

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

In the matter of:)	Case No. M2006-9993310
)	
ERNEST J. BRAMBERT)	<u>DIVISION ORDER</u>
3234 Bach Avenue)	Denial of Escrow Loan Officer Renewal Application
Cincinnati, Ohio 45209)	&
)	Notice of Appellate Rights
)	

Respondent Ernest J. Brambert (“Respondent”) was issued a loan officer license by the Division of Financial Institutions (“Division”) on May 2, 2002. In October, 2005, the Division received a termination notification from Respondent’s then-current employer of record, American Standard Mortgage, Inc., indicating that Respondent was no longer with that company. On or about May 23, 2006, Respondent submitted a 2006 escrow loan officer renewal application. The Division notified the Respondent on December 11, 2006, that it intended to deny his 2006 escrow loan officer renewal application pursuant to R.C. 1322.10(A)(1)(a), due to Respondent’s failure to comply with the terms of R.C. 1322.052 by completing at least six hours of continuing education during the preceding year.

Respondent requested an administrative hearing which was held on February 6, 2007. Respondent appeared without counsel. A Report and Recommendation (“Report”) was filed with the Division on March 13, 2007, recommending that the Division approve Respondent's 2006 escrow loan officer renewal application. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, the transcript of testimony and exhibits as well as all applicable laws. As a result, the Division makes the following findings and conclusions. Any finding and/or conclusion not

specifically addressed below is approved, adopted, and incorporated herein. (The Report is attached hereto.)

The Division disapproves paragraphs 10 and 11 on page 5 of the Report.

The Report concludes that Respondent was understandably confused about the applicability of the CE requirement to loan officers who have been placed in escrow, and that, as a result, his failure to complete CE before the December 31, 2005 deadline should be excused. The Report places a great deal of emphasis on Respondent's unrefuted testimony that he had tried unsuccessfully to contact the Division in November, 2005, to request guidance on whether he needed to complete the CE while in escrow, and that Respondent was not informed of his failure to meet the requirement until the following March.

The Division disagrees with the Report's legal analysis and misapplication of the law relevant to this question, in paragraphs 10 and 11 of the Report. R.C. 1322.052 states that "each *licensee* . . . shall complete at least six hours of continuing education every calendar year." (Emphasis added.) At no time did Respondent ever lose his license. Respondent's status in escrow only meant that he was required to cease engaging in loan origination activity, during the period of time that he was unsupervised, but at all times he retained his status as a licensee. *See*, R.C. 1322.031(E)(2). Respondent's license was placed in escrow only because his employment with his then-current employer had been severed. *See, Id.* However, Respondent's license could have been removed from escrow at any time upon receipt of a valid transfer application to another mortgage broker. Moreover, Respondent spent the first ten months of 2005 working as a loan officer, and could have taken the continuing education at any time.

Upon consideration of the record, the Division hereby rejects the hearing officer's recommendation and denies the escrow loan officer renewal application of Ernest J. Brambert.

It is so ordered.

NOTICE OF APPELLATE RIGHTS

Respondent is hereby notified that pursuant to R.C. 119.12, this Order may be appealed by filing a notice of appeal with the Ohio Division of Financial Institutions setting forth the order appealed from and the grounds for the appeal. A copy of such notice of appeal, pursuant to R.C. 119.12, must also be filed with the court of common pleas of the county in which the place of business of the Respondent is located, or the county in which the Respondent is a resident. A notice of appeal must be filed within fifteen (15) days after the date of mailing of this Order.

Signed and sealed this 4th day of May 2007.

RICHARD F. KECK

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