

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

DIVISION OF FINANCIAL
INSTITUTIONS
04 MAY 11 AM 11:31

REPORT AND RECOMMENDATION OF HEARING OFFICER

IN THE MATTER OF Daniel K. Corman

**Ohio Department of Commerce, Division of Financial Institutions
Case Number: 04-0163-LOD**

FINDINGS OF FACT

1. On or about April 2, 2002, Daniel K. Corman ("Respondent" herein) submitted an application and related materials (the "Application") to the Ohio Department of Commerce, Division of Financial Institutions (the "Division" herein) for licensing as a loan officer as defined in Chapter 1322 of the Ohio Revised Code. A copy of the Application is attached and incorporated as Exhibit A.
2. On or about January 22, 2004, the Division notified Respondent that it intended to deny the Application, and, by Division Order, provided Respondent with timely notice of opportunity for a hearing in accordance with the Ohio Administrative Procedure Act, Chapter 119, Ohio Revised Code (the "Notice"). A copy of the Notice is attached and incorporated as Exhibit B herein. The Division Order charged that Respondent failed to meet the certain designated requirements for licensing contained in Sections 1322.041 and 1322.10 of the Ohio Revised Code, and cited the circumstances as described in the Notice.
3. In response to the Notice, Respondent requested a hearing and, in response to that request, a hearing was held (the "Hearing" herein) at the offices of the Ohio Division of Financial Institutions on March 11, 2004. At the Hearing, the Respondent appeared *pro se*, and the Division was represented by Assistant Attorney General Paula Luna Paoletti, Esq.
4. Respondent did not contest that, for the purposes of the Hearing and this administrative proceeding, the allegations of fact set forth in the Notice were true. (Tr. Page 28)
5. As of the date of the Application, Respondent was employed as a loan officer by CBSK Financial Group, Inc. dba American Home Loans.

CONCLUSIONS OF LAW

1. That the conduct of the Respondent established a statutory rationale for denying the Application of the Respondent based on the provisions of Sections 1322.041 and 1322.10 of the Ohio Revised Code.
2. That the documentation presented by the Division established a sufficient and reasonable basis for the Division to deny Respondent's Application for licensing as a loan officer.
3. That the information and documentation available to the Division prior to the hearing established a statutory rationale under Sections 1322.041 and 1322.10 of the Ohio Revised Code for the denial of Respondent's Application, and the record of the Hearing supports that denial.

DISCUSSION

At the Hearing, Respondent and the Superintendent stipulated to the Superintendent's evidence relating to Respondent's criminal record as described in the Notice (Tr. Page 28), which includes a theft conviction. Respondent admitted that he knowingly failed to disclose the referenced criminal convictions in response to question 5 of the Application, "...hoping that it wouldn't have any bearing on this". (Tr. Pages 11, 12) Respondent testified that "It was wishful thinking that it wouldn't matter; that the prior stuff wouldn't matter" (Tr. Page 17), and that Respondent was "...really hoping that small misdemeanors wouldn't have any bearing on anything...". (Tr. Page 17) Respondent further testified that he recognized that his failure to disclose the convictions could be perceived as being dishonest (Tr. Page 17), and that one of the issues in being licensed as a loan officer involves character. (Tr. Page 18)

Other than his own testimony, Respondent did not present any other evidence or testimony to explain why he failed to disclose the conviction in response to the referenced question in the Application.

Section 1322.041(A)(5) of the Ohio Revised Code states that the Superintendent shall issue a loan officer license if the Superintendent finds that 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 stated provisions of Ohio law.

The Act provides that the Superintendent is charged with regulation and oversight of mortgage brokers and loan officers in the State of Ohio, and part of the Superintendent's consideration in that regard relates to the character and general fitness of the Respondent and the ability of the Respondent to command the confidence of the public as set forth in subsection 1322.041(A)(5) of the Ohio Revised Code. That provision requires that the Superintendent issue a loan officer license if, among things, Respondent's character and general fitness (1) command the confidence of the public and (2) warrant the belief that the business will be operated honestly and fairly in compliance with applicable law. These standards require subjective analysis, and the General Assembly has decided that it is appropriate that the Superintendent undertake a determination, based on industry and regulatory experience, as to whether an applicant's character and fitness enable the applicant to meet the referenced requirements. See *Leon v. Ohio Bd. Of Psychology*, 63 Ohio St. 3d 683, 1992 Ohio 105, 590 N.E. 2d 1223 (1992). See also *Lorain City Bd. Of Edn. v. State Emp. Relations Bd.*, 40 Ohio St. 3d 257, 533 N.E. 2d 264 (1988).

