

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

In the matter of:)	Case No. 04-0004-MBD
)	
Pacific Capital Mortgage)	Notice of Intent to Deny
350 Ignacio Boulevard)	Mortgage Broker Certificate of Registration
Novato, CA 94949)	&
)	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

Pacific Capital Mortgage ("Respondent") is a company that held a certificate of registration issued by the Division to engage in business as a mortgage broker pursuant to R.C. Chapter 1322. Respondent's mortgage broker certificate of registration expired on April 30, 2003, and Respondent filed an application to renew its certificate; the renewal application remains pending. Respondent's business address of record is 350 Ignacio Boulevard, Novato, CA 94949.

NOTICE OF PROPOSED ACTION

In accordance with sections 1322.04(B), 1322.052, and 1322.10(A)(1)(a) of the R.C., and R.C. Chapter 119, the Division intends to DENY Respondent's renewal application for a mortgage broker certificate of registration.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.10(B), and has found the following:

- A. The Division is empowered by R.C. 1322.04(B)(3) to renew an applicant's mortgage broker certificate of registration if the Division finds, among other things, that the applicant has complied with: 1322.04(A)(9), which requires the applicant's operations manager to successfully complete the operations manager examination mandated by R.C. 1322.051(A); and R.C. 1322.052, which requires the applicant's operations manager to complete a minimum of six (6) hours of approved continuing education ("CE") the prior calendar year.
- B. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew an applicant's mortgage broker certificate of registration if the Division finds that the applicant has violated "or fail[ed] to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration[.]"

- C. R.C. 1322.051(A) requires every operations manager to successfully complete the operations manager examination.
- D. R.C. 1322.052 requires every operations manager to complete at least six (6) hours of approved continuing education every calendar year.
- E. Respondent's mortgage broker certificate of registration expired on April 30, 2003. In an effort to renew its certificate, Respondent submitted to a renewal application to the Division; the renewal application remains pending.
- F. Respondent failed to comply with the examination requirement of R.C. 1322.051(A) before Respondent's certificate of registration expired on April 30, 2003.
- G. Respondent failed to comply with the CE requirement of R.C. 1322.052 for the 2002 calendar year.
- H. Because Respondent failed to comply with R.C. 1322.051(A), the Division has the authority to refuse to renew Respondent's mortgage broker certificate of registration.
- I. Because Respondent failed to comply with R.C. 1322.052, the Division has the authority to refuse to renew Respondent's mortgage broker certificate of registration.

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

- 1. Respondent failed to comply with the CE requirements of the Ohio Mortgage Broker Act, codified in R.C. 1322.052.
- 2. Respondent failed to comply with the Ohio Mortgage Broker Act's examination requirement for operations managers. See R.C. 1322.04(A)(9), 1322.04(B)(3), and 1322.051(A).
- 3. Respondent does not meet the conditions for renewal, as set forth in R.C. 1322.041(B)(2).
- 4. Respondent's non-compliance with the Ohio Mortgage Broker Act, as described above in Paragraph 1, causes the Division to believe that Respondent does not hold the requisite character and general fitness to command the confidence of the public and to warrant the belief that Respondent's business will be conducted in compliance with the Act. (R.C. §1322.04(A)(10).)
- 5. Respondent's non-compliance with the Ohio Mortgage Broker Act, as described above in Paragraph 2, causes the Division to believe that Respondent does not hold the requisite character and general fitness to command the confidence of the public and to warrant the belief that Respondent's business will be conducted in compliance with the Act. (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 renewal 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: Amanda Axtell—Consumer Finance Counsel, 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 renewal application for a mortgage broker certificate of registration.

Signed and sealed this 16th day of January 2004.

ROBERT M. GRIESER

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