

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

In the matter of:) Case No. M2010-455
)
JAMES R. CONSORTI) Notice of Intent to Refuse Issuance of Loan Officer License
3046 Alpine Terrace, #1) &
Cincinnati, OH 45208) 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 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

JAMES R. CONSORTI ("Respondent") has applied to the Division for a loan officer license. His address of record is 3046 Alpine Terrace, #1, Cincinnati, Ohio 45208, and his date of birth is December 8, 1980. Respondent's employer of record is Envoy Mortgage, LTD., 5100 Westheimer Road, Suite 320, Houston, Texas 77056.

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. Prior to January 1, 2010, R.C. 1322.052 required every licensed loan officer to complete at least six (6) hours of approved continuing education ("CE") every calendar year (by December 31st).
- C. Respondent held loan officer license LO.024131 during the 2007 calendar year.
- D. Respondent failed to complete the required 6 hours of CE credit for the 2007 calendar year as required by R.C. 1322.052.

- E. R.C. 1322.041(A) provides that a loan officer license shall be issued if the applicant meets the conditions of R.C. 1322.041(A)(1) to (8).
- F. R.C. 1322.041(A)(2) provides that a loan officer license shall be issued if the applicant is in compliance with Chapter 1322.
- G. R.C. 1322.041(A)(6) provides that a loan officer license shall be issued if the applicant's financial responsibility, 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.
- H. 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."
- I. On or about December 14, 2009, in Case No. M2009-820, the Division issued an Order denying Respondent's 2009 loan officer license application for failure to complete his 2007 continuing education requirement.
- J. On or about March 30, 2010, Respondent submitted an application for a loan officer license pursuant to R.C. Chapter 1322 and the nationwide mortgage licensing system and registry.
- K. Nationwide mortgage licensing system and registry Question I asked "Has any State or federal regulatory agency or foreign financial regulatory authority ever: (6) denied or suspended your registration or license, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?" Respondent answered "No," failing to disclose the December 14, 2009 denial of his loan officer license application. 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 failed to complete six hours of CE in calendar year 2007 in violation of R.C. 1322.052 as effective in 2007 and R.C. 1322.041(A)(2).
- 2. Because Respondent violated R.C. 1322.052 (as effective prior to January 1, 2010) and is not in compliance with R.C. 1322.041(A)(2), the Division is authorized under R.C. 1322.10(A)(1)(a) to refuse to issue a loan officer license.
- 3. 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).
- 4. 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).
- 5. Respondent failed to disclose the denial of his 2009 loan officer license application on his 2010 loan officer license application in violation of R.C. 1322.07(A).
- 6. Because Respondent violated with R.C. 1322.07(A), the Division has the authority to refuse to issue Respondent a loan officer license.

7. 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.
8. 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, 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 refusing to issue Respondent a loan officer license.

Signed and sealed this 26th day of May, 2010.

LEIGH A. WILLIS

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