

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

In the matter of:	)	Case No. M2010-459
	)	
<b>DAVID A. KIRSCHENBAUM</b>	)	<b><u>DIVISION ORDER</u></b>
2608 Azelda Road	)	<b>Refusal to Renew Loan Originator License</b>
Columbus, OH 43211	)	&
	)	<b>Notice of Appellate Rights</b>

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WHEREAS, 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 as codified in Ohio Revised Code ("R.C.") Chapter 1322, and finds that this Order is necessary and appropriate, in the interest of the public, and consistent with the purposes of the Ohio Mortgage Broker Act; and

WHEREAS, David A. Kirschenbaum ("Respondent") applied to the Division for a loan originator license renewal pursuant to R.C. Chapter 1322; and

WHEREAS, on August 5, 2010, the Division issued Respondent a Notice which informed Respondent 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 originator 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. Respondent held a loan originator license during the 2006 calendar year.
- C. Prior to January 1, 2010, R.C. 1322.052 required every licensed loan officer to complete at least six (6) hours of approved continuing education ("CE") every calendar year (by December 31<sup>st</sup>).
- D. Respondent failed to complete 6 hours of CE credit for the 2006 calendar year as required by R.C. 1322.052.

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

- 1. Respondent failed to complete six hours of CE in calendar year 2006 in violation of R.C. 1322.052, as effective prior to January 1, 2010.
- 2. Because Respondent violated R.C. 1322.052 (as effective prior to January 1, 2010), the Division is authorized under R.C. 1322.10(A)(1)(a) to refuse to renew Respondent's loan originator license.

WHEREAS, the Notice informed Respondent of the Division's intent to refuse to renew Respondent's loan officer license 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 refusing to renew Respondent's loan originator license[;]"

WHEREAS, the Notice was mailed to Respondent, via certified mail, on August 5, 2010;

WHEREAS, the Notice mailed to Respondent via certified mail on August 5, 2010 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 August 31, 2010;

WHEREAS, the Notice mailed to Respondent via ordinary mail on August 31, 2010 was not returned to the Division;

WHEREAS, Respondent failed to request a hearing by the statutory deadline 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 the renewal of Respondent's loan originator license should be refused;

The renewal of Respondent David A. Kirschenbaum's loan originator license is hereby REFUSED.

IT IS SO ORDERED.

#### **NOTICE OF APPELLATE RIGHTS**

Respondent is hereby notified that pursuant to R.C. 119.12, this Division Order may be appealed by filing a notice of appeal with the Division setting forth the Order that Respondent is appealing from and stating that the Division's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may also include, but is not required to include, the specific grounds for the appeal. The notice of appeal must also be filed with the appropriate court of common pleas in accordance with R.C. 119.12. In filing the notice of appeal with the Division or court, the notice that is filed may be either the original notice or a copy of the original notice. A notice of appeal must be filed within fifteen (15) days after the date of mailing of this Division Order.

Signed and sealed this 5<sup>th</sup> day of October, 2010.

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**LEIGH A. WILLIS**  
Deputy Superintendent for Consumer Finance  
Division of Financial Institutions  
Ohio Department of Commerce