

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

In the matter of:)	Case No. 04-0283-LOD
)	
JR MILLER)	<u>DIVISION ORDER</u>
5721 Murray Circle)	Denial of loan officer license application
Dublin, Ohio 43017)	&
)	Notice of Appellate Rights

Respondent, JR Miller, submitted a loan officer license application to the Division of Financial Institutions ("Division") on November 9, 2003. On March 30, 2004, the Division notified Miller that it intended to deny his loan officer license application because: (1) he violated R.C. § 1322.07(A) by failing to fully disclose his criminal convictions on his loan officer license application; (2) he violated R.C. § 1322.07(B) by making a false statement of a material fact or by omitting a statement required on the licensing application and to the Division; (3) he violated R.C. § 1322.07(C) by engaging in conduct that constitutes improper, fraudulent or dishonest dealings; and (4) 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.

Miller requested a hearing and an administrative hearing was held on June 15, 2004. A Report and Recommendation was filed with the Division on September 2, 2004, recommending that the Division approve Miller's application and grant him a loan officer license. No objections were filed.

In accordance with R.C. § 119.09, the Division has considered the Report and Recommendation, all applicable laws, the transcript of testimony along with the exhibits. As a result, the Division modifies and/or disapproves the findings and/or conclusions listed below. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (The Hearing Examiner's Report and Recommendation is attached hereto as Exhibit A.)

The Division disapproves paragraph 5 on page 4.

Answering “no” to question five (5) does not shift any burden of proof to respondent. The Division must prove that the respondent’s “character and general fitness command the confidence of the public to 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.” See Revised Code Section 1322.041(A)(5).

The Division disapproves paragraph 14 on page 5 along with the recommendation on page 5.

Based on the record, the Division does not believe that respondent’s character and general fitness command the confidence of the public. The Division may independently review the record and make its own findings and conclusions. *In re Certificate of Need Application of Providence Hospital* (1990), 67 Ohio App.3d 391, 398. At the hearing, the Respondent reported a 2001 or 2002 “possession of paraphernalia” conviction. (Transcript, p. 17.) This conviction was not disclosed to the Division prior to the hearing. (Exhibits 1, 4, Transcript pp. 18-21). When questioned by the hearing officer about why he did not report his 2001 or 2002 conviction, Miller answered “Reasons being because the letter from the State was an inquiry of the 1999 charge. And I attested to the 1999 charge.” (Transcript pp. 20-21, Report and Recommendation p. 4, paragraph 4). The loan officer application respondent attested and submitted to the Division specifically asks for him disclose “any criminal offense.” (Exhibit 1). The Division expects that every question it asks will be answered “fully and frankly” as attested to by respondent. (Exhibit 1). Given the respondent’s testimony and failure to disclose his convictions, the Division cannot find that his character is one that warrants the confidence of the public.

Further, given the language of question five as a whole, the fact that Miller thought that question five (5) on his loan officer license application referred only to convictions regarding minor misdemeanor traffic offenses or parking offenses raises doubts as to his general fitness. (Exhibit 1, Transcript p. 15). On a daily basis loan originators deal with consumers’ personal financial information and counsel them on what is most often their largest financial investment. Being able to comprehend and evaluate complicated mortgage documents is a vital part of the job. By not being able to understand a direct and unambiguous question on a licensing application, respondent has demonstrated that he does not hold the necessary fitness to be a loan officer.

The Division hereby denies the Loan Officer License Application of Respondent, JR Miller.

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 17th day of November 2005.

ROBERT M. GRIESER

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