

Ted Strickland
Governor

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

Kimberly A. Zurz
Director

In the matter of:)	Case No. M2009-759
)	
DOMINIC A. DIFRANCO)	<u>DIVISION ORDER</u>
9545 Nighthawk Drive)	Denial of Loan Officer License Renewal Application
Chagrin Falls, OH 44023)	&
)	Notice of Appellate Rights

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions (the "Division"), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act ("OMBA"), as codified in Ohio Revised Code ("R.C.") Chapter 1322, the Division finds that this Order is necessary and appropriate, in the interest of the public, and is consistent with the purposes of the OMBA; and

WHEREAS, in or about April 2009, Dominic A. DiFranco ("Respondent") submitted to the Division a renewal application for a loan officer license pursuant to R.C. Chapter 1322; and

WHEREAS, on December 23, 2009, the Division issued Respondent a Notice which informed him that the Division had conducted an investigation of Respondent and, as a result thereof, alleged that:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew a loan officer license if the Division finds that the licensee 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[.]"
- B. R.C. 1322.041(B)(3) provides that a loan officer license will be renewed annually if the superintendent finds that the applicant meets the conditions set forth in divisions (A)(2) to (6) of R.C. 1322.041.
- C. R.C. 1322.041(A)(2) provides that the a loan officer license will be issued if, among other requirements, "the applicant complies with sections 1322.01 to 1322.12 of the Revised Code."
- D. R.C. 1322.041(A)(6) provides that a loan officer license will be issued if, among other requirements, "the applicant's 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."
- E. R.C. 1322.07(C) prohibits a licensee from engaging "in conduct that constitutes improper, fraudulent, or dishonest dealings."

- F. While Respondent was the sole shareholder and operations manager of former OMBA registrant Precision Funding Corp., Inc. (MB.801532), and was therefore responsible for its actions pursuant to R.C. sections 1322.01(H) and 1322.03(A)(3), the registrant submitted four checks to the Division that were returned for insufficient funds. Specifically, the registrant submitted check number 6821 for \$100 to renew the license for LO.033247 and said check was returned for insufficient funds; the registrant submitted check number 6823 for \$15 as a transfer fee for LO.005187 and said check was returned for insufficient funds; the registrant submitted check number 6822 for \$15 as a transfer fee for LO.026965 and said check was returned for insufficient funds; and the registrant submitted check number 1006 for \$100 for Respondent's 2008 loan officer license renewal and said check was returned for insufficient funds.
- G. Pursuant to R.C. 1322.041(B)(1), checks submitted to the Division for loan officer license renewal applications that are returned for insufficient funds require payment of a one hundred dollar (\$100) penalty.
- H. Respondent has incurred NSF penalties in the amount of two hundred dollars (\$200) that remain unpaid and owes two hundred thirty dollars (\$230) to the Division for the checks that were returned for insufficient funds for a grand total of four hundred thirty dollars (\$430) that remains unpaid to the Division. On October 28, 2008 in case M2008-61, the Division issued a Division Order denying the application of OMBA registrant Precision Financial Services, Inc. of which Respondent was 100% shareholder.
- I. Respondent's actions, as described in paragraphs F and H, violated R.C. 1322.07(C). Respondent's actions, as described in paragraphs E and G and the grounds set forth for the OMBA application denial in Division case M2008-61, show Respondent's character and general fitness do not 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 the OMBA. See R.C. 1322.041(A)(6).
- J. Because Respondent does not meet the conditions for renewal outlined in R.C. 1322.041(A)(2)&(6) and (B)(3), the Division has the authority to refuse to renew Respondent's loan officer license.

WHEREAS, the Notice informed Respondent of the Division's intent to deny Respondent's loan officer license renewal application and of the opportunity for a hearing regarding the denial if requested within thirty days from the mailing of the Notice. The Notice further cautioned Respondent that "[i]f the Ohio Division of Financial Institutions d[id] not receive a written request for a hearing in its offices within thirty (30) days of the time of the mailing of th[e] Notice, the Superintendent w[ould] issue an order denying the renewal of Respondent's loan officer license[;]"

WHEREAS, the Notice was mailed to Respondent, via certified mail, on December 23, 2009, and service was perfected;

WHEREAS, Respondent failed to request a hearing and thereby failed to defend against the Division's allegations;

WHEREAS, the Division finds that the allegations contained in the Notice are true and that Respondent's renewal application for a loan officer license should be denied;

Respondent, Dominic A. DiFranco's loan officer license renewal application is hereby DENIED.

It is so ordered.

NOTICE OF RIGHT TO APPEAL

Respondent is hereby notified that this Order may be appealed, pursuant to R.C. 119.12, by filing a notice of appeal with the Division, 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 27th day of January, 2010.

LEIGH A. WILLIS

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