

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS
CONSUMER FINANCE

RECEIVED
DIVISION OF FINANCIAL
INSTITUTIONS

2004 JUN -1 PM 2: 53

In re: Larry D. Hall

:

Case No. 04-0094-LOD

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF
THE HEARING OFFICER

1. The Ohio Department of Commerce, Division of Financial Institutions ("Division"), proposes that the Loan Officer License Application of Larry D. Hall not be granted. The Division conducted an investigation and found:

- a. In or around 1999, in the Court of Common Pleas of Hamilton County, Ohio, Mr. Hall pleaded guilty to and was convicted of tampering with an odometer, a felony of the fourth degree.

2. As a result, the Division determined:

- a. Mr. Hall'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 set forth in Revised Code Section 1322.041(A)(5);

3. Mr. Hall's address for service is 349 Mircbeau Street, Greenfield, Ohio 45123. He is hereinafter referred to as the "Respondent." The Respondent is employed by Ohio Mortgage Funding, 11499 Chester Road, Suite 203, Cincinnati, Ohio 45246.

4. This matter was initiated by the Superintendent of the Division by the issuance on January 22, 2004 of a Notice of Intent to Deny Loan Officer Application & Notice of Opportunity for a Hearing, together with a covering letter (Exhibit 7).

5. The Respondent signed a certified mail receipt for that document. (Exhibit 7).

6. On February 18, 2004, the Division received a Hearing Request Form from the Respondent (Exhibit 8).

7. On February 19, 2004, the Division wrote to the Respondent acknowledging receipt of the Request for a Hearing and scheduling the hearing for 9:00 a.m. on March 1, 2004 and simultaneously, upon the Division's own motion, continuing the hearing until Friday, March 26, 2004 at 3:00 p.m. in Room 1918 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio. (Exhibit 9).

8. The hearing was held beginning at 3:00 p.m. on March 26, 2004. Attending were Daniel P. Jones, Assistant Attorney General of Ohio in the Executive Agencies Section, and Larry D. Hall, *pro se*.

9. The hearing was conducted pursuant to Section 119 of the Ohio Revised Code. The Division is deemed to have jurisdiction to conduct the proceedings.

FINDINGS OF FACT

1. On March 29, 2002, the Respondent signed a Loan Officer Application (the "Application") under the provisions of the Ohio Mortgage Broker Act, Ohio Revised Code Section 1322. (Exhibit 1).

2. Question 5 of the Application provides:

Have you, or has any company for which you have been an officer, or more than 5% owner or director ever been convicted of any criminal offense including, but not limited to, theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities?

Yes ☐ No ☐

If yes, furnish details.

3. In response to Question 5, the Respondent answered "Yes" and wrote, "November 17, 1999 convicted of tempering with odometer. Received 2 years probation. This was a personal vehicle, did not involve employment."

4. Following the submission of the Application, the Division received a report from the National Background Check which disclosed an October, 1999 arrest for forgery. (Exhibit 2).

5. On June 7, 2002, the Division wrote to the Respondent indicating that the Division was unable to decide whether to issue a license because of insufficient evidence. (Exhibit 3). The Division noted that the Application indicated a 1999 conviction for tampering with an odometer but the arrest report indicated an October, 1999 indictment for felony forgery. The Respondent was asked to provide a detailed explanation of the facts and circumstances which gave rise to the charge and certified copies of the court orders from the appropriate courts. (*Id.*).

6. In response to that letter, the Respondent submitted a written explanation as follows:

The date that I gave you of November 17, 1999 must have been wrong. The date must have been October 27, 1999. There was three charges filed of those one charge was forgery as you can see that charge was dismissed. All charges came about when I owned a 1989 Nissan 240SX. The vehicles odometer was showing the correct miles. I sold it to a friend of mine. I told him the odometer was not correct. He was buying the car for his daughter and did not care about the miles. He then sold the car to someone else and did not tell them that the odometer was incorrect. They

found out and contacted the Bureau of Motor Vehicles. They filed the charges and two of the charges were dismissed. The only charge was tampering with odometer. I plead guilty and was sentenced to two years probation and to perform 200 hours of community service. The 200 hours of community service was completed before the two years and the probation was ended at that time.

I have been in no other trouble other than this one time. I have paid for my mistake and have been a mortgage broker for a little over a year. I have many satisfied clients and I have always been one of the top loan officers in our office. I have also been training a lot of the new loan officers that have been hired. I have a wife and five children and I hope this one mistake in the past will not keep me from receiving my mortgage loan officer's license. I have been honest with all my clients, co-workers and employer and have been an asset to my employer and have went out of my way to assist all my clients to the best of my ability. I can provide personal references if that would help in anyway. I would like to thank you for your consideration in this matter and hope to receive my Ohio Mortgage Loan Officers License in the near future.

