

Sent 7/14/09  
Reg. + Cert.  
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## ORDER

**BEFORE THE ADMINISTRATOR  
STATE OF WISCONSIN  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
DIVISION OF BANKING**

TO: Pavilion Capital Group, LLC  
12020 Shamrock Plaza, #200  
Omaha, NE 68154  
Respondent

### PURPOSE

1. This is an order issued by the Administrator, State of Wisconsin, Department of Financial Institutions, Division of Banking and directed to respondent.

### JURISDICTION and AUTHORITY

2. The State of Wisconsin, Department of Financial Institutions, Division of Banking ("division") shall enforce and carry out all laws relating to mortgage bankers, mortgage brokers and loan originators in the State of Wisconsin, and shall enforce and cause to be enforced every law relating to the supervision and control thereof. Ch. 224, subch. III, Stats.

3. Respondent holds a certificate of registration as a mortgage broker under ch. 224, subch. III, Stats. with the division, certificate of registration #16288. Respondent is located at the address indicated above.

4. The division may issue general and special orders necessary to prevent or correct actions by a mortgage banker, loan originator or mortgage broker that constitute cause under s. 224.77, Stats., for revoking, suspending or limiting a certificate of registration. Sec. 224.77(3)(a), Stats.

5. Special orders may direct a mortgage banker, loan originator or mortgage broker to cease and desist from engaging in a particular activity or may direct the mortgage banker, loan originator or mortgage broker to refund or remit certain amounts. Sec. 224.77(3)(b), Stats.

6. The division may assess against a person who is registered under ch. 224, Stats., a forfeiture of not more than \$2,000 for each violation enumerated under ss. 224.77(1)(a) to (o) or (r), Stats. Sec. 224.77(1m), Stats.

## FINDINGS

### The division finds as follows:

7. On or about March 17, 2008, the division received respondent's mortgage broker renewal application. The application identified Ronald Penzkowski as respondent's 100% owner and president. No other key members were identified.

8. Respondent's website (pavilioncapitalgroup.com) includes a page for David L. Musk ("Musk"). On the page (pavilioncapitalgroup.com/davemusk/home.asp), Musk is identified as respondent's CFO/CEO. The page also indicates "You will benefit from Dave's twenty two years of experience in loan originations, processing, underwriting and closings. Dave Musk also has over 100 wholesale lenders to effectively outsource your loan for the lowest rates and costs." **Ex. 1.**

9. In a February 17, 2009 letter to the division, respondent indicates that Musk is not an owner or principal of respondent. **Ex. 2.**

10. In a March 23, 2009 letter to the division, respondent indicates "You can call my office anytime and you will never talk directly to Dave Musk, because he does not work there anymore ... I am legally licensed in Wisconsin and again this site is just a marketing tool I use. I could have a stick figure on this site, but Mr. Musk has been in many trade publications, contributed to many mortgage blogs and even taught a mortgage school at one time over the past ten years and is a famous loan originator ... You will 'never' find a client that has spoken to or received an email from Dave Musk, closed a loan with Dave Musk, etc." **Ex. 3.**

11. Pursuant to s. 224.77(1)(m), Stats., the division may revoke, suspend or limit the certificate of registration of a mortgage broker, or may reprimand a mortgage broker, if the division finds that the mortgage broker engaged in conduct which constitutes improper, fraudulent or dishonest dealing. Pursuant to s. DFI-Bkg 43.02(2), Admin. Code, making or causing to be made any false, deceptive or misleading statement or representation in regard to services being offered, constitutes improper, fraudulent or dishonest dealing.

12. Respondent engaged in conduct which constitutes improper, fraudulent or dishonest dealing by representing on its website that Musk is respondent's CFO/CEO.

13. Respondent engaged in conduct which constitutes improper, fraudulent or dishonest dealing by representing on its website that Musk works on behalf of respondent.

## ORDER

### Based on the foregoing, IT IS HEREBY ORDERED AS FOLLOWS:

14. Respondent shall cease representing that Musk is respondent's CFO/CEO.

15. Respondent shall cease representing that Musk works on behalf of respondent.

16. Respondent shall, by July 31, 2009, change its website page at pavilioncapitalgroup.com/davemusk/home.asp to cease representing that Musk is respondent's CFO/CEO and that Musk works on behalf of respondent.

17. The provisions of this order shall be binding upon respondent and respondent's directors, officers, employees, agents, successors, assigns, and other persons participating in the conduct of its affairs. The provisions of the order shall remain effective and enforceable except to the extent that, and until such time as, any provisions of this order shall have been modified, terminated, suspended, or set aside by the division.

18. The effective date of this Order shall be the date it is served, and service is complete upon mailing. Secs. 227.48(1), Stats., and DFI—Bkg 11.09, Admin. Code.

Dated and mailed at Madison, Wisconsin this 14<sup>th</sup> day of July, 2009.

By:   
Michael J. Mach, Administrator  
Wisconsin Department of Financial Institutions  
Division of Banking  
P.O. Box 7876  
345 W. Washington Avenue, 4<sup>th</sup> Floor  
Madison, WI 53707-7876  
tel. (608) 266-0451  
fax (608) 267-6889

### APPEAL

The procedures to appeal this order are set forth in s. 227.42, Stats. Pursuant to s. 227.42(1), Stats., any person filing a written request with an agency for hearing shall have the right to a hearing which shall be treated as a contested case if:

- (a) A substantial interest of the person is injured in fact or threatened with injury by agency action or inaction;
- (b) There is no evidence of legislative intent that the interest is not to be protected;
- (c) The injury to the person requesting a hearing is different in kind or degree from injury to the general public caused by the agency action or inaction; and
- (d) There is a dispute of material fact.

All four criteria set for in s. 227.42(1), Stats., must be met for a person to have the right to a hearing. In particular, the attention of an individual or entity requesting a hearing is directed to the requirement to demonstrate that there is a dispute of material fact regarding the basis or bases for the action being taken by the division.

The request shall be sent to:

Michael J. Mach, Administrator  
Wisconsin Department of Financial Institutions  
Division of Banking  
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### **NOTICE TO NON-RESIDENT ATTORNEYS**

A non-resident attorney may file a pleading or appear at a proceeding in a matter before the administrator if he or she is 1) licensed to practice law in Wisconsin or 2) not licensed to practice law in Wisconsin but employed as in-house counsel for a single employer-client. See SCR 10.03(4), as interpreted in *Lee R. Krahenbuhl, DDS v. Wisconsin Department of Regulation and Licensing* (Memorandum Decision, February 26, 2003, Case No. 02-CV-1148, Dane County); see also SCR 20:5:5. Any questions regarding this matter should be directed to the Deputy General Counsel, Department of Financial Institutions, Office of the Secretary, tel. (608) 267-1705.