Under Ohio Revised Code sections 1322.031(A)(2) and 1322.041(A)(3), Respondent's theft conviction, admitted by Respondent, causes the burden of proof to shift to the Respondent to prove, by a preponderance of the evidence, that Respondent's activities and employment record since the conviction show that the Respondent is honest, truthful, and of good reputation, and there is not basis in fact to believe that the Respondent will commit such an offense again.

The only evidence presented by Respondent relating to Respondent's character and fitness consisted of his own testimony and certain unsubstantiated testimonial letters. Beyond that, Respondent presented no objective evidence of his character and fitness in support of his contention that the Superintendent's findings under Ohio Revised Code sections 1322.041(A)(2), 1322.041(A)(3), and 1322.041(A)(5), as set forth in the Notice, are inappropriate and incorrect.

Respondent's criminal convictions were relatively minor in nature, and do not appear to evidence a pattern of ongoing criminal behavior for which there should necessarily be a significant concern that Respondent's business would not be operated in compliance with the Act.

Unfortunately however, based on his own admission Respondent intentionally failed to disclose the criminal conviction as required by question 5 of the Application, and the relevant provisions of Ohio law do not provide an excuse by mistake, misunderstanding, or misreading of the question at issue. Therefore, there is support for the Division's assertion that Respondent violated subsections (A), (B), and (C) of Ohio Revised Code Section 1322.07 in failing to disclose the criminal violations.

Further, Respondent's admission that he intentionally failed to disclose the convictions in the Application calls into question Respondent's character and fitness, and whether Respondent meets the requirement contained in Ohio Revised Code section 1322.041(A)(3) that he prove, by a preponderance of the evidence, that Respondent is honest and truthful.

In light of Respondent's failure to provide objective testimony contradicting the Superintendent's assertions under Ohio Revised Code section 1322.041, and Respondent's failure to disclose the conviction as required by the Application, Respondent has failed to provide evidence sufficient to overcome the Superintendent's determinations under Ohio Revised Code sections 1322.041, 1322.07, and 1322.10.

RECOMMENDATIONS

For the reasons set forth herein, the referenced Application of the Respondent should be denied.

Respectfully submitted,



Jeffery A. Smith, Hearing Examiner



Date

Loan Officer Application
Ohio Mortgage Broker Act
Ohio Revised Code Chapter 1322
Ohio Administrative Code Chapter 1301:8-7
(Print or type using black or blue ink.)

CHECK NO 10399f
AMOUNT 100
DATE 4/26/02
REC. BY Mc

1. Company Name: CBSK Financial Group, Inc. d/b/a American Home Loans Company Number: 8021005
(Mortgage Broker Registrant) (Office Use Only)

2. Loan Officer:

Name: Daniel K Corman
First MI Last
Address: 1672 Wadsworth Mayfield Hts OH 44124
Residence Address City State Zip

Date of Birth: 9-24-70 Social Security Number [REDACTED]

Driver License or State ID Number RF574357 Issuing State: Ohio

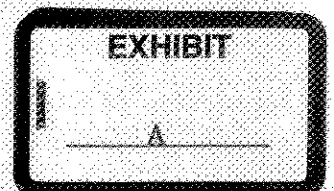
Home Telephone Number: 440-461-2579 Fax Number: _____

Has your name ever been legally changed? Yes ☐ No ☒
If yes, attach a certified copy of the name change order(s).

Have you ever used or been known by any other name? Yes ☐ No ☒
If the answer is yes, furnish details.

3. Will you hold any other job (including self-employment) while you are employed as a mortgage loan officer? Yes ☐ No ☒
If the answer is yes, furnish details.

4. Have you or has any company for which you have been an officer, or more than 5% owner or director, ever had a license, certificate, approval to conduct business, or otherwise, canceled, suspended, revoked, fined or refused to be renewed by any court or regulatory agency in this state or any other state? Yes ☐ No ☒
If the answer is yes, furnish details.



5. Have you or has any company for which you have been an officer, or more than 5% owner or director, ever been convicted of or pleaded guilty to 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?
If the answer is yes, furnish details. Yes ☐ No ☒

6. Have you or has any company for which you have been an officer, or more than 5% owner or director, ever been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty?
If the answer is yes, furnish details. Yes ☐ No ☒

7. Have you filed for personal bankruptcy or have you ever been a director, an officer, or more than 5% shareholder, a partner or a joint venturer in any business enterprise which has been insolvent or filed for protection from its creditors?
If the answer is yes, furnish details. Yes ☐ No ☒

8. The applicant must submit a fingerprint background check as part of the application.
(Please refer to page 6 of this application for instructions on completing the background verification.)

ATTESTATION

State of Ohio

Ss.

County of Cuyahoga

Being first duly cautioned, I hereby swear or affirm that I have completed the foregoing Loan Officer Application fully and frankly. The answers are complete and true of my own knowledge.

