

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

In the matter of:) Case No. M2009-457
)
MICHAEL A. PARKS) **DIVISION ORDER**
3650 Monticello Boulevard)
Cleveland Heights, Ohio 44121) **TERMINATION of Notice of Intent to Deny**
) **Renewal of Loan Officer License**
)

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions (the "Division"), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act ("OMBA"), 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 is consistent with the purposes of the OMBA; and

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), on May 26, 2009, issued Michael A. Parks ("Respondent") a Notice of the Division's intent to deny his loan officer license renewal application; and

WHEREAS, the Notice informed him that the Division had conducted an investigation of Respondent and, as a result thereof, alleged that:

1. The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.031(B), and has found the following that in or around 1984, in the Cuyahoga County Court of Common Pleas, Respondent pleaded guilty to Breaking and Entering.
2. As a result of the findings listed above, the Division has determined that 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) and (B)(3).

WHEREAS, Respondent requested a hearing, which was scheduled for July 30, 2009, and continued two more times at the request of Respondent and his attorney. The hearing was held on December 22, 2009. At the time of the hearing, a recent decision was issued in a similar matter on appeal in Cuyahoga County—*Carroll M. Holtz v. Ohio Department of Commerce*, Case No. CV-651473;

WHEREAS, the Cuyahoga County Court of Appeals issued a decision in the *Holtz* case on December 3, 2009, which held that the term "theft" as used in R.C. sections 1322.031(A)(2) and 1322.041(A)(3) does not encompass "theft offenses" as defined in R.C. 2913.01(K); and

The Division finds that Respondent's criminal conviction is substantially similar to that of the Plaintiff's conviction in the *Holtz* case, and, therefore, the Division is unable to refuse to issue him a loan officer license based on that conviction alone.

The Division hereby terminates the May 26, 2009 Notice.

IT IS SO ORDERED.

NOTICE OF RIGHT TO APPEAL

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, pursuant to R.C. 119.12, 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 3rd day of March, 2010.

LEIGH A. WILLIS

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