

STATE OF OHIO  
DEPARTMENT OF COMMERCE  
DIVISION OF FINANCIAL INSTITUTIONS

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IN THE MATTER OF: : CASE NO. M2006-9993062  
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McCaskey Financial Services, LLC : James J. Lawrence, Hearing Officer

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ADMINISTRATIVE HEARING OFFICER'S  
REPORT AND RECOMMENDATION  
January 2, 2007

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I. FINDINGS OF FACT

**A. Background**

This matter came before James J. Lawrence, an attorney licensed to practice law in the state of Ohio and duly appointed by the Ohio Division of Financial Institutions (Division) to serve as Hearing Officer for this hearing in accordance with Ohio Revised Code (R.C.) Chapter 119, the Administrative Procedure Act. The hearing was held at 1:30 p.m. on October 26, 2006, at 77 South High Street, Columbus, Ohio. The hearing was held at the request of Respondent McCaskey Financial Services LLC (Respondent) to consider the allegations in the Division's Notice of Intent to Deny Mortgage Broker Certificate of Registration Application and Notice of Opportunity for Hearing (NOH).

The Division alleges that Respondent's sole member failed to provide complete and accurate information about her criminal background on her 2004 loan officer renewal application filed in April of 2004. Therefore, the Division asserts that Respondent is not eligible for a mortgage broker certificate of registration pursuant to the Ohio Mortgage Broker Act, R.C. Chapter 1322, for the following reasons:

1. 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 as required by R.C. 1322.041(A)(5).
2. By failing to disclose her criminal background on her loan officer application, the Respondent failed to comply with R.C. 1322.07 (A), (B) and (C) as required by R.C. 1322.041(A)(2).

James M. Evans, Esq., Assistant Attorney General, from the Executive Agencies Section of the Office of the Attorney General, represented the Division at

the hearing. James M. Perlman, Esq. of Toledo, Ohio represented the Respondent. At the hearing, State's Exhibits 1 through 15 and 17 and 18 were admitted into the record. Exhibit 16 was not admitted as evidence but was proffered into the record. The record was left open for Exhibit 19, the Certificate of Registration Application filed by McCaskey Financial Services, LLC. Exhibit 19 was received on December 30, 2006.

**B. Jurisdiction and Procedural Matters**

The Division issued the NOH to Respondent on September 21, 2006 by certified mail, return receipt requested. (Exhibit 9.) Respondent's hearing request was received by the Division on September 26, 2006. (Exhibit 10.) The Division amended the NOH on October 5, 2006. (Exhibit 8.) The Division scheduled the hearing for October 6, 2006 but, on its own motion, continued the hearing to October 26, 2006. Notice of the date, time and location of the hearing was sent by ordinary mail addressed to the same address as the NOH. (Exhibit 7.) The hearing on this matter was consolidated with the hearing on a Notice of Intent to Deny Loan Officer License Renewal Application filed by Jacqueline M. McCaskey, Case No. M2006-9993060.

**C. Respondent's Application for an Ohio Mortgage Broker Registration Certificate**

1. McCaskey Financial Services, LLC is a single member LLC. (TR at 114.)
2. Respondent filed a Mortgage Broker Certificate of Registration Application on August 31, 2006. (Exhibit 19.)
3. Respondent's sole member is Jacqueline M. McCaskey. (TR at 114.)

**II. CONCLUSIONS OF LAW**

**A. Jurisdictional and Procedural Matters.**

1. The Division procedurally complied with R.C. Chapter 119 and jurisdiction over this matter has been established.
2. The hearing on this matter was consolidated with the hearing on Respondent's sole member's 2005 loan officer renewal application.

**B. Application for an Ohio Mortgage Broker Registration Certificate.**

1. The Division is the state agency responsible for the licensing and regulation of mortgage brokers pursuant to R.C. Chapter 1322.
2. R.C. 1322.04(A) provides that the Superintendent of Financial Institutions (Superintendent) shall issue a certificate of registration to an applicant for an Ohio mortgage broker registration certificate if the Superintendent finds, among other requirements, that the applicant's financial responsibility, experience, 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 purposed of section 1322.01 to 1322.12 of the Revised Code. R.C. 1322.04(A)(10).

3. For purposes of determining whether an applicant that is a partnership, corporation, or other business entity or association has met the conditions set forth in R.C. 1322.04(A)(10), the Superintendent shall determine which partners, shareholders, or persons named in the application must meet the conditions set forth in R.C. 1322.04(A)(10). The Superintendent must base this determination on the extent and nature of the partner's, shareholder's or person's ownership interest in the entity.
4. Since Jacqueline M. McCaskey is the sole member of Respondent, the Superintendent must make his determination on the Respondent's character and general fitness base upon her character and general fitness.
5. Report and Recommendation on Case No. M2006-9993060 issued on this same date found that the record in that case supported a finding that Jacqueline M. McCaskey'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 R.C. 1322.01 to 1322.12. Accordingly, Respondent herein does 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.
6. As a result of the Respondent's failure to meet the conditions of R.C. 1322.04(A)(10), the Superintendent is not required by R.C. 1322.04(A) to issue Respondent's certificate of registration as a mortgage broker. Under such circumstances, R.C. 1322.10(A)(1) provides that after notice and opportunity for a hearing conducted in accordance with R.C. Chapter 119, the Superintendent may, among other things, refuse to issue a certificate of registration as a mortgage broker.

### **III. RECOMMENDATION**

The record in this case establishes that the 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 Ohio's Mortgage Broker Act. Therefore, I respectfully recommend that the Superintendent of Financial Institutions deny the Respondent's application for a certificate of registration as a mortgage broker pursuant to R.C. 1322.04(A) and 1322.10(A).

Respectfully Submitted,

  
James J. Lawrence  
Hearing Officer  
January 2, 2007