

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

In the matter of:)	Case No. M2006-9992891
)	
AMERICAN FUNDING AGENCY, INC.)	Notice of Intent to Deny 2006 Renewal Application
7807 North Dixie Drive)	&
Dayton, Ohio 45414)	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. In accordance therewith, the Division is accountable for the licensing of individuals as residential mortgage loan officers.

RESPONDENT

AMERICAN FUNDING AGENCY, INC. ("Respondent") is a company that 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 to renew its certificate of registration. Respondent's business address of record is 7807 North Dixie Drive, Dayton, Ohio 45414.

NOTICE OF PROPOSED ACTION

In accordance with sections 1322.04 and 1322.10 of the R.C., and R.C. Chapter 119, the Division intends to DENY Respondent's 2006 renewal application for a mortgage broker certificate of registration.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.10(B), and has found the following:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew an applicant's mortgage broker certificate of registration if the Division finds that the applicant has violated "or failed to comply with any provision 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[.]"
- B. R.C. 1322.04(A)(7) & (B)(3) provide that a registrant will not be renewed if the registrant, its shareholder, or operations manager, or other specified individuals, has pleaded guilty to money laundering or any criminal offense involving money or securities. If the registrant or such persons have pleaded guilty to or been convicted of such an offense, the registrant will not be renewed unless the registrant has proven to the superintendent, by a preponderance of the evidence, that the registrant's or person's activities and employment record since the conviction show that the applicant or other person is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant or other person will commit such an offense again. See, also, R.C. 1322.03(A)(7).

- C. In or around May 2006, in the United States District Court for the Southern District of Ohio, Glen Hurst, President and sole shareholder of Respondent, pleaded guilty to CONSPIRACY TO LAUNDER MONEY, in violation of 18 U.S.C. 1956(h), and ATTEMPT TO EVADE INCOME TAXES, in violation of 76 U.S.C. 7201. As set forth in the plea agreement, Hurst's crimes were carried out and concealed through the mortgage broker business of American Funding Agency, Inc.
- D. In or around February 2006, in the United States District Court for the Southern District of Ohio, Kimberly McGinnis, former Operations Manager of Respondent, pleaded guilty to CONSPIRACY TO LAUNDER MONEY, in violation of 18 U.S.C. 1956(h). As set forth in the plea agreement, McGinnis' crimes were carried out and concealed through the mortgage broker business of American Funding Agency, Inc prior to the end of her employment with Respondent.

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

- 1. Respondent, by and through the activities of its President and its former Operations Manager, has not proven to the Division that it is honest, truthful, and of good reputation, and there is no basis in fact for believing that the Respondent will commit money laundering or any offense involving money or securities again. R.C. 1322.04(A)(7) & (B)(3).
- 2. 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. R.C. 1322.04(A)(10) & (B)(3).
- 3. Because Respondent does not meet the conditions outlined in R.C. 1322.04(A)(7), (A)(10) and (B)(3), the Division has the authority to refuse to renew Respondent's mortgage broker certificate of registration. 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 denying Respondent a loan officer license under the Ohio Mortgage Broker Act.

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: Anthony D. Siciliano, Consumer Finance General 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. At the hearing, a corporation must have a representative that is permitted to practice before the Agency, such as an attorney.

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 denying Respondent a loan officer license.

Signed and sealed this 13th day of July 2006.

ROBERT M. GRIESER

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