

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

In the matter of:

**JACK P. BERNING**  
631 Sheridan Avenue  
Bexley, Ohio 43209

) Case No. M2008-418  
)  
) **DIVISION ORDER**  
) **Denial of Loan Officer License Renewal Application**  
) &  
) **Notice of Appellate Rights**

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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, Jack P. Berning ("Respondent") submitted to the Division a renewal application for a loan officer license pursuant to R.C. Chapter 1322; and

WHEREAS, on December 31, 2008, the Division issued Respondent a Notice which informed him that the Division had conducted an investigation of Respondent and, as a result thereof, alleged that:

1. Based on Respondent's conviction, the Division has the authority to deny the renewal of Respondent's loan officer license pursuant to R.C. 1322.10(A)(1)(b).
2. Based on Respondent's conviction, the Division has determined that the Respondent has been convicted of a theft offense as described in R.C. 1322.031(A)(2), and, therefore, the Respondent does not meet the requirements for renewal of Respondent's loan officer license pursuant to R.C. 1322.041(A)(3) & (B)(3). See O.A.C. 1301:8-7-01(K).
3. Respondent's actions violated R.C. 1322.07(A), which prohibits a loan officer applicant from "mak[ing] any substantial misrepresentation in any registration or license application[.]"
4. Respondent's actions violated R.C. 1322.07(B), which prohibits a loan officer applicant from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statements required by state law[.]"
5. Respondent's actions violated R.C. 1322.07(C), which prohibits a loan officer applicant from "[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings."

6. Based on Respondent's violations of 1322.07(A), (B) and (C), the Division is authorized to deny the renewal of Respondent's loan officer license pursuant to R.C. 1322.10(A)(1)(a).
7. As a result of the violations listed above, 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. See R.C. 1322.041(A)(6) and (B)(3).

WHEREAS, the Notice informed Respondent of the Division's intent to deny Respondent's loan officer license renewal application 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 denying the 2008 renewal application of Respondent's loan officer license[;]"

WHEREAS, the Notice was mailed to Respondent, via certified mail, on December 31, 2008, 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's renewal application for a loan officer license should be denied;

Respondent, Jack P. Berning's loan officer license 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 18<sup>th</sup> day of February 2009.

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**LEIGH A. WILLIS**

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