

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

In the matter of:)	Case No. M2008-772
)	
MARIAN B. HOLMES)	<u>DIVISION ORDER</u>
3814 Covington Road)	No Revocation of Loan Officer License
South Euclid, OH 44121)	& No Imposition of Fine
)	&
)	Notice of Appellate Rights
)	

Respondent, Marian B. Holmes (“Respondent”) held a loan officer license issued by the Division of Financial Institutions (“Division”) pursuant to the Ohio Mortgage Broker Act. Respondent’s loan officer license expired on April 30, 2009. On December 17, 2008, the Division issued Respondent a Notice of Intent to Revoke Loan Officer License, Impose Fine and Notice of Opportunity for Hearing that listed the following findings as a basis for the proposed action:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to revoke a loan officer license if the Division 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 adopted under those sections or any other law applicable to the business conducted under a certificate of registration[.]”
- B. R.C. 1322.07(G) states: “[n]o mortgage broker, registrant, licensee or applicant for a certificate of registration or license under sections 1322.01 to 1322.12 of the Revised Code shall do any of the following: [k]knowingly compensate, instruct, induce, coerce, or intimidate, or attempt to compensate, instruct, induce, coerce, or intimidate, a person licensed or certified under Chapter 4763 of the Revised Code for the purpose of corrupting or improperly influencing the independent judgment of the person with respect to the dwelling offered as security for repayment of a mortgage loan.”
- C. In or around November 2007 and December 2007, Respondent knowingly attempted to instruct, induce, coerce, or intimidate an appraiser for the purpose of corrupting or improperly influencing the independent judgment of the appraiser with respect to the dwelling offered as security for repayment of a mortgage loan. The property involved was located at 890 Exchange Street, Vermillion, OH 44089.
- D. Through her actions, Respondent violated R.C. 1322.07(G).

- E. R.C. 1322.07(C) prohibits loan officer licensees from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings.
- F. Through her actions, Respondent violated R.C. 1322.07(C).
- G. Respondent's actions listed in paragraph C violated R.C. 1322.07(G).
- H. Respondent's actions listed in paragraph C violated R.C. 1322.07(C).
- I. Because Respondent violated R.C. 1322.07(C) and R.C. 1322.07(G), the Division is authorized under R.C. 1322.10(A)(1)(a) to revoke Respondent's loan officer license.
- J. Because Respondent violated R.C. 1322.07(C) and R.C. 1322.07(G), the Division has the authority to impose a fine against Respondent.
- K. A fine in the amount of one thousand dollars (\$1,000.00) is reasonable, appropriate and necessary.

The December 17, 2008 Notice was sent and served by certified mail, return receipt requested.

On January 7, 2009, the Division received Respondent's request for a hearing.

On January 13, 2009, the Division sent Respondent a letter scheduling an administrative hearing for January 20, 2009 but continuing the hearing on the Division's motion to April 28, 2009 at 9:30 a.m. Respondent moved for a continuance to a later hearing time, which was granted by Order of the Hearing Officer on February 9, 2009. The hearing time was changed to 10:30 on April 28, 2009. On April 24, 2009, Respondent requested a continuance of the April 28, 2009 hearing date because she would be unable to attend. The hearing was again continued to May 19, 2009. Respondent did not appear personally at the May 19, 2009 hearing but did submit her contentions in writing as permitted by R.C. 119.07.

A Report and Recommendation ("Report") was filed with the Division on June 24, 2009, recommending that Respondent's loan officer license not be revoked and a fine not be imposed. The Division sent Respondent a copy of the Report by certified mail on June 24, 2009, but the certified mail envelope was returned marked "unclaimed" on July 20, 2009. On July 27, 2009, the Division issued and served Respondent a copy of the Report by certified mail.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, the transcript of testimony and exhibits including Respondent's written contentions, as well as all applicable laws. (A copy of the Report is attached hereto). Following its review of

the record, the Division hereby adopts the Hearing Officer's recommendation. Therefore, the Division does not revoke the loan officer license held by Marian B. Holmes or impose a fine.

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 19th day of August, 2009.

LEIGH A. WILLIS

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