Daniel Corman
Loan Officer Applicant PRINTED Name

[Signature]
Loan Officer Applicant SIGNATURE

Subscribed and sworn to or affirmed before me this 13th day of March, 2002

Seal or stamp must be affixed to original

[Signature]
Notary Public PRINTED Name

[Signature]
Notary Public SIGNATURE

My Commission Expires Aug 23, 2004

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

In the matter of:) Case No. 04-0163-LOD
)
DANIEL K. CORMAN) Notice of Intent to Deny Loan Officer License Application
1672 Woodhurst) &
Mayfield Heights, Ohio 44124) 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

DANIEL K. CORMAN ("Respondent") has applied to the Division for a loan officer license. His address of record is 1672 Woodhurst, Mayfield Heights, Ohio 44124, and his date of birth is September 24, 1970. Respondent's employer of record is CBSK Financial Group, Inc. dba American Home Loans, 6 Hutton Centre Drive, Suite 900, Santa Ana, California 92707.

NOTICE OF PROPOSED ACTION

In accordance with sections 1322.041 and 1322.10 of the R.C., and R.C. Chapter 119, the Division intends to DENY Respondent's loan officer license application.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.031(B), and has found the following:

1. In or around 1991, in the Willoughby Municipal Court, Lake County, Ohio, Respondent was convicted of DISORDERLY CONDUCT, a misdemeanor of the fourth degree.
2. In or around 1991, in the Canton Municipal Court, Stark County, Ohio, Respondent pleaded guilty to and was convicted of THEFT, a misdemeanor of the first degree.
3. On or around March 13, 2002, Respondent attested in a sworn statement that information he provided on a licensing application was truthful, knowing that the information he provided was false.
4. On or around April 2, 2002, Respondent provided untruthful information to the state of Ohio, Department of Commerce, Division of Financial Institutions.

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

1. Respondent has not proven that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he will not commit another criminal offense involving theft or any criminal offense involving money or securities. See R.C. sections 1322.031(A)(2) and 1322.041(A)(3).

EXHIBIT

B

- II. 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. See R.C. 1322.041(A)(5).
- III. Respondent violated R.C. 1322.07(A), which prohibits a loan officer applicant from "mak[ing] any substantial misrepresentation in any registration or license application[.]"
- IV. Respondent violated R.C. 1322.07(B), which prohibits a loan officer applicant from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statement required by state law[.]"
- V. Respondent violated R.C. 1322.07(C), which prohibits a loan officer applicant from "[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings."

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: Mark L. Rhea, Consumer Finance Staff Attorney, 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 denying Respondent a loan officer license.

Signed and sealed this 22nd day of January, 2004.



ROBERT M. GRIESER

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



Ohio Department of Commerce

Division of Financial Institutions
77 South High Street • 21st Floor
Columbus, OH 43215-6120
(614) 728-8400
www.com.state.oh.us

Bob Taft
Governor

Lt. Governor Jennette Bradley
Director

January 22, 2004

Loan Officer License Application Denial

Dear Applicant:

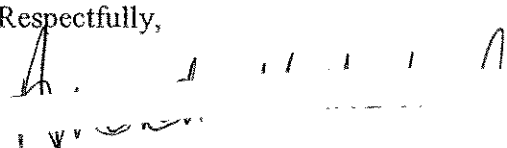
The Division intends to deny your loan officer license application. You will find the reason(s) for the denial detailed in the enclosed public notice, which also explains that you have a right to a hearing on the matter if properly requested.

If you wish to request a hearing, the request must be made in writing and the written request must be received in the offices of the Ohio Division of Financial Institutions within thirty (30) days of the date of the mailing of this notice. If you fail to request a hearing within this statutory time period, the Division will issue an order denying your application.

To request a hearing, fill out the enclosed HEARING REQUEST FORM and MAIL your request to: Ohio Division of Financial Institutions, Consumer Finance Legal Section, 77 South High Street, 21st Floor, Columbus, OH 43215-6120. All hearings will be held in Columbus, Ohio.

Remember, if you wish to contest the Division's decision to deny your loan officer license application, the Division must RECEIVE the enclosed HEARING REQUEST FORM no later than February 23, 2004. FAXED REQUESTS WILL NOT BE ACCEPTED.

Respectfully,


Amanda M. Axtell
Consumer Finance Counsel
Division of Financial Institutions

Enclosures

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Daniel K. Corman
1672 Woodhurst
Mayfield Heights, OH 44124

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent☐ Addressee

B. Received by (Printed Name)

D.K. Corman

C. Date of Delivery

1-29-04

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail☐ Express Mail☐ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

2. Article Number

(Transfer from ser.)

7002 2030 0002 6800 3500

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540