

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS
77 South High Street, 21st Floor
Columbus, Ohio 43215-6120

In the matter of:)	Case No. M2006-9992831
)	Notice of Intent to Deny
ACE FUNDING, INC.)	Mortgage Broker Certificate
27801 Euclid Avenue #560)	of Registration Application &
Euclid, OH 44132)	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 enforcing the Ohio Mortgage Broker Act, codified in Ohio Revised Code ("R.C.") Chapter 1322, and the rules adopted thereunder.

RESPONDENT

Respondent Ace Funding, Inc. ("Respondent") is an Ohio corporation that has applied to the Division for a mortgage broker certificate of registration pursuant to R.C. Chapter 1322. The business address of record for Respondent's proposed office is 27801 Euclid Avenue #560, Euclid, Ohio 44132.

NOTICE OF PROPOSED ACTION

In accordance with R.C. 1322.04(A) and 1322.10(A)(1)(a), and pursuant to R.C. Chapter 119, the Division intends to DENY Respondent's application for a mortgage broker certificate of registration.

BASIS FOR PROPOSED ACTION

Pursuant to R.C. 1322.10(B) and R.C. 1322.04(A), the Division conducted an investigation into the affairs of Respondent, and as a result thereof, alleges the following:

1. Neal Wolf is the sole shareholder of Ace Funding, Inc. In addition, he is the president, vice president, secretary, and treasurer of Ace Funding, Inc. and has applied to be the Operations Manager of Ace Funding, Inc.
2. At all times relevant to this action, Neal Wolf has been the principal owner, Operations Manager, and President of Ace Home Loan, Inc. which holds mortgage broker certificate of registration MB 3329 issued by the Ohio Department of Commerce, Division of Financial Institutions.

3. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to issue a mortgage broker certificate of registration if the Division finds that the registrant has violated “or fail[ed] 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[.]”
4. In order to obtain a certificate of registration, the applicant must meet the condition outlined in R.C. 1322.04(A)(10) which states that applicant’s “...financial responsibility, experience, 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.” Where the applicant is a partnership, corporation, or other business entity or association, “the superintendent shall determine which partners, shareholders, or persons named in the application pursuant to division (A)(2) of section 1322.03 of the Revised Code must meet the conditions set forth in division...(A)(10) of this section. This determination shall be based on the extent and nature of the partner’s, shareholder’s, or person’s ownership interest in the partnership, corporation, or other business entity or association that is the applicant.”
5. On or about September 16, 2003, in Case No. CV-03-507258 in the Cuyahoga County Court of Common Pleas, Geraldine Wolfe filed her “Answer of Geraldine Wolfe, Counterclaim and Third Party Complaint for Declaratory and Injunctive Relief, Money Damages, and Cancellation,” bringing Ace Home Loan, Inc. into this action as Third Party Defendant. The Defendant in the action, Geraldine Wolfe, was sued by Ameriquest Mortgage Company for foreclosure due to her default on a mortgage loan. Geraldine Wolfe brought Respondent into the action as a third party defendant to assert claims associated with the refinance of her mortgage. This suit brought claims of violations of the Consumer Sales Practices Act, violations of the Ohio Mortgage Broker Act, breach of Fiduciary duty, civil conspiracy, fraud, conspiracy to engage in a pattern of corrupt activities, negligent misrepresentation and intentional infliction of emotional distress, and violation of the Federal Debt Collection Practices Act against Ace Home Loan, Inc. On or about September 23, 2003 Ace Home Loan, Inc. was served with the court papers by certified mail. On January 26, 2004, Ace Home Loan filed a Motion for more Definite Statement, Motion to Dismiss and Motion for Leave to Plead.
6. On or about March 26, 2004, Patrice Frazier filed a court action, CV-04-526340, in the Cuyahoga County Court of Common Pleas naming numerous parties in the action, among which was Ace Home Loans. Ms. Frazier brought claims associated with the purchase of two properties, located at 6701 Fullerton Avenue, Cleveland, Ohio 44105 and 1704 Strathmore, East Cleveland, Ohio 44112. The Plaintiff brought claims of negligence, fraud, civil conspiracy, RESPA violations, and Uniform Lead Based Paint Hazard Reduction Act violations against Ace Home Loan, Inc. Ace Home Loan, Inc. had received service of this complaint on April 5, 2004. On June 16, 2004, Respondent filed its Answer.

