

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

In the matter of:)	Case No. M2007-80
)	
APEX FINANCIAL GROUP, INC.)	<u>AMENDED</u>
d/b/a AAPEX MORTGAGE)	Notice of Intent to Revoke Mortgage Broker Registration
801 West Bloomingdale Avenue)	and Notice of Intent to Fine
Brandon, Florida 33511)	&
)	Notice of Opportunity for a Hearing
)	

JURISDICTION

The Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act, codified in Ohio Revised Code ("R.C.") Chapter 1322, and the rules adopted thereunder.

RESPONDENT

APEX FINANCIAL GROUP, INC. d/b/a AAPEX MORTGAGE ("Respondent") is a Florida corporation that holds a mortgage broker certificate of registration issued by the Division. Its business address of record is 801 West Bloomingdale Avenue, Brandon, Florida 33511.

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1322.10(A)(1)(a), and pursuant to R.C. Chapter 119, the Division intends to REVOKE Respondent's mortgage broker certificate of registration. In addition, the Division intends to impose a FINE against Respondent.

BASIS FOR PROPOSED ACTION

Pursuant to R.C. 1322.10(B), the Division conducted an investigation of Respondent, and as a result thereof, alleges the following:

- A. In accordance with R.C. 1322.10(A)(1)(a), the superintendent of the Division may revoke a mortgage broker certificate of registration if the superintendent finds "a violation of or failure to comply with any provision of sections 1322.01 to 1322.12 of Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration."
- B. R.C. 1322.04(B)(2) provides that a mortgage broker certificate of registration may be renewed only if the operations manager "has completed, during the immediately preceding calendar year, at least six hours of continuing education as required under section 1322.052 of the Revised Code."
- C. R.C. 1322.052 requires each person designated to act as the operations manager of a mortgage broker to complete at least six hours of continuing education every calendar year.

- D. Respondent's designated operations manager, Paul Czap, failed to complete the required 6 hours of continuing education credit for operations managers, for the 2006 calendar year, as required by R.C. 1322.052.
- E. Ohio Revised Code Section 1322.03(A)(7) requires every foreign business entity registered as a mortgage broker in the State of Ohio to maintain a license or registration with the Ohio Secretary of State in order to transact business in this state.
- F. Ohio Revised Code Section 5733.20 requires the Ohio Secretary of State to cancel a corporation's Articles of Incorporation upon certification by the Ohio Department of Taxation of such corporation's failure to file a return or failure to pay the appropriate tax or fee.
- G. Ohio Revised Code Section 5733.20 provides that, upon cancellation, "all the powers, privileges, and franchises conferred upon such corporation by such articles of incorporation or by such certificate of authority shall cease," subject to Ohio Revised Code Section 1701.88 of the Revised Code, which proscribes that the corporation "shall cease to carry on business and shall do only such acts as are required to wind up its affairs, or to obtain reinstatement..."
- H. On or about February 6, 2007, Respondent was notified by the Ohio Secretary of State that the Secretary has cancelled the Articles of Incorporation/Certificate of Authority issued to Respondent, in accordance with Ohio Revised Code Section 5733.20, due to Respondent's nonpayment of the corporate franchise tax within the time required by law.

As a result of the findings listed above, the Division has determined that:

- 1. Respondent is no longer authorized to conduct business in the State of Ohio, as of February 6, 2007, and is not in compliance with R.C. 1322.04(A)(4).
- 2. Respondent's actions, as described in paragraphs B, C and D above, are not in compliance with the certificate of registration renewal requirements set forth in R.C. 1322.04(B)(2) and (B)(3).
- 3. For the violation of R.C. 1322.03(A)(7) described herein, the Division has determined that Respondent's certificate of registration should be REVOKED, pursuant to R.C. 1322.10(A)(1)(a).
- 4. For the violation of R.C. 1322.052 described herein, the Division imposes a fine on Respondent in the amount of two thousand dollars (\$2,000.00), as permitted by R.C. 1322.10(A)(1)(a).

NOTICE OF OPPORTUNITY FOR A HEARING ON PROPOSED ACTION

Therefore, pursuant to R.C. Chapters 1322 and 119, Respondent is hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to issue an order revoking Respondent's mortgage broker certificate of registration, and imposing a fine in the amount of two thousand dollars (\$2,000.00).

Respondent is further notified, pursuant to R.C. Chapter 119, that Respondent is entitled to a hearing on this matter. If Respondent desires to request a hearing, the request must be made in writing, and must be received in the offices of the Ohio Division of Financial Institutions within thirty (30) days of the time of the mailing of this Notice. Hearing requests should be addressed: Ohio Division of Financial Institutions, Attn: Jason K. Wright, Consumer Finance Associate Counsel, 77 South High Street, 21st Floor, Columbus, Ohio 43215-6120.

At the hearing, Respondent may appear in person, by Respondent's attorney, or by such other representative as is permitted to practice before the Agency, or Respondent may present its position, arguments, or contentions in writing, and, at the hearing, may present evidence and examine witnesses appearing for and against Respondent.

If the Ohio Division of Financial Institutions does not receive a written request for a hearing in its offices within thirty (30) days of the time of the mailing of this Notice, the Superintendent will issue an order revoking Respondent's mortgage broker certificate of registration.

Signed and sealed this 16th day of April 2007.

RICHARD F. KECK

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