

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

In the matter of:)	Case No. M2006-9993077
)	
RALPH J. DECK)	<u>DIVISION ORDER</u>
d/b/a Advanced Mortgage Financial)	Denial of Mortgage Broker Renewal Application
75 Public Square, Suite 730)	&
Cleveland, OH 44113)	Notice of Appellate Rights
)	

Respondent, Ralph J. Deck d/b/a Advanced Mortgage Financial (“Respondent”), 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, 2006, and Respondent filed an application (“Application”) to renew his certificate of registration. On October 2, 2006 the Division of Financial Institutions (“Division”) Division notified Respondent that it intended to deny his Application because: (1) Respondent operated as a mortgage broker without designating an operations manager in violation of R.C. sections 1322.03(A)(3) and 1322.04(D); (2) Respondent failed to notify the Division at least 30 days prior to the effective date of an address change in violation of OAC 1301:8-7-03(C); and (3) 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 renewal found in R.C. 1322.04(B)(3).

Respondent requested an administrative hearing, which was held on January 16, 2007. Respondent appeared with counsel. A Report and Recommendation (“Report”) was filed with the Division on May 11, 2007, recommending that the Division deny Respondent's Application. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, the transcript of testimony and exhibits, as well as all applicable laws. As a result, the Division makes the following findings and conclusions. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (A copy of the Report is attached).

The Division modifies paragraph 1 on pages 1 and 2 and modifies, in general, the Findings of Fact on pages 1 and 2 of the Report.

This paragraph cites Respondent's non-compliance with R.C. 1322.04(A)(3) as one of the reasons for denial of Respondent's Application. The Revised Code section that should have been cited in the Report is R.C. 1322.03(A)(3). Additionally, this paragraph should have specifically cited R.C. 1322.04(B)(3). Paragraph 1 correctly cited R.C. 1322.04(D). Respondent also did not comply with the notification requirement of OAC 1301:8-7-03(C), said version effective June 22, 1995.

Additionally, State's Exhibit D indicates that a Change of Operations Manager packet was mailed to Respondent's Twinsburg, Ohio address on February 3, 2006. The packet was returned to the Division by the Post Office marked "MOVED LEFT NO ADDRESS, UNABLE TO FORWARD." (State's Exh. D). Similarly, the 2006 Mortgage Broker Renewal packet was mailed to Respondent's Twinsburg address of record on March 10, 2006 and was returned by the Post Office marked "MOVED LEFT NO ADDRESS, UNABLE TO FORWARD." (State's Exh. E). Unrefuted testimony from Dawn Moore also indicates that a loan officer license for Harold Johnson, Sr. was mailed to Respondent's Twinsburg address in January 2006 and was returned undeliverable. (Tr., p. 33). Respondent testified that he vacated the Twinsburg office in or around January 2006 but did not provide the post office, or the Division, with a forwarding address. (Tr., pp. 71-73).

From January to April 2006, the Division had no viable business address for Respondent. Respondent's relocation application was received on April 13, 2006 and indicated a relocation date of April 10, 2006 for a move from Twinsburg to Cleveland, Ohio. (State's Exh. G; Tr., pp. 19-21). On its face, Respondent's relocation application evidences that notification of the move was not provided thirty days in advance as required by OAC 1301:8-7-03(C). Furthermore, the lease for the Cleveland location indicates a move-in date of April 1, 2006, which is the effective date of the lease. (Id.)

The Division disapproves paragraph F on page 4 of the Report.

The Report cites a version of OAC 1301:8-7-03 that was not in effect until September 1, 2007. Thus, it was not the version of the rule in effect when Respondent changed addresses without timely notifying the Division of said relocation. The version of OAC 1301:8-7-03 that the Report should have cited and applied to the facts went into effect on June 22, 1995. The application of the correct law to the facts leads the Division to find that Respondent violated OAC 1301:8-7-03(C), as in effect when Respondent vacated his Twinsburg office.

The Division modifies paragraph G on page 4 of the Report.

Roger Batt, Respondent's operations manager designated pursuant to R.C.

1322.03(A)(3), terminated his employment with Respondent effective December 5, 2005.

(State's Exh. D; Tr., p. 50). Respondent failed to designate and notify the Division of a replacement operations manager until the end of April 2006. (State's Exh. H; Tr., p. 62).

Because a mortgage broker is required to have a full-time operations manager and failed to designate and notify the Division of a replacement for four months, the Division finds that Respondent has violated R.C. 1322.03(A)(3) and 1322.04(D). Because Respondent has violated R.C. sections 1322.03(A)(3) and 1322.04(D) and OAC 1301:8-7-03(C), as discussed above, the Division also finds that Respondent's character and 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 Ohio Mortgage Broker Act. See, R.C. 1322.04(A)(10) and (B)(3).

For these reasons, Respondent's Application is hereby denied.

It is so ordered.

NOTICE OF APPELLATE RIGHTS

Respondent is hereby notified that pursuant to R.C. 119.12, this Order may be appealed 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 30th day of May 2007.

RICHARD F. KECK

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