

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

In the matter of:)	Case No. M2010-455
)	
JAMES R. CONSORTI)	<u>DIVISION ORDER</u>
3046 Alpine Terrace, #1)	Refusal to Issue Loan Originator License
Cincinnati, OH 45208)	&
)	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, 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, James R. Consorti ("Respondent") applied to the Division for a loan originator license pursuant to R.C. Chapter 1322; and

WHEREAS, on May 26, 2010, 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. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to issue a loan officer license if the Division finds that the applicant has violated "or failed to comply with any provisions of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration or license."
2. Prior to January 1, 2010, R.C. 1322.052 required every licensed loan officer to complete at least six (6) hours of approved continuing education ("CE") every calendar year (by December 31st).
3. Respondent held loan officer license LO.024131 during the 2007 calendar year.
4. Respondent failed to complete the required 6 hours of CE credit for the 2007 calendar year as required by R.C. 1322.052.
5. R.C. 1322.041(A) provides that a loan officer license shall be issued if the applicant meets the conditions of R.C. 1322.041(A)(1) to (8).
6. R.C. 1322.041(A)(2) provides that a loan officer license shall be issued if the applicant is in compliance with Chapter 1322.
7. R.C. 1322.041(A)(6) provides that a loan officer license shall be issued if the applicant's financial responsibility, character and general fitness 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 sections 1322.01 to 1322.12 of the revised code.

8. R.C. 1322.07(A) prohibits an applicant from obtaining a “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.”
9. On or about December 14, 2009, in Case No. M2009-820, the Division issued an Order denying Respondent’s 2009 loan officer license application for failure to complete his 2007 continuing education requirement.
10. On or about March 30, 2010, Respondent submitted an application for a loan officer license pursuant to R.C. Chapter 1322 and the nationwide mortgage licensing system and registry.
11. Nationwide mortgage licensing system and registry Question I asked “Has any State or federal regulatory agency or foreign financial regulatory authority ever: (6) denied or suspended your registration or license, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?” Respondent answered “No,” failing to disclose the December 14, 2009 denial of his loan officer license application. Therefore, Respondent made a false or fraudulent representation of a material fact or an omission of a material fact required by state law, or making a substantial misrepresentation in a license application in violation of R.C. 1322.07(A).
12. Respondent failed to complete six hours of CE in calendar year 2007 in violation of R.C. 1322.052 as effective in 2007 and R.C. 1322.041(A)(2).
13. Because Respondent violated R.C. 1322.052 (as effective prior to January 1, 2010) and is not in compliance with R.C. 1322.041(A)(2), the Division is authorized under R.C. 1322.10(A)(1)(a) to refuse to issue a loan officer license.
14. Respondent’s actions, as listed above, show 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 as required for issuance of a loan officer license pursuant to R.C. 1322.041(A).
15. Because Respondent does not meet the character and fitness requirement, the Division is authorized to refuse issuance of a loan officer license pursuant to R.C. 1322.041(A).
16. Respondent failed to disclose the denial of his 2009 loan officer license application on his 2010 loan officer license application in violation of R.C. 1322.07(A).
17. Because Respondent violated with R.C. 1322.07(A), the Division has the authority to refuse to issue Respondent a loan officer license.
18. Because Respondent violated R.C. 1322.07(A), Respondent is not in compliance with Chapter 1322 and the Division has the authority to refuse to issue Respondent a loan officer license.

19. Because Respondent does not meet the requirements of R.C. 1322.041(A) and violated R.C. 1322.07(A), pursuant to R.C. 1322.10(A)(1)(a) the Division has to authority to refuse to issue Respondent a loan officer license.

WHEREAS, the Notice informed Respondent of the Division's intent to refuse Respondent's loan officer license application and of the opportunity for a hearing regarding the refusal 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 refusing to issue Respondent a loan officer license[;]"

WHEREAS, the Notice was mailed to Respondent, via certified mail, on May 26, 2010; and service was perfected;

WHEREAS, the Division received Respondent's request for hearing on June 28, 2010, three days late;

WHEREAS, Respondent failed to timely 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 refused a license to act as a loan originator;

Respondent James R. Consorti's loan originator license application is hereby REFUSED.

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 7th day of July, 2010.

LEIGH A. WILLIS

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