

Bob Taft
Governor

Lt. Governor Jennette Bradley
Director

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

 **COPY**

In the matter of:)	Case No. 04-0020MBD
)	
Dynus Financial Group, LLC)	
4675 Cornell Road, Suite 190)	DIVISION ORDER
Cincinnati, OH 45241)	Denial of Mortgage Broker Renewal Application
)	and Fine
)	

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 amended by Ohio Senate Bill 76 and 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, Dynus Financial Group, LLC ("Respondent") holds an active mortgage broker certificate of registration (MB #3934) issued by the Division pursuant to R.C. Chapter 1322; and

WHEREAS, on October 20, 2004, the Division issued Respondent a Notice of Intent to Assess Fine and Deny Renewal of Mortgage Broker Certificates of Registration & Notice of Opportunity for a Hearing which notice was served upon Respondent by U.S. certified mail as shown by return receipt; and

WHEREAS, based on the Division's investigation said notice contained the following allegations and findings:

1. R.C. 1322.03(A)(3) requires a mortgage broker applicant to designate an operations manager.
2. R.C. 1322.03(A)(4) requires a mortgage broker applicant to provide evidence that its designated operations manager has at least three years experience in the mortgage and lending field.
3. R.C. 1322.01(H) defines "Operations Manager" as "the individual responsible for the everyday operations, compliance requirements, and management of a mortgage broker business."
4. R.C. 1322.04(A)(9) requires that a mortgage broker applicant's operations manager to have successfully completed the examination for operations managers as set forth in R.C. 1322.051.

5. If the person designated as operations manager according to R.C. 1322.03(A)(3) is no longer the operations manager, R.C. 1322.04(D)(1) requires the registrant to designate another person as the operations manager. Within ten days after the designation of the operations manager, the registrant is required by R.C. 1322.04(D)(2) to notify the Superintendent of Financial Institutions in writing of the designation.
6. R.C. 1322.04(B)(3) requires the Division to find that a mortgage broker renewal registrant applicant is in compliance with R.C. 1322.04(A)(2) to (10) as a condition for renewal of the mortgage broker's certificate of registration.
7. R.C. 1322.04(D)(3) requires a registrant to submit any additional information that the Division requires to establish that a newly designated operations manager has the three years experience required by R.C. 1322.03(A)(4).
8. The Division was notified in May 2003 that Respondent would have a Change of Operations Manager effective August 1, 2003. Accordingly, the Division sent Respondent a Change of Operations Manager package on May 22, 2003.
9. On July 24, 2003, the Division, at the request of Respondent, sent the Respondent another Change in Operations Manager package.
10. On August 8, 2003, the Division received a Change of Operations Manager application from Respondent wherein Respondent designated Shelley Coffey as its Operations Manager. This submission by Respondent for a Change in Operations Manager was however incomplete and additional information was requested by the Division.
11. On October 2, 2003, Shelley Coffey advised the Division that she was withdrawing her application for Operations Manager of Dynus Financial Group LLC.
12. On November 2, 2003, the Division received a Change in Operations Manager application designating Paul Koester for the Operations Manager position of Dynus Financial Group LLC. On November 4, 2003, the Division sent Respondent a letter advising it that Paul Koester was approved to take the Operations Manager test.
13. Notwithstanding the Division's approval, Paul Koester failed to take the Operations Manager exam when in the employ of Dynus Financial Group LLC. Therefore, Dynus Financial Group LLC continued to lack a qualified person in its Operations Manager position who has met all the requirements of an Operations Manager under the Ohio Mortgage Broker Act.

14. On or about January 6, 2004 the Division received another Operations Manager submission request from the Respondent designating Phillip Henderson as its Operations Manager. The Division upon review promptly notified Respondent that Phillip Henderson would not be approved for the Operations Manager position.
15. On January 12, 2004 the Division received from the Respondent another Change of Operations Manager application designating R. Edward Mitchell as Operations Manager.
16. In a letter dated March 12, 2004, the Division notified Respondent that the January 12, 2004 submission was incomplete and set forth the deficiencies. This letter stated that the requested information be submitted to the Division no later than March 31, 2004.
17. The Division received no response to this letter.
18. 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).
19. Respondent has in violation of R.C. 1322.04(D)(3) failed to submit requested additional information to the Division to establish the experience requirements provided under the Mortgage Broker Act, and Respondent thereby fails to meet the conditions of renewal under R.C. 1322.04(B).
20. Respondent is in violation of R.C. 1322.04(A)(3) which requires a renewal applicant's operations manager to meet the experience requirements provided under the Mortgage Broker Act, and Respondent thereby fails to meet the conditions of renewal under R.C. 1322.04(B).
21. R.C. 1322.04(B) states as a condition of renewal the completion of at least six hours of continuing education by the Operations Manager during the immediately preceding calendar year as required by R.C. 1322.052.
22. During 2003, the Operations Manager of Respondent, Dynus Financial, failed to complete the requisite six hours of continuing education as set forth by R.C. 1322.052.
23. Respondent fails to meet the conditions of renewal under the terms of R.C. 1322.04(B)(2).
24. Respondent's failure to qualify a new designated operations manager within a reasonable amount of time since May 2003, or otherwise submit the materials necessary to qualify its designated operations manager in a timely manner, is an improper business practice and conduct in violation of R.C. 1322.07(C)

