

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

In the matter of:)	Case No. M2009-677
)	
BRIAN E. HEIBEL)	<u>DIVISION ORDER</u>
5842 Fieldcrest Drive)	Order to Cease and Desist
Galloway, OH 43119)	&
)	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, on July 6, 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 as follows:

- A. R.C. 1322.072(A) provides that no person shall knowingly circumvent, interfere with, obstruct or fail to cooperate with any examination or investigation conducted by the superintendent pursuant to sections 1322.01 to 1322.12 of the Revised Code.
- B. 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."
- C. Respondent was president and operations manager for former OMBA registrant Prosperity Financial Group, Inc., which had its certificate of registration expire by operation of law for failure to renew on April 30, 2009. Similarly, Respondent's loan officer license expired on April 30, 2009 by operation of law for failure to renew.
- D. The registered address of Prosperity Financial Group, Inc. is also the address of record for Respondent.
- E. On January 21, 2009, the Division issued an investigatory letter via certified mail to Brian E. Heibel, President/Operations Manager of Prosperity Financial Group at 5842 Fieldcrest Drive, Galloway, Ohio 43119. After three delivery attempts, the letter was returned by the United States Post Office to the Division on February 17, 2009 stamped "UNCLAIMED." On February 19, 2009, the letter was resent with a certificate of mailing to the same address and was not returned. As of the date of this Notice, Respondent has not responded or complied with the Division's investigatory letter.

- F. Respondent's activities as described above violated R.C. 1322.072(A).
- G. Because Respondent engaged in activities that violated R.C. 1322.072(A), the Division has the authority under R.C. 1322.10(D) to issue Respondent an order to cease and desist from failing to cooperate with a Division investigation.

WHEREAS, the Notice informed Respondent of the Division's intent to issue Respondent an Order to Cease and Desist and of the opportunity for a hearing regarding the Order to Cease and Desist 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 ordering Respondent to cease and desist from engaging in the activities described herein[;]"

WHEREAS, the Notice was mailed to Respondent, via certified mail, on July 6, 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 should be ordered to cease and desist from violating R.C. 1322.072(A);

Respondent, Brian E. Heibel shall CEASE and DESIST violating R.C. 1322.072(A).

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 12th day of August, 2009.

LEIGH A. WILLIS

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