

STATE OF OHIO
DEPARTMENT OF COMMERCE

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DIVISION OF FINANCIAL
INSTITUTIONS

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IN THE MATTER OF:

HUFF HOME MORTGAGE,
INC.

DIVISION OF FINANCIAL
INSTITUTIONS

CASE NO. 04-0011-MBR

REPORT AND RECOMMENDATION
ADMINISTRATIVE HEARING OFFICER D. MICHAEL QUINN

Issued July 28, 2005

I. FINDINGS OF FACT

A. BACKGROUND

The above matter came before this Hearing Officer, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions (hereinafter the "Division") to serve as Hearing Officer for an adjudicative hearing in accordance with the Administrative Procedures Act, Chapter 119, Ohio Revised Code (hereinafter "O.R.C."). Said hearing was held 2:30 PM on April 21, 2005, at 77 South High Street, room 1918, Columbus, Ohio.

The hearing was held at the request of Respondent Huff Home Mortgage, Inc., of West Chester, Ohio (hereinafter the "Respondent") to consider the Division's Notice of Intent to Revoke Mortgage Broker Certificate of Registration, Notice of Opportunity for a Hearing (hereinafter "NOH"). Said NOH was based upon an allegation that Respondent's operations manager failed to complete at least six hours of approved continuing education for the 2002 calendar year and Respondent is thereby ineligible to hold a certificate of registration as a mortgage broker. The Division appeared and was represented by the Ohio Attorney General's Office, Assistant Attorney General Martine Jean. Respondent did not appear but had requested a hearing. The start of the hearing was postponed for 20 minutes to provide sufficient time for Respondent to appear. No request for delay or other communication was received from Respondent or counsel.

At the hearing, State's Exhibits 1A, 1B, 2A, 2B, 3A, 3B, 3C, 4, 5A, 5B, 5C and 5D were admitted into the record. One witness appeared and gave sworn testimony on behalf of the Division.

B. JURISDICTION

The Division issued the NOH against Respondent on January 16, 2004. Respondent timely requested a hearing received by the Division on February 17, 2004. The Division scheduled the hearing for March 2, 2004, and continued the original date of the hearing to March 29, 2004, all within the requirements of Chapter 119, O.R.C. Respondent requested numerous continuances, which the Division scheduled for August 13, 2004, then October 14, 2004, and, finally, for April 21, 2005, on which date the hearing went forward. (Exhibits 3A-5D.)

C. PROPOSED CERTIFICATE OF REGISTRATION REVOCATION

1. The Division is the state agency responsible for the licensing and regulation of mortgage loan officers pursuant to O.R.C. Chapter 1322. (Exhibit 3B.)
2. Respondent is an Ohio company that holds a mortgage broker certificate of registration, issued by the Division on May 2, 2003. (Exhibit 3B.)
3. Since the time of the issuance of the NOH, Respondent's certificate of registration is no longer active. (Tr. pp. 21-22.)
4. Robert Z. Mitchell (hereinafter "Mitchell"), of Lynchburg, OH, was designated by Respondent as the person responsible for the everyday operations, compliance requirements, and management of Respondent's mortgage broker business, as required by section 1322.03(A)(3), O.R.C. (Exhibit 3B; Tr. pp. 10, 12-13.)
5. Mitchell is designated to comply, on behalf of Respondent, with section 1322.052, O.R.C., which requires that every operations manager complete a minimum of six hours of approved continuing education every calendar year. (Tr. pp. 12-14.)
6. The Division maintains records indicating those mortgage brokers having complied with, or failed to comply with, the continuing education requirements. (Tr. pp. 9-10.)
7. Pursuant to section 1322.10, O.R.C., the Division has determined that Mitchell did not complete a minimum of six hours of approved continuing education during the calendar year of 2002. (Exhibit 3B; Tr. pp. 10, 11-13.)

8. Respondent did not present any written statement, make any appearance at the hearing, with or without counsel, or otherwise present any evidence or argument. (See Tr. pp. 6-8, 23.)

II. CONCLUSIONS OF LAW

A. JURISDICTION

1. The Division procedurally complied with O.R.C. Chapter 119.

B. CERTIFICATE OF REGISTRATION REVOCATION

2. O.R.C. section 1322.10(A) states, inter alia, that, if Respondent failed to comply with a provision of sections 1322.01 to 1322.13, O.R.C., the rules adopted thereto, or any other law applicable to the business conducted under a certificate of registration, the Division may suspend, revoke or refuse to issue or renew a certificate of registration.
3. Respondent has failed to comply with the continuing education requirement, section 1322.052, O.R.C., for the calendar year 2002.
4. The Division has proven, by a preponderance of the evidence that in 2002 Respondent failed to comply with a provision of sections 1322.01 to 1322.13, O.R.C.
5. Respondent has not offered any evidence refuting the Division's evidence.

III. RECOMMENDATION

The recommendation to the Superintendent is to **REVOKE THE CERTIFICATE OF REGISTRATION OF HUFF HOME MORTGAGE.**

Respectfully submitted,

D. Michael Quinn
Hearing Officer
July 28, 2005
Docket No. 05-DFI-025