

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

In the matter of:)	Case No. 04-0455-LOD
)	
WARREN A. COMAN, II)	<u>DIVISION ORDER</u>
497 Goshen Court)	Denial of Loan Officer License Application
Gahanna, Ohio 43230)	&
_____)	Notice of Appellate Rights

Warren A. Coman, (“Respondent”) submitted a loan officer license application (“Application”) to the Division of Financial Institutions (“Division”) on June 14, 2004. On November 17, 2004, the Division notified Respondent that it intended to deny his Application because: (1) in or around 2002 he was convicted of unauthorized use of property, a misdemeanor of the fourth degree, in the Franklin County Municipal Court, Franklin County, Ohio; (2) Respondent’s actions show that he has not proven that he is honest , truthful, and of good reputation, and that there is no basis in fact for believing that he will not commit another criminal offense involving theft or any criminal offense involving money or securities; and (3) because his 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 R.C. 1322.01 to 1322.12 – the Ohio Mortgage Broker Act.

Respondent requested an administrative hearing which was held on March 23, 2005. A Report and Recommendation (“Report”) was filed with the Division on May 11, 2005, recommending that the Division approve Respondent’s 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 Hearing Examiner’s Report and Recommendation is attached).

The Division rejects paragraphs 6 and 7 of the discussion on page 3 of the Report. Additionally, the Division disapproves the second sentence of paragraph 8 of the discussion on page 3 of the Report .

Accurately disclosing one's criminal record on a licensing application submitted to a state agency, which the individual knows will review the results of his criminal background check, does not establish that the individual is honest and has the requisite character and general fitness to be a loan officer. The Loan Officer Application requires applicants to disclose the following:

Have you or has any company of which you have been an officer, or more than 5% owner or director, ever been convicted of **any criminal offense**....

(Emphasis in original) (*See*, State's Exhibit 2A). The criminal offenses listed in R.C. 13322.031(A) (2), such as theft and drug trafficking, would disqualify the Respondent. While Respondent disclosed his conviction for unauthorized use of property, an offense involving theft, additional evidence in the record not mentioned in the Report further illustrates Respondents lack of general character and fitness. Respondent admits in Exhibit 2B, regarding his drug charge, that he intended to engage in drug trafficking but the officer at the time only charged him with drug possession. Additionally, in the Hearing Transcript at pages 34 and 35, Respondent admits that he was in an armed "scuffle" and shots were fired. Respondent further admits that the only reason he left the armed "scuffle" was because his side was outnumbered.

The facts of this case do not establish that "the Respondent has proven by the preponderance of the evidence that his activities and employment record since the conviction show that he is honest, truthful, and of good reputation." Furthermore, the facts of this case do not establish by a preponderance of the evidence that "there is no basis in fact for believing that he will commit such an offense again."

Furthermore, the Division finds that, when viewed together, Respondent's convictions for theft together with his drug and gun related activities, justify a finding that Respondent's character and general fitness do not command the confidence of the public, or warrant the belief that the business would be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act, pursuant to R.C. 1322.041(A) (5).

Upon consideration of the record, the Division rejects the Hearing Officer's recommendation. Respondent's Loan Officer Application is denied.

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 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 28th day of September 2006.

ROBERT M. GRIESER

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