

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

In the matter of:)	Case No. M2008-759
)	
ACE MORTGAGE FUNDING, LLC)	Notice of Order to Cease & Desist
7820 Innovation Boulevard, Suite 300)	&
Indianapolis, IN 46278)	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 ("OMBA"), codified in Ohio Revised Code ("R.C.") Chapter 1322.

RESPONDENT

ACE MORTGAGE FUNDING, LLC ("Respondent") is a limited liability corporation. Respondent holds active certificates of registration to engage in business as a mortgage broker pursuant to R.C. Chapter 1322 and also holds active certificates of registration to engage in business under the Ohio Mortgage Loan Act, R.C. 1321.51 et.seq. Respondent's business address of record for its main office is 7820 Innovation Boulevard, Suite 300, Indianapolis, Indiana, 46278.

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1322.10(D) and R.C. Chapter 119, the Division intends to issue Respondent an ORDER TO CEASE & DESIST using a disclosure during mortgage loan originations that is improper, fraudulent, or dishonest, in violation of R.C. 1322.07(C).

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. R.C. 1322.07(C) prohibits mortgage brokers from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings.
- B. In or around March 2008, a consumer filed a complaint with the Ohio Attorney General complaining about a mortgage that Michael Heenan, a loan officer then licensed for Respondent, originated. The consumer alleged that the mortgage disclosures provided to him after origination inflated his home's value, inflated closing costs, and contained conflicting fees. This consumer ultimately did not pursue a mortgage with Respondent's assistance.
- C. As a part of the mortgage loan disclosures provided to the consumer was the following disclosure presented to the consumer for his signature. The disclosure stated:
"HOMEOWNERS CHANGE AUTHORIZATION I/We authorize Ace Mortgage Funding, LLC to increase our dwelling amount to reflect the amount needed to meet the lender requirements to qualify for our loan."

- D. The Division contends that this disclosure is improper and dishonest, as it is improper to provide an increased amount to the lender in order to qualify the consumer for a loan.
- E. Consequently, by providing this disclosure to the consumer, Respondent violated R.C. 1322.07(C).

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

- 1. Respondent's activities as described above violate R.C. 1322.07(C).
- 2. Because Respondent is engaged in activities that violate R.C. 1322.07(C), the Division has the authority under R.C. 1322.10(D) to issue Respondent an order to cease and desist engaging in the improper and dishonest act of providing the Homeowners Change Authorization to buyers.

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 ordering Respondent's to cease and desist from engaging in the activities described herein.

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: Martha Rhea, Consumer Finance Attorney Examiner, 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. 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 ordering Respondent to cease and desist from engaging in the activities described herein.

Signed and sealed this 20th day of March, 2009.

LEIGH A. WILLIS

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