(Exhibit 4).

8. The Respondent also submitted a copy of the Judgment Entry from the Hamilton County Court of Common Pleas. (Exhibit 4).

9. On March 14, 2003, the Division wrote to the Respondent a letter entitled "Warning of Disqualification". (Exhibit 5).

10. On March 15, 2003, the Division received a "Response to Automatic Disqualification" from the Respondent which provided as follows:

Since the conviction I have only had two employers. From December 2nd 1999 to May 19th of 2001 I was employed at Frank Z. Chevrolet in Dayton Oh. I was Finance Manager in charge of financing or collecting payments for all Used and some New vehicles delivered for the Dealership. I handled all money that came in to pay for vehicles purchased. I handled all transactions Honestly and Truthfully never having any complaints of any kind from Employer or Customer. When I left Frank Z wanted me to stay and have contacted me numerous times to come back to work for them.

May 21st 2001 to present I have been employed by OHIO MORTGAGE FUNDING as a Loan Officer. I have closed over 100 loans from May of 2001 to Present dealing Honestly and Truthfully with all the clients I deal with. I have never had any complaints by any of my Clients past or present. I have helped in training New Loan Officers that have been hired. I have been Assistant Manager and was Branch Manager for two months before deciding to go back to being a Loan Officer. I would not have been promoted to Branch Manager if I had not

dealt in an Honest and Truthful manner. I have a good reputation with all the Lenders I dealt with to get the vehicles financed when I was Finance Manager and now that I am a Loan Officer I have a good Reputation with all the Lenders and the Title Companies I use to close my Loans.

I feel that I should have the opportunity to continue to be a Loan Officer to provide clients with loans that help them save money and improve their financial future and have the opportunity to provide for my family. I have a wife and five children to provide for, two girls in College and three more at home. I would not do anything to upset my family's future. I have been completely honest and truthful in all my activities and employment therefore there is no basis in fact for believing that I would commit such an offense again.

I would be more than happy to talk to you about any question you may have on this matter. I am also sure that any of my employers past or present would be more than happy to talk with you about my character and the Title Co. could also discuss my reputation with you. I hope you will consider this when reviewing my Application and the outcome will be favorable and I can continue to be a Loan Officer in the state of Ohio. Thank you for the opportunity to provide you with the evidence to clear up this matter.

(Exhibit 6).

11. The Respondent also submitted a letter of support from Jeff Cohen, Branch Manager of Ohio Mortgage Funding. (Exhibit 6). Mr. Cohen stated that the Respondent has been one of the top producers in the office and that he has assisted with training of new employees. Mr. Cohen has never received complaints from customers and he finds that the Respondent is respected by the loan officers and lenders.

12. The Respondent also submitted a letter of support from Mark Powers, President of Frank Auto Group, who indicated that the Respondent worked at Frank Z Chevrolet from December, 1999 to May, 2001 as Finance Manager. His duties included financial matters. The Respondent always displayed honesty and integrity. (Exhibit 6).

13. Respondent submitted a letter from Mollie Winsted, Vice President of Chelsea Title, who reported that the Respondent was trustworthy and honest in his business concerns. (Exhibit 6).

14. The Respondent submitted a letter of support from David S. Gearing, Sr., Senior Loan Officer for Ohio Mortgage Funding. Mr. Gearing also stated that the Respondent's honesty and integrity have gained him the respect of his clients as well as his co-workers. (Exhibit 6).

15. The Respondent submitted a letter jointly from Lee Ann Crone, Josh Back, and Lisa Chism of Kemper Mortgage, Inc. They found the Respondent to have been responsible, helpful and respectful of clients and have maintained a level of honesty admired by them. (Exhibit 6).

16. The Respondent submitted a letter from Mark McCool, Account Executive with Decision One Mortgage. Mr. McCool wrote to state that he has known the Respondent since May, 2001 and has closed numerous loans with him over the past two years. He has found the Respondent to be honest and truthful and has not seen evidence of dishonesty or untruthful dealings with loans.

CONCLUSIONS OF LAW

1. Ohio Revised Code Section 1322.031(A)(2) requires that in an application for a license as a loan officer, an applicant must submit a statement as to whether the applicant has been convicted or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities.

2. Ohio Revised Code Section 1322.041(A) provides that the Superintendent of the Division shall issue a Loan Officer License if the Superintendent finds that certain conditions are met including:

- (5) The applicant's 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 Section 1322.01 to 1322.12 of the Revised Code.

3. The Division has the burden to show that the Respondent's character and 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.

DISCUSSION

1. At the time of the hearing in this matter, the Respondent was 43 years of age and turned 44 in April, 2004. (Tr. 18). At the time of the incident with the odometer tampering, he was 39 years old. He is married and has five children, two of whom are in college. (Tr. 18). The children range in age from two to twenty-two.

