

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

In the matter of:)	Case No. M2008-513
)	
)	AMENDED
KELLY J. FLYNN)	Notice of Intent to Deny Loan Officer License Renewal
45 Coventry Drive, Apt. 4B)	&
Painesville, OH 44077)	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. In accordance therewith, the Division is accountable for the licensing of individuals as residential mortgage loan officers.

RESPONDENT

KELLY J. FLYNN ("Respondent") is an individual that held a loan officer license issued by the Division to originate residential mortgage loans pursuant to R.C. Chapter 1322. Respondent's loan officer license expired on April 30, 2008, and Respondent filed an application to renew her license; that renewal application remains pending. Respondent's employer of record is All State Home Mortgage, Inc., 26250 Euclid Avenue, Suite 901, Euclid, Ohio 44132.

NOTICE OF PROPOSED ACTION

In accordance with R.C. sections 1322.041 and 1322.10 and R.C. Chapter 119, the Division intends to DENY Respondent's loan officer license renewal application.

BASIS FOR PROPOSED ACTION

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

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew a loan officer license if the Division finds that the licensee has violated "or fail[ed] 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[.]"
- B. The Division is authorized by R.C. 1322.10(A)(1)(b) to refuse to renew a loan officer license if the Division finds that the licensee has been convicted of or pleaded guilty to "any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities."

- C. R.C. 1322.041(B)(3) provides that a loan officer license will be renewed annually if the superintendent finds that the applicant meets the conditions set forth in divisions (A)(2) to (6) of R.C. 1322.041.
- D. R.C. 1322.041(A)(3) authorizes the Division to issue a loan officer license if the applicant has not been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities as enumerated under R.C. 1322.041(A)(2). If the applicant has been convicted of or pleaded guilty to any R.C. 1322.041(A)(2) criminal offense other than theft, consideration of the offense by the Division shall not occur if the applicant has proven to the Division “by a preponderance of the evidence, that the applicant’s activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.”
- E. On or around April 29, 2008, in the Painesville Municipal Court, Lake County, Ohio, in *State of Ohio v. Flynn, Kelly J.*, Case No. CRB 0800920, Respondent was found guilty of passing bad checks.
- F. Respondent answered “No” when asked in her 2008 loan officer license renewal application whether she had been charged with, convicted of or pleaded guilty to any state or federal criminal offense including but not limited to “passing bad checks, . . . or any criminal offense involving money[.]”
- G. In or around May 2008, Respondent attested that answers Respondent provided in her loan officer license renewal application submitted to the Division was complete and truthful when it was not.
- H. In or around May 2008, in an attempt to renew her loan officer license, Respondent provided untruthful information to the Division.

As a result of the findings listed above, the Division has determined that:

- 1. Respondent’s actions, as listed above, violated R.C. 1322.07(A), which prohibits a loan officer applicant from “mak[ing] any substantial misrepresentation in any registration or license application [.]”
- 2. Respondent’s actions, as listed above, violated R.C. 1322.07(B), which prohibits a loan officer applicant from “[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statement required by state law[.]”
- 3. Respondent’s actions, as listed above, violated R.C. 1322.07(C), which prohibits a loan officer applicant from “[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings.”
- 4. 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).

5. Following Respondent's conviction for passing bad checks in 2008, Respondent has not proven by a preponderance of the evidence that Respondent's activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again. R.C. 1322.041(B)(3).
6. Because Respondent does not meet the renewal requirements set forth in divisions (A)(2), (A)(3), (A)(6) and (B)(3) of R.C. 1322.041, the Division is authorized to deny Respondent's loan officer renewal application pursuant to R.C. 1322.10(A)(1)(a).

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 denying Respondent's loan officer license renewal application under the Ohio Mortgage Broker Act.

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 Examiner, 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 denying Respondent's loan officer license renewal application.

Signed and sealed this 14th day of November, 2008.

LEIGH A. WILLIS

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