7. On or about January 25, 2005, Jeanine King Chaplin commenced a lawsuit against certain parties including Ace Home Loan, Inc. involving the purchase of property located at 18709 Arrowhead Avenue, Cleveland, Ohio, parcel numbers 114-15-080, 114-15-081, 114-15-082, and 114-15-083. Jeanine King Chaplin brought claims of negligence, fraud, breach of statutory and fiduciary duty, violations of the Ohio Mortgage Broker Act, civil conspiracy, and intentional infliction of emotional distress. On July 29, 2005, Ace Home Loan, Inc. received service of this complaint. On August 30, 2005, Ace Home Loan, Inc. filed its Answer.
8. On or about March 18, 2004, Neal Wolf completed a 2004 Mortgage Broker Renewal Application for Ace Home Loan, Inc.
9. On the 2004 Renewal Application of Ace Home Loan, Inc., Neal Wolf wrongfully denied that the registrant or any owner, partner, shareholder, member, officer, director, or operations manager had been named in any civil or administrative action that involved insurance, securities, or consumer or real estate lending or brokering. Neal Wolf had failed to disclose the lawsuit brought by Geraldine Wolfe against Ace Home Loan, Inc.
10. On or about March 21, 2005, Neal Wolf completed a 2005 Mortgage Broker Renewal Application for Ace Home Loan, Inc.
11. On the 2005 Renewal Application of Ace Home Loan, Inc., Neal Wolf wrongfully denied that the registrant or any owner, partner, shareholder, member, officer, director, or operations manager had been named in any civil or administrative action that involved insurance, securities, or consumer or real estate lending or brokering. Neal Wolf had failed to disclose the lawsuit brought by Patrice Frazier against Ace Home Loan, Inc.
12. On March 15, 2006, Neal Wolf completed a 2006 Mortgage Broker Renewal Application for Ace Home Loan, Inc.
13. On the 2006 Renewal Application of Ace Home Loan, Inc., Neal Wolf wrongfully denied that the registrant or any owner, partner, shareholder, member, officer, director, or operations manager had been named in any civil or administrative action that involved insurance, securities, or consumer or real estate lending or brokering. Neal Wolf had failed to disclose the lawsuit brought by Jeanine King Chaplin against Ace Home Loan, Inc.
14. Ace Home Loan's actions, through its owner and president Neal Wolf, listed in Paragraphs 8 through 13 violated R.C. 1322.07(A), which prohibits a registrant or applicant for a certificate of registration from "mak[ing] any substantial misrepresentation in any registration or license application[.]"
15. Ace Home Loan's actions, through its owner and president Neal Wolf, listed in Paragraphs 8 through 13 violated R.C. 1322.07(B), which prohibits a registrant or applicant for a certificate of registration from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statements required by state law[.]"

