

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

In the matter of:)	Case No. M2008-13
)	
MORTGAGE PLUS BANC, LLC)	DIVISION ORDER
1240 Park Avenue)	Mortgage Broker Registration Renewal Denial
Amherst, OH 44001)	&
)	Notice of Appellate Rights

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division") and charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act, 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 Ohio Mortgage Broker Act; and

WHEREAS, Mortgage Plus Banc, LLC ("Respondent") is a company that held a certificate of registration 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, 2007, and Respondent filed an application to renew its certificate of registration, which remains pending; and

WHEREAS, on January 18, 2008, the Division issued Respondent a Notice which informed it that the Division had conducted an investigation of Respondent and, as a result thereof, alleged that:

1. 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 failed 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[.]"
2. R.C. 1322.03 requires a mortgage broker applicant that is a limited liability company to designate an operations manager.
3. If the person designated as the operations manager pursuant to R.C. 1322.03 is no longer operations manager, the mortgage broker registrant must designate another person as the operations manager and, within ten days thereof, notify the division in writing of the designation. See R.C. 1322.04(D). Pursuant to 1301:8-7-12(I) of the Ohio Administrative Code, "if the individual designated as the operations manager ceases to act as operations manager for any reason... the registrant shall (1) within thirty days designate another individual as the operations manager."
4. R.C. 1322.04(B)(3) lists as a condition for renewal of a certificate of registration that the applicant meets R.C. 1322.04(A)(9), which states that the applicant's operations

manager successfully completed the examination required under division (A) of section 1322.051 of the Revised Code.

5. 1301:8-7-12(E)(4)(b) of the Ohio Administrative Code states: “If the individual fails to successfully complete the examination within ninety days of being notified by the superintendent that he or she has been approved to sit for the examination, the superintendent may consider the pending application for a mortgage broker certificate of registration that is dependent on the operations manager’s approval withdrawn, or the superintendent may suspend the registrant’s mortgage broker certificate of registration until an individual is approved. If a registrant is unable to designate an individual who meets the approval of the superintendent within one hundred eighty days of termination date of the individual last approved as the registrant’s operations manager, the superintendent may revoke the registrant’s certificate of registration for operating without an approved operations manager.”
6. On September 10, 2007, the Division mailed notice to Respondent’s newly designated operations manager, Harold L. Baker, and to Respondent’s representative, that Harold L. Baker, Jr. was approved to take the Operations Manager examination and that the deadline for successfully passing the examination was 90 days from the date of the notice.
7. On Monday, December 3, 2007, the Division sent both Respondent and its designated Operations Manager, Harold L. Baker, Jr. an email stating that the deadline for the designated Operations Manager successfully completing the Operations Manager examination is December 9, 2007. This email also informed Respondent that the mortgage broker certificate of registration cannot be renewed until the designated Operations Manager successfully completes the examination.
8. The Division has not received notice that Harold L. Baker, Jr. had taken and passed the required operations manager examination within the 90 day period, ending December 9, 2007.
9. As of January 9, 2007, Respondent had not provided the Division with written notification of a newly designated operations manager, as mandated by R.C. 1322.04(D) and 1301:8-7-12(I)(1) of the Ohio Administrative Code.
10. Since March 18, 2007, Respondent has been operating as a mortgage broker registrant without an operations manager.
11. Because Respondent failed to have an approved Operations Manager within 180 days of the termination date of its last Operations Manager, the Division finds 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 Ohio Mortgage Broker Act, thereby failing to meet the prerequisite for certificate of registration renewal found in R.C. 1322.04(B)(3). See R.C. 1322.04(A)(10) & (B)(3) and 1301:8-7-12(E)(4)(b) of the Ohio Administrative Code.

12. By not having an Operations Manager who has successfully completed the required examination in violation of R.C. 1322.04(A)(9), Respondent fails to meet the conditions of renewal under R.C. 1322.04(B)(3).

WHEREAS, the Notice informed Respondent of the Division's intent to deny the renewal of Respondent's certificate of registration 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 if the Ohio Division of Financial Institutions did not receive a written request for a hearing in its offices within thirty (30) days of the time of the mailing of the Notice, the Superintendent would issue an order denying Respondent's certificate of registration renewal;

WHEREAS, the Notice was mailed to Respondent, via certified mail, on January 18, 2008;

WHEREAS, the Notice mailed to Respondent via certified mail on January 18, 2008 was returned to the Division "unclaimed," and the Division mailed the Notice to the Respondent via ordinary mail, pursuant to R.C. 119.07, on February 14, 2008;

WHEREAS, the Notice mailed to Respondent via ordinary mail on February 14, 2008 was not returned to the Division;

WHEREAS, the Division finds that the allegations contained in the Notice are true and that Respondent's mortgage broker certificate of registration renewal application should be denied;

Respondent Mortgage Plus Banc LLC's 2007 mortgage broker certificate of registration 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 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 21st day of March 2008.

LEIGH A. WILLIS

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