

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

In the matter of:

STEVEN A. PERRIGO
967 Inverness Glen
Pickerington, Ohio 43147

) Case No. 04-0279-LOD
)
) DIVISION ORDER
)
) Denial of Loan Officer License Application
)

DIVISION ORDER

On November 17, 2003, Steven A. Perrigo ("Respondent") submitted a loan officer license application to the Division of Financial Institutions ("Division"). On March 16, 2004, the Division issued Perrigo notice of the Division's intent to deny his application and of his right to a hearing on the matter. Perrigo requested a hearing, and pursuant thereto, an administrative hearing was held in accordance with Ohio Revised Code Chapter 119 on May 13, 2004.

The hearing officer filed her written report and recommendation with the Division on August 17, 2004, recommending that the Division grant Perrigo's application. Perrigo was served with a copy of the Report and Recommendation and a letter explaining his right to submit written objections. No objections were filed. On December 15, 2004, the Division remanded the case to the hearing officer for further determination. On December 21, 2004, the hearing officer filed an Addendum to the August 17, 2004 Report and Recommendation, recommending that Perrigo be granted a loan officer license. A copy of the Addendum and a letter explaining his right to submit written objections was served on Perrigo. No objections were filed.

In accordance with R.C. § 119.09, the Division has considered the August 17, 2004 Report and Recommendation and the December 21, 2004 Addendum, all applicable laws, the transcript of testimony and the exhibits. As a result, the Division modifies and /disapproves the findings and/or conclusions listed below.

Paragraph 5 on page 4 of the Report and Recommendation reads:

Because the Respondent answered "yes" to Question 5 of the Application the burden of proof shifted to the Respondent to show by a preponderance of the evidence that his character and fitness command the confidence of the public to warrant the belief that the business will be operated honestly and fairly in compliance with the purpose of the Ohio Mortgage Broker act.

The burden was on the state to show that Perrigo's character and general fitness do not command the confidence of the public and warrant the belief that his business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act. Accordingly, paragraph 5 is disapproved and modified to reflect the accurate legal burdens.

Paragraph 5 on page 2 of the Addendum reads:

Because the Respondent answered "yes" to Question 5 of the Application the burden of proof shifted to the Respondent to show by a preponderance of the evidence that his character and fitness command the confidence of the public to warrant the belief that the business will be operated honestly and fairly in compliance with the purpose of the Ohio Mortgage Broker act.

The burden of proof shifted to Perrigo because he had been convicted of crimes involving drug trafficking and money, not because he answered "yes" to a question that asked whether he had ever been convicted or pleaded guilty to any criminal offense. In accordance with R.C. §§1322.031(A)(2) and 1322.041(A)(3), the Addendum is hereby modified to reflect that it was Perrigo's burden to prove, by a preponderance of the evidence, that his activities and employment history since his convictions show that he is honest, truthful, and of good reputation, and there is no basis in fact for believing that he will commit such offenses again.

The Division disapproves paragraph 12 on page 5 of the August 17, 2004 Report and Recommendation; paragraph 12 on page 3 of the December 21, 2004 Addendum; and the recommendations in both the Report and Recommendation and the Addendum for the reasons that follow.

The record reflects that in December 2000¹, Perrigo pleaded guilty to and was convicted of complicity to commit trafficking in cocaine, a third degree felony, and two counts of trafficking in cocaine, both fourth degree felonies. (Exhibit 6B, TR 28-30.). He was thirty-three years of age when he committed the crimes. (Exhibits 2 and 6B.).

Because he had been convicted of crimes involving drug trafficking and money, it was Perrigo's burden to prove, by a preponderance of the evidence, that his activities and employment history since the convictions in 2000, show that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he will commit such an offense again. (R.C. 1322.031(A)(2) and R.C. 1322.041(A)(3).) To this end Perrigo testified that he has been employed for the past 3 ½ years at an automotive store and has been a salesperson and a

¹ Perrigo pleaded guilty and was found guilty on November 27, 2000, but the judgment entry was not filed with the clerk until December 4, 2000. (See page 2 of Exhibit 6B.)

finance manager and that he believes the work he has done is similar to the work of a loan officer. (TR 11, 39-40.). He made no excuse for why he was recently involved in felony drug trafficking, other than to say he was “set up.” (TR 16-17; State’s Exhibit 6A). Perrigo also submitted 5 reference letters. None of the letters were written or signed under oath, and none of the authors were available to testify, and were thus, not subject to cross-examination. (Defendant’s Exhibits 1-7.). One of the letters was unsigned.

The Division finds that Perrigo’s own self-serving testimony about his employment and character over the last 33 months, along with a few unsworn letters, does not establish, by a preponderance of the evidence, that Perrigo’s activities and employment history since his felony convictions in 2000, show that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he will commit such an offense again. (See, also, *Ryan O’Reilly English v. State of Ohio, Dept. of Commerce* (Aug. 31, 2004) Medina County Court of Common Pleas (affirming the decision of this Division to deny applicant a loan officer license on the basis that since only three years had past since the applicant’s misdemeanor conviction, there was insufficient time to meaningfully demonstrate the burden set forth in R.C. 1322.041(A)(3))).

Moreover, the Division finds that Perrigo’s character and general fitness do not command the confidence of the public and warrant the belief that his business would be operated honestly and fairly in compliance with the purposes of R.C. §§ 1322.01 to 1322.12. On a daily basis loan originators deal with consumers’ personal financial information and advise consumers on what is most often their largest financial investment. Perrigo has not shown, by a preponderance of the evidence, that he holds the requisite character and general fitness to originate loans.

In accordance with the foregoing, the Division concludes that Perrigo’s loan officer license application should be denied.

It is so ordered.

NOTICE OF RIGHT TO APPEAL

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 must, 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 11th day of February 2005.



Robert M. Grieser

ROBERT M. GRIESER

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

Certified Mail No. 7002 2030 0002 6804 1663