

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

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| In the matter of: |) | Case No. M2008-441 |
| |) | |
| THOMAS M. WEISS |) | Notice of Intent to Deny Mortgage |
| 5264 Denise Court |) | Broker Certificate of Registration |
| Solon, OH 44139 |) | & |
| |) | 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, codified in Ohio Revised Code ("R.C.") Chapter 1322.

RESPONDENT

THOMAS M. WEISS, ("Respondent") is an individual that has applied to the Division for a mortgage broker certificate of registration as a sole proprietor pursuant to R.C. Chapter 1322. Respondent's principal business address is 5264 Denise Court, Solon, OH 44139.

NOTICE OF PROPOSED ACTION

In accordance with R.C. § 1322.10 and R.C. Chapter 119, the Division intends to DENY Respondent's application for an Ohio mortgage broker certificate of registration.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.03(B) and has found the following:

- A. Respondent, an applicant to the Division for a mortgage broker certificate of registration as a sole proprietor, previously was the owner and operations manager of Rockwell Bancorp, Inc. a corporation that held a mortgage broker certificate of registration under R.C. 1322.
- B. On or about January 11, 2008, in Case No. M2007-671, the Division denied Rockwell Bancorp, Inc.'s 2007 renewal application for a mortgage broker certificate of registration. The reason for the denial of Respondent's 2007 renewal application was that on or about January 4, 2007, Rockwell Bancorp, Inc. was notified by the Ohio Secretary of State that the Secretary had cancelled the Articles of Incorporation/Certificate of Authority issued to Rockwell Bancorp, Inc., in accordance with R.C. 5733.20, due to Rockwell Bancorp, Inc.'s nonpayment of the corporate franchise tax within the time required by law.

- C. R.C. 5733.20 requires the Ohio Secretary of State to cancel a corporation's Articles of Incorporation upon certification by the Ohio Department of Taxation of such corporation's failure to file a return or failure to pay the appropriate tax or fee. R.C. 5733.20 provides that, upon cancellation, "all the powers, privileges, and franchises conferred upon such corporation by such articles of incorporation or by such certificate of authority shall cease," subject to R.C. 1701.88, which proscribes that the corporation "shall cease to carry on business and shall do only such acts as a required to wind up its affairs, or to obtain reinstatement..."
- D. Rockwell Bancorp, Inc.'s corporate charter remains cancelled according to the Ohio Secretary of State's records.
- E. R.C. 1322.04(A)(10) lists as a condition for licensure of a mortgage broker certificate of registration applicant that "[t]he applicant's financial responsibility, experience, character, and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1322.01 to 1322.12 of the Revised Code."
- F. Due to the cancellation of Rockwell Bancorp, Inc.'s corporate charter, an entity of which Respondent was the owner, the Division does not believe that Respondent's experience, character, and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1322.01 to 1322.12 of the Revised Code.

As a result, the Division has determined that:

Respondent's character and general fitness do not command the confidence of the public and warrant the belief that its business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act. See R.C. 1322.04(A)(10).

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 denying Respondent's mortgage broker certificate of registration application.

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 S. 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.

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 denying Respondent's mortgage broker certificate of registration.

Signed and sealed this 10th day of July, 2008.

JOHN B. REARDON

Superintendent of Financial Institutions
Division of Financial Institutions
Ohio Department of Commerce