

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

In the matter of:)	Case No. M2007-68
)	
FUSION HOME LOANS, INC.)	<u>DIVISION ORDER</u>
270 Northland Boulevard, Suite 118)	Denial of Application for Mortgage Broker
Cincinnati, Ohio 45246)	Certification of Registration
)	&
)	Notice of Appellate Rights

On May 1, 2006, Fusion Home Loans, Inc. (“Respondent”) submitted a mortgage broker certificate of registration application (“Application”) to the Division of Financial Institutions (“Division”). On February 2, 2007, the Division issued Respondent notice of the Division’s intent to deny its application because Respondent’s financial responsibility or its character and general fitness did not command the confidence of the public and warrant the belief that its business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act.

Respondent requested a hearing, and pursuant thereto, an administrative hearing was held in accordance with Ohio Revised Code Chapter 119 on April 20, 2007.

The hearing officer filed his written Report and Recommendation with the Division on July 20, 2007, recommending that the Division deny Respondent’s application. Respondent’s attorney was served with a copy of the Report and Recommendation and a letter explaining Respondent’s right to submit written objections. Objections were filed and have been considered.

In accordance with R.C. 119.09, the Division has considered the July 20, 2007 Report and Recommendation, all applicable laws, the transcript of testimony, and the exhibits. As a result, the Division modifies and/or disapproves the findings and/or conclusions listed below.

Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (The Hearing Examiner's Report and Recommendation is attached hereto.)

The Division modifies the first sentence of paragraph 5 on page 3 of the Report and Recommendation to reflect that the Division received Respondent's mortgage broker certificate of registration application on May 1, 2007. (Exhibit 7.)

The Division modifies paragraph 9 on page 3 of the Report and Recommendation to reflect that at the start of each sentence of paragraph 9 the words "It is the testimony of Randall Wogenstahl that" are added.

The Division disapproves paragraph 10 on page 3 of the Report and Recommendation. The Ohio Mortgage Broker Act does not have a net worth requirement for mortgage broker certificate of registration applicants.

The Division disapproves and modifies paragraph II CONCLUSIONS OF LAW (A)(1). The Division disapproves the first and last sentences of paragraph II as the Division did comply with O.R.C. section 119.07. While it is true that the Division mailed the NOH to Respondent's counsel, Respondent's counsel was also the statutory agent for Respondent. (Exhibit 7.) As the Division served Respondent's statutory agent with the NOH, the paragraph is modified to reflect that no defect exists.

The Division disapproves paragraph 5 on page 5, paragraph 6 on pages 5 and 6, paragraph 11 on page 7, and paragraph C on page 8 of the Report and Recommendation. As the Division is not engaged in a civil lawsuit seeking money or damages against Respondent or Randall Wogenstahl, the Division finds that any case law regarding or test based on the legal concept of "piercing the corporate veil" is not relevant or applicable.

In accordance with the foregoing, the Division otherwise adopts the Report and the recommendation that Fusion Home Loan, Inc.'s application for a mortgage broker certificate of registration be denied.

It is so ordered.

NOTICE OF APPELLATE RIGHTS

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, 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 13th day of August 2007.

RICHARD F. KECK

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