

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

In the matter of:)	Case No. M2008-633
)	
NORTHERN OHIO CONSULTANTS, INC.)	<u>DIVISION ORDER</u>
10219 Brecksville Road, Suite B)	
Brecksville, Ohio 44141)	TERMINATION of Notice of Intent to Deny
)	Renewal Application
)	

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions (the "Division"), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act ("OMBA"), as codified in Ohio Revised Code ("R.C.") Chapter 1322, the Division finds that this Order is necessary and appropriate, in the interest of the public, and is consistent with the purposes of the OMBA; and

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), on October 2, 2008, issued Northern Ohio Consultants, Inc. ("Respondent") a Notice of the Division's intent to deny its mortgage broker renewal application; and

WHEREAS, the Notice informed it that the Division had conducted an investigation of Respondent and, as a result thereof, alleged that:

- A. Russell J. James is Respondent's operations manager and 50% owner of Northern Ohio Consultants, Inc.
- B. R.C. 1322.04(A)(7) & (B)(3) provide that a registrant will not be renewed if the registrant, its shareholder, operations manager, or other specified individuals, has pleaded guilty to a theft offense. See, also, R.C. 1322.03(A)(8).
- C. In or around 1983, in the Common Pleas Court of Cuyahoga County, Ohio, Russell J. James was convicted of ATTEMPTED BREAKING AND ENTERING.

As a result of the findings listed above, the Division has determined Respondent's owner and operations manager has been convicted of a theft offense as described in R.C. 1322.03(A)(8), and that, as a result, the Division is not authorized to renew Respondent's mortgage broker certificate of registration pursuant to R.C. 1322.04(A)(7) & (B)(3).

WHEREAS, Respondent requested a hearing, which was scheduled for June 16, 2009, but not held because the Division and Respondent agreed to continue the hearing pending the outcome of a similar matter on appeal in Cuyahoga County—*Carroll M. Holtz v. Ohio Department of Commerce*, Case No. CV-651473; and

WHEREAS, the Cuyahoga County Court of Appeals issued a decision in the *Holtz* case on December 3, 2009, which held that the term "theft" as used in R.C. sections 1322.031(A)(2) and 1322.041(A)(3) does not encompass "theft offenses" as defined in R.C. 2913.01(K);

The Division finds that the criminal conviction of Respondent's operations manager and 50% owner is substantially similar to that of the Plaintiff's conviction in the *Holtz* case, and, therefore, the Division is unable to refuse to issue a mortgage broker certificate of registration to Respondent based on that conviction alone;

The Division hereby terminates the October 2, 2008 Notice.

IT IS SO ORDERED.

NOTICE OF RIGHT TO APPEAL

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 18th day of February, 2010.

LEIGH A. WILLIS

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