

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

In the matter of:	)	Case No. M2009-509
	)	
<b>J. FRANK COPELAND</b>	)	<b><u>DIVISION ORDER</u></b>
652 Palisades Drive	)	<b>Denial of Loan Officer License Renewal Application</b>
Akron, OH 44303	)	&
	)	<b>Notice of Appellate Rights</b>

---

WHEREAS, 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, as codified in Ohio Revised Code ("R.C.") Chapter 1322, finds that this Order is necessary and appropriate, in the interest of the public, and is consistent with the purposes of the Ohio Mortgage Broker Act; and

WHEREAS, J. Frank Copeland ("Respondent") applied to the Division for a loan officer license pursuant to R.C. Chapter 1322; and

WHEREAS, on October 7, 2009, the Division issued Respondent an Order of Summary Suspension that suspended his loan officer license for failure to timely complete his calendar year 2008 continuing education requirements and pay a five hundred dollar fine.

The Division's October 7, 2009 Order issued to Respondent also contained a Notice of Intent to Deny Renewal and Notice of Opportunity for hearing which informed him that the Division had conducted an investigation of Respondent and, as a result thereof, alleged that:

1. Respondent held a loan officer license in calendar year 2008;
2. Respondent failed to timely complete six (6) hours of continuing education in calendar year 2008 as required by R.C. 1322.052;
3. Respondent's license is subject to the suspension order for failure to satisfy the requirements of R.C. 1322.10(F)(2); and
4. Because Respondent's license is subject to an order of suspension, Respondent does not meet the renewal requirement set forth in R.C. 1322.041(B)(4).

The Notice was mailed to Respondent, via certified mail, on October 7, 2009, and service was perfected;

Because of the Order of Summary Suspension, a hearing was scheduled for and held on November 4, 2009. Respondent failed to attend the hearing.

A Report and Recommendation (“Report”) was filed with the Division on December 7, 2009, recommending that the Division lift the suspension of Respondent’s loan officer license and grant renewal of Respondent’s loan officer license. The Division sent Respondent a copy of the Report by certified mail on December 7, 2009, and the certified mail was received by Respondent. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, the transcript of testimony and exhibits, as well as all applicable laws. (A copy of the Report is attached hereto). Following its review of the record, the Division hereby disapproves the hearing officer’s recommendation. Any finding and/or conclusion not specifically addressed below is approved, adopted and incorporated herein.

R.C. 1322.052 states that “each licensee and each person designated under division (A)(3) of section 1322.03 of the Revised Code to act as operations manager for a mortgage broker business shall complete at least six hours of continuing education every calendar year.” Through the use of the word “shall” within the language R.C. 1322.052, the General Assembly mandated that each and every person licensed or acting as operations managers under Chapter 1322 complete six hours of continuing education each and every calendar year.

R.C. 1322.10(E)(2) states the “superintendent shall without a prior hearing, suspend the certificate of registration of a registrant whose operations manager has failed to fulfill the continuing education requirements of section 1322.052 of the Revised Code and suspend the license of a licensee who has failed to fulfill those continuing education requirements.” Through the use of the word “shall” within the language of R.C. 1322.10(E)(2), the General Assembly also mandated that the Division suspend certificates of registration and licenses for all of those who failed to complete their continuing education requirements in violation of R.C. 1322.052.

Exhibit E proves that Respondent did not complete his 2008 continuing education requirement in calendar year 2008. Respondent completed his 2008 requirement in calendar year 2009. Therefore, there is no question that Respondent violated R.C. 1322.052.

The statutory mandate placed upon the Division to suspend everyone who is in violation of R.C. 1322.052 is absolute. Pursuant to the language of R.C. 1322.10(F)(2), the suspension is triggered by the failure of the licensee to complete continuing education within a particular calendar year. Furthermore, the statute imposes no timeframe upon the Division to act upon a suspension. Anyone in violation of R.C. 1322.052 must be suspended.

The remedy to lift a suspension established by the General Assembly is also contained with the language of R.C. 1322.10(E)(2). “The suspension shall continue until such time as the required continuing education is completed and a fine of five hundred dollars is paid to the treasurer of the state to the credit of the consumer finance fund.” Again, through the use of mandatory language, a suspension must continue until the licensee completes the required continuing education and pays a five hundred fine.

The Respondent had a statutorily imposed duty to complete his 2008 continuing education in calendar year 2008. Respondent failed to fulfill his duty. The Division had a statutorily imposed duty to suspend Respondent’s loan officer’s license, which it did. Because the suspension is triggered by the failure to comply with R.C. 1322.052 and can only be lifted by

completion of the continuing education and payment of the fine, the Division disapproves the Recommendation and paragraphs 23-26 of the Report.

The Division has weighed the evidence and hereby denies the loan officer license renewal application of J. Frank Copeland.

It is so ordered.

### **NOTICE OF RIGHT TO APPEAL**

Respondent is hereby notified that this Order may be appealed, pursuant to R.C. 119.12, 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 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 29<sup>th</sup> day of January, 2010.

---

**LEIGH A. WILLIS**

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