

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

In the matter of:	)	Case No. M2008-356
	)	
<b>TYLER M. DOWNING</b>	)	<b><u>DIVISION ORDER</u></b>
933-A Snowfall Spur	)	<b>Suspension of Loan Officer License</b>
Akron, OH 44313	)	<b>&amp;</b>
	)	<b>Notice of Appellate Rights</b>
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Respondent, Tyler M. Downing ("Respondent"), held a mortgage broker loan officer license ("License") issued by the Division of Financial Institutions ("Division") during calendar year 2007. On May 27, 2008, the Division issued Respondent an Order of License Suspension automatically suspending Respondent's License as required by Revised Code ("R.C.") section 1322.10(F)(2) and a Notice of Intent to Revoke for failure to fulfill the 2007 continuing education requirement in R.C. 1322.052.

An administrative hearing was held on July 22, 2008. Respondent failed to appear. A Report and Recommendation ("Report") was filed with the Division on October 23, 2008, recommending that the Division vacate the summary suspension of Respondent's License and that Respondent's license be renewed without penalty. 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. As a result, the Division makes the following findings and conclusions. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (A copy of the Report is attached).

The Division modifies paragraphs 33 and 34 on page 5 of the Report and the Recommendation on page 6 of the Report.

The Report recommended that summary suspension of Respondent's license be vacated and that Respondent's license be renewed without penalty. The Report stated that by issuing Respondent's license in February 2008, the Division waived its right to require Respondent to complete his required six hours of continuing education for the 2007 calendar year. The Division modifies the above referenced paragraphs to state that although the regulation specifies

that applicants must complete their prior continuing education requirements before they are issued a loan officer license, the principles of waiver, laches, and estoppel do not apply against the state or its agencies. Cosby v. Franklin County Department of Job and Family Services, 2007 Ohio 6641, 30) Consequently, the Division does not waive its right to enforce the continuing education requirement against Respondent. The Division modifies the Report's Recommendation on page 6 and the Division hereby CONTINUES THE SUSPENSION of Respondent's loan officer license pursuant to R.C. 1322.10(F)(2).

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 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 22<sup>nd</sup> day of December, 2008.

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**LEIGH A. WILLIS**

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