and Respondent thereby fails to meet the conditions of renewal under R.C. 1322.04(B)(3) and R.C. 1322.04(A)(6).

25. Respondent completed its 2004 Mortgage Broker Renewal Application and on April 30, 2004 submitted the application to the Division. The application was signed by Orlando Carter, President, in front of a Notary Public.
26. The 2004 Mortgage Broker Renewal Application asks: "Does the registrant, owner, partner, shareholder, member, officer, director, operations manager have any unpaid civil judgment against him/her? If yes, a certified copy of the judgment entry and proof of payment history MUST be attached to this application or this application will not be processed."
27. Respondent responded "No" to the above question on the renewal application.
28. There exists a civil judgment, Case No. A0307854, in the Court of Common Pleas of Hamilton County against Respondent Dynus Financial Group LLC filed on April 6, 2004. Upon information and belief, this judgment is unpaid.
29. According to R.C. 1322.07(A), no 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 obtain a certificate of registration or license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application.
30. Respondent made a substantial misrepresentation on its 2004 Mortgage Broker Renewal Application by failing to disclose the above civil judgment against it.
31. Respondent Dynus Financial does not have an Operations Manager who has successfully completed the required examination in violation of R.C. 1322.04(A)(9).
32. Respondent has failed to submit the requested additional information to the Division to establish the experience of its designated operations manager in violation of R.C. 1322.04(D)(3).
33. Respondent is in violation of R.C. 1322.04(A)(3) which requires a renewal applicant's operations manager to meet the experience requirements provided under the Mortgage Broker Act as set forth in R.C. 1322.03(A)(4).
34. Respondent is in violation of the continuing education requirements set forth as a condition of renewal pursuant to R.C. 1322.04(B)(2).

35. Respondent failed to qualify a new designated operations manager within a reasonable time since March 2003 and otherwise failed to submit the materials necessary for the Division to qualify a new operations manager in a timely manner in violation of R.C. 1322.07(C).
36. Respondent violated R.C. 1322.07(A) through its failure to disclose an unpaid civil judgment and its false affirmative denial of such a judgment.
37. Respondent fails for the reasons set forth herein to meet the conditions for renewal as set forth in R.C. 1322.04(B).

WHEREAS, Respondent has failed to respond and request a hearing in writing to the Division within thirty (30) days of the mailing of the above-referenced Notice of Opportunity for a Hearing in this matter as required by the notice provided pursuant to R.C. Chapter 119, and

WHEREAS, the Notice issued by the Division properly informed Respondent of the Division's intent to deny the renewal application for its certificate of registration and assess a fine of \$5,000, as well as informed it of its opportunity for a hearing.

NOW THEREFORE, the Division adopts the facts set forth in the allegations as true, and finds and holds that the acts set forth therein establish that Respondent has violated R.C.1322.04(A)(9), R.C. 1322.04(D)(3), R.C. 1322.04(A)(3), R.C. 1322.04(B)(2), R.C. 1322.07(C) and R.C. 1322.07(A) and Respondent therefore fails to meet the conditions for renewal as set forth in R.C. 1322.04(B).

It is hereby ORDERED and DECREED that:

- A. Respondent Dynus Financial Group LLC's 2004 Mortgage Broker Renewal Application be and hereby is denied.
- B. Respondent Dynus Financial Group be and hereby is assessed a fine of \$5,000 pursuant to R.C. 1322.10(A)(2). Such fine shall be due and owing upon the entry of this Order and shall be made payable to the Ohio Superintendent of Financial Institutions for deposit in accordance with R.C. 1322.21.

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 17th day of December,
2004.

Robert M. Grieser

ROBERT M. GRIESER

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

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