company's payment problems presented an unacceptable risk to the buyers, and that such conduct under the circumstances constitutes improper dealings in violation of R.C. 1322.07(C).
4. By Respondent's violations of R.C. 1322.01 to 1322.12 as set forth above, the Division fails to find Respondent's loan officer application comports with the requirement of R.C. 1322.041(A)(2).
5. Respondent's violations of R.C. 1322.01 to 1322.12 as set forth above, along with the failure of the Respondent to report or take action to cease Ameribanc Mortgage, Inc.'s improper branch activities at 100 Dorchester Square, Suite 102, Westerville, Ohio, has caused the Division to find that the applicant's character and general fitness cannot command the confidence of the public so as to 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 by R.C. 1322.041(A)(5).
6. Denial of Respondent's loan officer application due to the violations of law set forth above is further permitted and proper pursuant to R.C. 1322.10(A)(1)(a).

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 the loan officer license of Stephen S. Walburn.

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 to:

**State of Ohio
Department of Commerce
Division of Financial Institutions
Attn: Attorney Timothy C. Winslow
77 South High Street, 21st 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 DENYING the loan officer license application of Stephen S. Walburn.

Signed and Sealed this 20th day of May, 2004.

Robert M. Grieser
Deputy Superintendent of Financial Institutions

cc: Timothy C. Winslow, In House Counsel—Division of Financial Institutions
Paula Paoletti, Asst. Attorney General, Business & Government Regulation

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