

**STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS**

IN RE: : CASE NO. 05-0006-LOR
: :
DANA A. KOROSI : JANE S. ARATA, HEARING OFFICER

**ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
Issued March 16, 2006**

I. FINDINGS OF FACT

A. Background.

This matter came before Jane S. Arata, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions ("Division") to serve as Hearing Officer for this hearing in accordance with the Ohio Administrative Procedure Act, Ohio Revised Code ("R.C.") Chapter 119. The hearing was held on March 8, 2006, at 77 South High Street, Columbus, Ohio. The hearing was held at the request of Respondent Dana A. Korosi ("Respondent") to consider the allegations in the Division's Notice of Intent to Revoke Loan Officer License and Notice of Opportunity for a Hearing ("NOH"). The NOH alleges that Respondent was convicted of felony theft in 2005. Based upon that conviction, the Division seeks to revoke his loan officer license pursuant to R.C. 1322.10(A)(1)(b).

Timothy Loughry, an Assistant Attorney General for the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division at the hearing. Respondent appeared *pro se* and testified at the hearing. At the hearing, State's Exhibits 1 through 3 and Respondent's Exhibit A were admitted into the record. After the hearing, Respondent sent a letter to the Hearing Officer regarding this case. A copy of the letter was sent to the Division's counsel. The letter was marked as Respondent's Exhibit B by the Hearing Officer, and admitted into the record without objection.

B. Jurisdiction and Procedural Matters.

The Division issued the NOH to Respondent on December 23, 2005. Respondent's hearing request was received by the Division on December 30, 2005. The Division scheduled the hearing for January 13, 2006, and continued it until March 1, 2006, on its own motion. The Division's unopposed request to continue the March 1, 2006 hearing was granted and the hearing was scheduled for March 8, 2006. The Respondent received the NOH by certified mail and received written notice of the date, time, and location of for each scheduled hearing date. (State's Exhibit 1.)

C. Respondent's Loan Officer License and Criminal Conviction.

1. Respondent is an Ohio licensed mortgage loan officer currently conducting business in Ohio. He is a loan officer employed by Allied Home Mortgage Capital Corporation, a Texas company licensed as a mortgage broker in the State of Ohio. Respondent has held that position for the past two years. (State's Exhibit 2, Respondent's Exhibit A; Hearing Transcript ("TR") at 15-16, 31-32.)
2. Respondent was convicted of felony theft in 2005 for stealing over \$180,000 from a trust for which he was a trustee. He knowingly took funds that were not his while a fiduciary with respect to the other beneficiaries of the trust, his niece and nephew. (State's Exhibits 2 and 3; TR at 16-18.)
3. Respondent knowingly stole the money from the trust and knew that it was wrong and illegal when he did it. He stated that he only intended to borrow the money and repay it when circumstances permitted. He regrets his past conduct. The conditions of his probation require him to make restitution and complete 100 hours of community service. He testified that he has repaid 85% of the money he took and has completed 32 of the required community service hours. (State's Exhibit 3; TR at 17-21, 26.)

D. Respondent's Reputation and Character.

5. Before he became a loan officer, Respondent was a financial planner for twenty-five years. He provided financial planning, investment, and retirement plan advice to individuals and small businesses. He was licensed in the securities and insurance industries. After the conviction, he surrendered those licenses. He also volunteered at Ronald McDonald House and helped with fundraising. (Respondent's Exhibit A; TR at 16, 18, 25-28.)
6. While a loan officer, Respondent closed approximately sixty loans. He is not aware of any of his loans that have been rescinded. He helps people fill out loan applications. He has access to other people's confidential personal and financial information such as social security numbers and bank account information. (TR at 27, 30-31.)

7. Respondent submitted reference letters from six individuals. Collectively, they know him as an individual, are familiar with his work in the mortgage industry, and are familiar with his volunteer work with Ronald McDonald House and his church. The letters speak favorably of Respondent's financial knowledge and overall character. (Respondent's Exhibit A.)
8. Respondent identified the reference letters but the authors of those letters were not available for cross-examination by the Division at the hearing. Especially in a case involving a recent theft conviction, it is important for the Division to have an opportunity to cross-examine character witnesses and for the Hearing Examiner to be able to observe their demeanor.
9. Therefore, the reference letters were admitted into the record but were given less weight than they might have been given if the authors had testified regarding the bases for their opinions as well as been available for cross-examination. Thus, even in this proceeding to which the Rules of Evidence do not strictly apply, the letters contained in Exhibit A were reviewed and given some weight but not the weight they might have been given if their authors had testified at the hearing.

II. CONCLUSIONS OF LAW

A. Jurisdiction and Procedural Matters.

The Division procedurally complied with R.C. Chapter 119 and jurisdiction over this matter has been established.

B. Loan Officer License Application.

1. The Division is the state agency responsible for the licensing and regulation of mortgage loan officers pursuant to the Ohio Mortgage Broker Act, R.C. Chapter 1322.
2. Ohio Revised Code Section 1322.10(A)(1)(b) permits the Division to revoke a loan officer license if it finds that the licensee has been convicted of or pleaded guilty to any criminal offense involving theft. Ohio Revised Code Section 1322.10(E) requires any such revocation to be permanent.
3. Respondent was convicted of felony theft in 2005 for stealing over \$180,000 from a trust for which he was a trustee. He knowingly took funds that were not his while a fiduciary with respect to the other beneficiaries of the trust, his niece and nephew.

4. Respondent's claim that theft from a trust is not relevant to his ability to work in the mortgage industry was unconvincing. The ability to handle other people's money with integrity and in compliance with the law is highly relevant to one's ability to be a loan officer. Loan officers have access to confidential personal and financial information and play a critical role in the financing process for a home, the most valuable asset owned by most individuals.
5. Ohio's Mortgage Broker Act authorizes the Division to protect the public from harm by revoking a loan officer license when a licensee has a recent theft conviction. The serious nature of Respondent's very recent conviction alone supports a decision to revoke his loan officer license.
6. The evidence of Respondent's good character was considered. It was outweighed by the serious concerns raised by his 2005 theft conviction and the events underlying that conviction.

III. RECOMMENDATION

Given the serious nature of Respondent's 2005 theft conviction, I respectfully recommend that Respondent's loan officer license be revoked pursuant to 1322.10(A)(1)(b).

Respectfully submitted,

Jane Stempel Arata
Administrative Hearing Officer
March 16, 2006