

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

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DIVISION OF FINANCIAL
INSTITUTIONS

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IN RE:	:	CASE NO. M2010-497
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	:	
STAR POINT MORTGAGE, INC.,	:	
	:	
RESPONDENT	:	DELORES EVANS
	:	HEARING OFFICER
	:	

**ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
Issued August 10, 2010**

I. FINDINGS OF FACT

A. Background

This matter came before Delores Evans, an attorney licensed to practice law in Ohio and duly appointed by the Ohio Department of Commerce, Ohio Division of Financial Institutions ("Division") to serve as the Hearing Officer for this matter in accordance with Ohio Revised Code ("R.C.") Chapter 119. A hearing was held on July 19, 2010, at 77 South High Street, 21st Floor, in Columbus, Ohio to consider the allegations contained in the Order of Summary Suspension, Notice of Intent to Refuse Renewal, and Notice of Hearing ("NOH").

The Division alleged that Star Point Mortgage, Inc. ("Respondent") failed to maintain the required surety bond in violation of R.C. §1322.05(A) and (F). In the NOH, the Division suspended Respondent's 2009 mortgage broker certificates of registration. The Division also seeks to continue the suspension of Respondent's 2009 mortgage broker certificates of registration and deny Respondent's 2010 mortgage broker certificate of registration renewal application ("renewal application").

Janyce Katz, Esq., an Assistant Attorney General with the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division at the hearing. Lori Massey, Esq., testified on behalf of the Division. No representative appeared at the hearing on Respondent's behalf. State's Exhibits A, B, C, D, E, and G were introduced and the Hearing Officer admitted them into the record.¹ The Hearing Officer closed the record at the conclusion of the hearing on July 19, 2010.

¹ The Division did not introduce an Exhibit F.

B. Jurisdictional and Procedural Matters

1. On June 23, 2010, the Division issued the NOH. The NOH indicated that the Division scheduled a hearing for the matter on July 19, 2010. The Division sent the NOH to Respondent by certified mail, return receipt requested. Service was perfected on June 24, 2010. *State's Exhibit A; State's Exhibit B*
2. On July 19, 2010, the hearing commenced with only the Division in attendance. Respondent did not contact the Hearing Officer, the Attorney General's Office, or the Division about the case.

C. Respondent's Activities

3. Lori Massey, an attorney examiner with the Division, monitors mortgage brokers to verify their compliance with R.C. Chapter 1322. Ms. Massey was assigned to review Respondent's mortgage broker file. *Testimony of Ms. Massey*
4. Between May 1, 2009 and April 30, 2010, Respondent, an Ohio registered corporation, held three mortgage broker certificates of registration pursuant to R.C. Chapter 1322. Respondent held one certificate of registration for its main office and two additional certificates of registration for each branch office. *State's Exhibit A; State's Exhibit C; Testimony of Ms. Massey*
5. On May 10, 2010, Respondent paid a \$500.00 fee to the Division to renew its mortgage broker certificates of registration. *Testimony of Ms. Massey; State's Exhibit G*
6. Although Respondent's 2009 certificates of registration expired on April 30, 2010, the certificates of registration remained active allowing Respondent to practice because Respondent filed a renewal application. The Division desires to prevent Respondent from operating as a mortgage broker until its surety bond is properly reinstated. *Testimony of Ms. Massey*
7. Respondent is required to maintain a surety bond pursuant to R.C. §1322.05. A surety bond protects Ohio consumers in the event of a mistake or wrong-doing connected to a mortgage transaction. *Testimony of Ms. Massey*
8. On May 18, 2010, Hartford Fire Insurance Company ("Hartford") sent a letter to the Division informing it that Respondent's surety bond would be cancelled effective June 28, 2010. Hartford sent a carbon copy of the letter to Respondent. *State's Exhibit D; Testimony of Ms. Massey*
9. On May 26, 2010, the Division sent a letter to Hartford indicating that it had received a Notice of Cancellation of Bond letter concerning Respondent's surety bond. *State's Exhibit E; Testimony of Ms. Massey*

10. On June 23, 2010, the Division suspended Respondent's mortgage broker certificates of registration for failing to maintain a surety bond. *State's Exhibit 1*
11. As of the date of the hearing, the Division had not received any response from Respondent concerning the status of Respondent's surety bond. *Testimony of Ms. Massey*
12. The Hearing Officer finds that Respondent has not maintained a surety bond since June 28, 2010.

II. CONCLUSIONS OF LAW

13. The Division has procedurally complied with R.C. Chapter 119 and jurisdiction over this matter has been established.
14. The Division is responsible for the licensing, regulation, and enforcement of the Ohio Mortgage Broker Act, R.C. Chapter 1322.
15. At all times relevant to this matter, Respondent held mortgage broker certificates of registration and was subject to the laws in R.C. Chapter 1322 and the rules promulgated pursuant to that Chapter.
16. Administrative agencies have a duty to base their conclusions on competent evidence. *State ex rel. Chrysler Plastic Products Corp. v. Industrial Comm. (1987), 39 Ohio App.3d 15*
17. Pursuant to R.C. §119.12, in an administrative appeal, the trial court reviews administrative orders to determine whether they are supported by reliable, probative, and substantial evidence and are in accordance with law. *Huffman v. Hair Surgeon, Inc. (1985), 19 Ohio St. 3d 83, 87.*
18. Reliable evidence is dependable and trustworthy. Probative evidence tends to prove the issue in question. Substantial evidence has weight, importance, and value. *Our Place Inc. v. Ohio Liquor Control Comm. (1992), 63 Ohio St.3d 570, 571.*
19. R.C. §1322.05(A)(1) and (F) state that:

 (A)(1) No registrant shall conduct business in this state, unless the registrant has obtained and maintains in effect at all times a corporate surety bond issued by a bonding company or insurance company authorized to do business in this state. The bond shall be in favor of the superintendent of financial institutions and in the penal sum of at least fifty thousand dollars and an additional penal sum of ten thousand dollars for each location, in excess of one, at

which the registrant conducts business. The term of the bond shall coincide with the term of registration. A copy of the bond shall be filed with the superintendent. The bond shall be for the exclusive benefit of any buyer injured by a violation by an employee, licensee, or registrant of any provision of sections 1322.01 to 1322.12 of the Revised Code. The aggregate liability of the corporate surety for any and all breaches of the conditions of the bond shall not exceed the penal sum of the bond.

* * * * *


(F) No registrant or licensee employed by or associated with a person or entity listed in division (G)(2) of section 1322.01 of the Revised Code shall fail to comply with this section. Any registrant or licensee that fails to comply with this section shall cease all mortgage broker or loan originator activity in this state until the registrant or licensee complies with this section.

20. The Hearing Officer concludes that Respondent failed to maintain a surety bond since June 28, 2010, which is a violation of R.C. §1322.05(A) and (F). The Division met its burden of proof for suspending Respondent's 2009 mortgage broker certificates of registration and for denying Respondent's 2010 renewal application.

III. RECOMMENDATION

Based upon the evidence submitted into the record for this case, the Hearing Officer respectfully recommends that the Division continue the suspension of Respondent's 2009 certificates of registration and deny Respondent's 2010 renewal application until Respondent has met all of the Division's requirements for reinstatement.

Respectfully submitted,


Delores Evans
Hearing Officer
August 10, 2010