

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

In the matter of:) Case No. M2010-366
)
MICHAEL A. VLCEK) **Notice of Intent to Refuse Issuance of**
9772 Wainwright Terrace) **Loan Originator License**
Olmsted Falls, Ohio 44138) **&**
) **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, and the rules adopted thereunder. In accordance therewith, the Division is accountable for the licensing of individuals as loan originator.

RESPONDENT

MICHAEL A. VLCEK ("Respondent") is an individual that has applied for a loan originator license pursuant to R.C. Chapter 1322. Respondent's date of birth is March 12, 1962. His address of record is 9772 Wainwright Terrace, Olmsted Falls, Ohio 44138. Respondent's employer of record is Axis Financial Group, Inc., 7002 Engle Road, Suite 102, Middleburg Heights, Ohio 44130.

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 REFUSE to issue Respondent a loan originator license.

BASIS FOR PROPOSED ACTION

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

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to issue a loan originator license if the Division finds that the applicant has violated or failed to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration.
- B. The Division is empowered by R.C. 1322.041 to issue a loan originator license if the Division finds, among other things, that the applicant "has not been convicted of or pleaded guilty or nolo contendere to any [crime/offense listed in subsections (a) or (b)] in a domestic, foreign, or military court[.]"

- C. R.C. 1322.041(A)(3)(b) provides, in part, that the applicant cannot have been convicted of, plead guilty or nolo contendere to “a felony involving . . . theft” at any time prior to the date a license application is made.
- D. R.C. 1322.041(A)(6) provides that a loan originator license shall be issued if the applicant’s financial responsibility, 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 sections 1322.01 to 1322.12 of the revised code.
- E. On or about September 20, 2001, in the Cuyahoga County Ohio Court of Common Pleas, Respondent pleaded guilty to theft R.C. 2913.02, a felony of the fifth degree (per R.C. 2913.71).
- F. On or about February 16, 2010, Respondent submitted an application for a loan originator license pursuant to R.C. Chapter 1322 and the nationwide mortgage licensing system.

As a result of the above findings, the Division makes the following conclusions:

- 1. Respondent’s actions, as listed above, show 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)(6).
- 2. Respondent pleaded guilty to felony theft.
- 3. Because Respondent pleaded guilty to felony theft, Respondent does not meet the conditions for issuance outlined in R.C. 1322.041(A)(3).
- 4. Because Respondent does not meet the conditions for issuance of a loan officer license pursuant to R.C. 1322.041(A)(3) and (A)(6), the Division has the authority to refuse issuance of a loan originator license to Respondent.

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 refusing to issue Respondent a loan originator license.

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: Lori A. Massey, Consumer Finance 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 refusing to issue Respondent a loan originator license.

Signed and sealed this 29th day of June, 2010.

LEIGH A. WILLIS

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