16. Ace Home Loan's actions, through its owner and president Neal Wolf, listed in Paragraphs 8 through 13 violated R.C. 1322.07(C), which prohibits a registrant or applicant for a certificate of registration from engaging in conduct that "constitutes improper, fraudulent, or dishonest dealings."
17. R.C. 1322.05(B)(1) states: "The registrant shall give notice to the superintendent by certified mail of any action that is brought by a buyer against the registrant or loan officer of the registrant alleging injury by a violation of any provision of sections R.C. 1322.01 to 1322.12 of the Revised Code, and of any judgment that is entered against the registrant or loan officer of the registrant by a buyer injured by a violation of any provision of sections 1322.01 to 1322.12 of the Revised Code. The notice shall provide details sufficient to identify the action or judgment, and shall be filed with the superintendent within ten days after the commencement of the action or notice to the registrant of entry of a judgment."
18. Ace Home Loan, Inc. failed to give the Division notice, pursuant to R.C. 1322.05(B)(1) of the lawsuits filed by Geraldine Wolfe and Jeanine Chaplin King. Therefore Ace Home Loan, Inc. violated R.C. 1322.05(B)(1).
19. R.C. 1322.031(E)(2) states: "If a loan officer's employment is terminated, the mortgage broker shall return the original license to the superintendent within five business days after termination. The licensee may request the transfer of the license to another mortgage broker by submitting a relocation application, along with a fifteen dollar fee, to the superintendent or may request the superintendent in writing to hold the license in escrow for a period not to exceed one year. Any licensee whose license is held in escrow shall cease activity as a loan officer. A mortgage broker may employ a loan officer on a temporary basis pending the transfer of the loan officer's license to the mortgage broker, if the mortgage broker receives written confirmation from the superintendent that the loan officer is licensed under sections 1322.01 to 1322.12 of the Revised Code."
20. The records of the Division indicate that Corriitha Wells, LO# 7476 working for Ace Home Loan, Inc., filed a loan officer transfer application for a transfer from All in One Financial Services to Ace Home Loans, Inc. on December 11, 2003. This transfer application stated that the effective date of new employment was July 5, 2003. In 2005, upon applying for a certificate of registration for Alpha Mortgage Company of Ohio, Inc., of which Corriitha Wells is the sole shareholder, Corriitha Wells provided to the Division documents indicating that from August 2003 through November 2003, she made \$76,624.53 in commissions from Ace Home Loans, Inc. At this time, she was licensed with All In One Financial Services.
21. By allowing Corriitha Wells to work as a loan officer without being properly licensed, without submitting a loan officer transfer to the Division and without ensuring that Ace Home Loan, Inc. had received written confirmation from the superintendent that Corriitha Wells was licensed under R.C. 1322 et. seq. and able to work, Ace Home Loan, Inc. violated R.C. 1322.031(E)(2).

22. Because Ace Home Loan, Inc. and Respondent Ace Funding, Inc. have a common owner, president, and Operations Manager, whose actions caused Ace Home Loan, Inc. to violate R.C. 1322.07(A), R.C. 1322.07(B), R.C. 1322.07(C), R.C. 1322.05(B)(1), and R.C. 1322.031(E)(2), the Division finds Respondent Ace Funding, Inc.'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. 1322.04(A)(10).

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

The actions of Respondent Ace Funding Inc.'s owner and President Neal Wolf in failing to give the Division notice pursuant to R.C. 1322.05(B)(1) of actions brought by buyers against Ace Home Loan, Inc. alleging injury by a violation of the Ohio Mortgage Broker Act and in wrongfully denying in Ace Home Loan, Inc.'s 2004, 2005, and 2006 renewal applications that Ace Home Loan, Inc. or any owner, partner, shareholder, member, officer, director, or operations manager had been named in any civil or administrative action that involved insurance, securities, or consumer or real estate lending or brokering causes the Division to believe that Respondent's character and general fitness do not command the confidence of the public and do not warrant the belief that its business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act as required by R.C. 1322.04(A)(10).

PROPOSED ACTION

Based upon the allegations and findings above, the Division intends to ORDER DENYING the mortgage broker certificate of registration application of Ace Funding, Inc.

NOTICE OF OPPORTUNITY FOR A HEARING ON PROPOSED ACTION

Therefore, pursuant to R.C. Chapters 1322 and 119, Respondents are hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to issue an ORDER DENYING the mortgage broker certificate of registration application of Ace Funding, Inc.

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 to:

**State of Ohio
Department of Commerce
Division of Financial Institutions
Attn: Attorney Timothy C. Winslow**

**77 South High Street, 21st Floor
Columbus, Ohio 43215-6120**

At the hearing, Respondent may appear by an 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 DENYING the mortgage broker certificate of registration application for Ace Funding, Inc.

Signed and Sealed this _____ day of _____, 2006.

Robert M. Grieser
Deputy Superintendent of Consumer Finance

Cc: Timothy C. Winslow, In House Counsel—Division of Financial Institutions
Matt Lampke, Asst. Attorney General, Business & Government Regulation

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