

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

In the matter of:

GARY L. WOLFINBARGER

165 Beam Drive

Franklin, OH 45005

) Case No. 04-0325LOR

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) **Notice of Intent to Revoke Loan Officer License**

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) **Notice of Opportunity for a Hearing**

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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, codified in Ohio Revised Code ("R.C.") Chapter 1322, and the rules adopted thereunder.

RESPONDENT

GARY L. WOLFINBARGER ("Respondent") formally held an active loan officer license, LO # 3739, issued by the Division. On December 2, 2003 his loan officer license was put into escrow by the Division. His address of record is 165 Beam Drive, Franklin, OH 45005, and his date of birth is December 23, 1948. Respondent's employer of record was American Standard Mortgage, Inc.

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1322.10(A)(1)(a), and pursuant to R.C. Chapter 119, the Division intends to **REVOKE** Respondent's loan officer license.

BASIS FOR PROPOSED ACTION

1. In accordance with R.C. § 1322.10(A)(1)(a), the superintendent of the Division may revoke a loan officer license if the superintendent finds that the licensee has violated or failed to comply with any provisions of sections 1322.01 to 1322.12 of the Revised Code or the rules under those sections or any other law applicable to the businesses conducted under a certificate of registration.
2. In accordance with R.C. § 1322.07(C), a licensee is prohibited from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings.
3. In accordance with R.C. § 1322.07(E), a licensee is prohibited from knowingly making, proposing, or soliciting fraudulent, false, or misleading statements on any mortgage document or on any document related to a mortgage, including a mortgage application, real estate appraisal, or real estate settlement or closing document.
4. In or around September of 2003, Respondent, in his capacity as a loan officer for American Standard Mortgage, Inc., attempted to obtain a loan for Richard and Pamela Bender of Lucasville, Ohio. Respondent solicited and requested that the Benders pay him money to be used to pay off debts and to pay for homeowners' insurance on a home the Benders wanted to purchase. During September and October of 2003, the Benders paid Respondent in excess of

- \$2,000.00, none of which was used for its intended purpose or given to American Standard Mortgage, Inc., but instead was appropriated by the Respondent apparently for his own personal benefit.
5. The loan, arranged by Respondent, was never closed and Respondent did not return the \$2,000.00 to either the Benders or American Standard Mortgage, Inc.
 6. In or around September of 2003, Respondent, in his capacity as a loan officer for American Standard Mortgage, Inc., also attempted to arrange a loan for Emily Gilliam of Lucasville, Ohio. Respondent solicited and requested that Ms. Gilliam pay him money to be used for a down payment, homeowners' insurance, taxes and to pay down certain credit card debt. Ms. Gilliam paid Respondent \$11,390.00 for these expenses. This money was not given to American Standard Mortgage, Inc., but instead was appropriated by the Respondent apparently for his own personal benefit.
 7. Respondent did not use the money as authorized to pay for the down payment, taxes, the credit card bills or the homeowners' insurance on the new home. Thus, none of these expenses were paid for with the money Ms. Gilliam gave to Respondent.
 8. American Standard Mortgage, Inc. conducted an internal audit and concluded that there was no evidence that Respondent attempted to arrange a loan for Ms. Gilliam.

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

1. Respondent's appropriation of funds as described in the above paragraphs constitutes improper and dishonest dealings in violation of the Ohio Mortgage Broker Act section 1322.07(C).
2. Respondent's misrepresentation to Ms. Gilliam that he was engaged in seeking a mortgage loan and needed advance payments constitutes improper, fraudulent and dishonest dealings in violation of the Ohio Mortgage Broker Act section 1322.07(C).
3. Respondent knowingly made misleading statements on mortgage documents when he attempted to originate a loan for Mr. and Mrs. Bender that was less than the amount needed to purchase the house as described in Paragraph 5 above is in violation of the Ohio Mortgage Broker Act section 1322.07(E).

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 revoking Respondent's loan officer license.

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: Timothy Winslow—Staff Attorney, 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 his position, arguments, or contentions in writing, and, at the hearing, may present evidence and examine witnesses appearing for and against Respondent.

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 revoking Respondent's loan officer license.

Signed and sealed this ____ day of _____, 2004.

ROBERT M. GRIESER

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

CERTIFIED MAIL