2. The Respondent describes the odometer tampering offense as "something totally stupid." (Tr. 18). Looking back, the Respondent stated, "it was just one of the most stupid things I have ever done in my life for a \$1,000 car." (Tr. 18-19).

3. He purchased this car for his own personal use for \$1,000. He drove it for two years and then sold it for \$1,300.00. (Tr. 19).

4. The Respondent took full responsibility for his act. (Tr. 19). The Hearing Officer notes that on the Application, the Respondent acknowledged that, in answering Question 4 of the Application, that his Ohio Auto Sales License was revoked in May, 2001 because of this odometer incident. (Exhibit 1).

5. The Respondent, as evidenced by his own statements and the letters of support, indicated that he has worked in the financial services industry, both at a car dealership and in the home mortgage business. The record does not disclose any customer complaints about the Respondent's handling of money or his honesty. (Tr. 17). The Respondent has assisted in training new loan officers in the mortgage business. (Tr. 17).

6. The Respondent graduated from high school in 1978 and attended the University of Cincinnati initially to study architecture. (Tr. 20-21). He attended for one and one-half years, then dropped out of college, got married and began a family. (Tr. 21). For three years he worked at a meat packing plant and then began selling cars. (Tr. 21).

7. While working at many different car dealerships in his career, the Respondent has never been terminated or fired from a job. (Tr. 23).

8. The Respondent has not attempted to regain his auto salesman license because he likes the mortgage business with its fewer hours. (Tr. 24).

9. The Respondent is embarrassed about the odometer tampering incident. (Tr. 25).

10. The Respondent lives an hour and fifteen minutes away by automobile from his office. (Tr. 26). With an active family, that leaves him little time for other involvement. (*Id.*). His oldest daughter is a senior at Ohio University and another daughter is a sophomore at Wilmington College.

11. The Respondent claims that he told the person to whom he sold the car that the odometer was not correct. That person apparently sold the car to a third party who had a history of the car produced and the odometer discrepancy surfaced.

12. The Respondent had a hearing to contest his auto salesman license revocation. He was informed that his license would be revoked and that after one year he could re-apply. (Tr. 30-31). He has simply not made that re-application because of his new work in the mortgage industry. (Tr. 31).

13. The Respondent also submitted a letter of support from Lisa Chism, Branch Manager for Ohio Mortgage Funding, who described the Respondent as a wonderful loan officer and a valued employee. She found his standards to be above reproach and that he has been doing the mortgage broker job for a period of three years without adverse claims. (Respondent's Exhibit A).

14. The Respondent acknowledges that the odometer incident which occurred five years prior to the hearing in the matter cost him a lot. (Tr. 33-34). He almost lost his family and got a divorce because of it. (Tr. 34). Prior to this single, isolated incident, the Respondent had never been in trouble. (Tr. 34).

15. The Respondent wholeheartedly acknowledges his involvement in this single, isolated episode of odometer tampering for which he stands convicted of a fourth degree felony. On one hand, the Hearing Officer is presented with a work and family record of more than 20 years without incident. The Respondent has worked in the automobile industry and now in the

mortgage industry throughout his adult life. There is the single blemish of the odometer tampering conviction. The Respondent has submitted letters of support from multiple members of the community showing his honesty and work record. The Hearing Officer has had the opportunity to observe the Respondent's demeanor and presentation at the hearing. The Hearing Officer finds his presentation to be honest and forthright. The Hearing Officer believes the Respondent was truthful when he said that the odometer tampering incident was a huge mistake that nearly cost him his family and career. While the Hearing Officer is concerned that the Respondent committed a crime to help himself personally, the overwhelming weight of the evidence in the record supports a finding that the Respondent has good business habits and is honest. The Respondent has demonstrated, through his various employment positions, that he has the character and general fitness to 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. This criminal involvement was a single, isolated incident. The Respondent has made a full disclosure of the conviction. The episode occurred in connection with the Respondent's own automobile and not on behalf of any customer or institution. The Respondent has clearly learned a life-altering lesson from this. The Respondent's automobile salesman's license was revoked but he was permitted to re-apply after one year. Considering the extent of the Respondent's career in the automobile and financial services industries both before and after the conviction for odometer tampering, a single conviction that occurred more than five years ago can be overcome by a long career without other incidents. The Hearing Officer concludes that the record shows by a preponderance of the evidence that the Respondent's character and general fitness do 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.

RECOMMENDATION

Based on the findings of fact, conclusions of law, and discussion set forth herein, it is the recommendation of the Hearing Officer that the Superintendent of the Division grant a Loan Officer License to the Respondent.

Respectfully submitted,

Kenneth R. Cookson
Hearing Officer
May 25, 2004