

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS
CONSUMER FINANCE

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In re: James J. Hollo, Jr.

Case No. 04-0264-LOD

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF
THE HEARING OFFICER

1. a. In or around 1993 in the Portage County Municipal Court, Portage County, Ohio, Mr. Hollo was convicted of menacing.
- b. In or around 1998 in the Court of Common Pleas of Wood County, Ohio, Mr. Hollo was convicted of aggravated assault, a felony of the fourth degree.
2. As a result, the Division determined:
 - a. Mr. Hollo'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 as set forth in Revised Code Section 1322.041(A)(5);
3. Mr. Hollo's address for service is 3963 Miller Road, Brunswick, Ohio 44212. He is hereinafter referred to as the "Respondent." The Respondent is employed by The Mortgage Edge, Inc., 7123 Pearl Road, Middleburg Heights, Ohio 44130.
4. This matter was initiated by the Superintendent of the Division by the issuance on February 12, 2004 with a Notice of Intent to Deny Loan Officer Application & Notice of Opportunity for a Hearing, together with a covering letter (Exhibit 6).
5. The Respondent signed a certified mail receipt for that document. (Exhibit 6).
6. On February 19, 2004, the Division received a Hearing Request Form from the Respondent (Exhibit 7).
7. On February 20, 2004, the Division wrote to the Respondent setting a hearing for 9:00 a.m. on March 1, 2004 and simultaneously, on the Division's own Motion, continuing that hearing until April 1, 2004 at 10:30 a.m. in Room 1918 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio (Exhibit 8).
8. The hearing was held beginning at 10:48 a.m. on Thursday, April 1, 2004 in Room 198 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio. Attending were Emily A. Smith, an Assistant Attorney General of Ohio in the Executive Agency Section and the Respondent, pro se.

9. The hearing was conducted pursuant to Section 119 of the Ohio Revised Code. The Division is deemed to have jurisdiction to conduct the proceedings.

FINDINGS OF FACT

1. On April 28, 2003, the Respondent signed a Loan Officer Application (the "Application") (Exhibit 5).

2. Question 5 of the Application provides:

Have you, or has any company for which you have been an officer, or more than 5% owner or director ever been convicted of any criminal offense including, but not limited to, theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities?

Yes ☐ No ☐

If the answer is yes, furnish details.

3. In response to Question 5, the Respondent answered "Yes" and wrote:

In December 1996 a guy pulled a knife on me outside a bar and I totally kicked his ass: Agg. Assault.

4. Following the submission of the Application, the Division received the report of the National Background Check which disclosed a 1992 arrest in Kent, Ohio for menacing and a 1998 arrest in Wood County, Ohio for aggravated assault. (Exhibit 2).

5. On May 23, 2003, the Division wrote to the Respondent indicating that it was unable to determine whether to issue a license because of insufficient evidence. (Exhibit 3). The Division asked for a detailed explanation of the facts and circumstances which gave rise to the two criminal charges as well as copies of the appropriate Journal Entries. (*Id.*).

6. In response to that letter, the Respondent submitted two written explanations as follows:

On the night of 09/18/1992 my friends and I went to Taco Bell after a freshman college night out at Kent State University. We ordered our food and went out the front door. This is when I encountered an off duty police officer (I can't remember his name). He just had on black clothing, no badges and did not identify himself as a police officer. He pushed me on the chest and grabbed my bag of food. So I pushed him back and took my food back. He hit me in the eye, so I kneed him in the groin head butted him in the chin and knocked him out. I saw the on duty police officer start to run over so I took off. I got back to the outside area of my dorm when a student campus security guard and Tucker Wasserman on a bike approached me and asked if I was at Taco Bell. I knew Tucker

so I said, yes. He said the cops have the man in custody that assaulted me and they wanted to get my statement. So we waited around for the police to come. When police car came, out pops the off duty cop and another police officer. They start running over yelling to get down on my knees and put my hands behind my head. I do as they say and proceed to get hand cuffed. They tell Tucker and the guard to get out of here and I get kicked in the stomach and the back before I get tossed into the shrubs.

The cops took me down to the police station and booked me for disorderly conduct. I refused to sign the charge and was released on a signature bond. When time for court came there was an additional charge of petty theft. I plead not guilty to both and started to tell my side of the story. The judge continued for another court date.

Between the court times the off duty Officer made two trips to my dorm room that I had recorded on tape and had witnesses of him being there on both occasions. It turned out that I had been seeing his ex-girlfriend. When the court date came the security tapes from Taco Bell had some how been erased, and I had the cashier from Taco Bell as a witness that was going to state that I did not steal anything from there. Tucker was there to testify the handcuffing, kicking and being tossed in the shrubs. My Dad has presented this to the prosecutor and asked him if he wanted Carl Monday to come out for this trial. When the prosecutor found out this information we didn't even go into the courtroom. We settled for a fifty-dollar (menacing) just to get this over and for that off duty cop never to have any contact with me again.

(Exhibit 4).

This is a short explanation of the incident that happened on 12/27/1996. An explanation from me alone only gives you one side of the story. I have included all witness statements from both sides for you to make the best decision.

I was home on Christmas vacation and went to Bowling Green to visit some of my friends. We were at Up Town Down Town nightclub. We were dancing with some beautiful girls. I came off the dance floor for something to drink and this guy elbowed me in the back twice. I turned and asked him what his problem was. He started talking smack about him putting a cap in me and such, so I started talking smack back. The bouncers got between us before anything happened. The girls wanted to go to another bar so I left with them. The bars all close at the same time and everybody goes out to the street and their cars on the strip. The same guy sees me I see him we start talking smack again and decide to go down the alley to resolve this. He pulls a knife on me. We go up and down the alley facing one another. I tripped on something while backing up and get a small cut on my back from him. We go back out on the sidewalk and of

course a crowd is out there. Someone called him a name and he looked away from me. I charged him. We went over a car hood and out in the street. I pinned his arms down and hit him in the face five times. Somebody yell that's enough and I got up off him. I took a step away and something really pissed me off about him pulling a knife on me. So, dumbly I turned around gave him a boot to the head. I turned and left instead of making a police report like I should have.

In the line of work that I was in, things like this were not an odd occurrence. (I had been a bouncer in the flats of Cleveland for four years. I was working as a bouncer in L.A. clubs fro two years while simultaneously being a personal security guard for two years.)

On a weekly basis I would have broken beer bottles or knives to take away from people. I've been stabbed once and shot at many times. The difference here was that I was not working for an establishment and didn't give any though about filling out all the paper work. This came back to haunt me seven months later when the police called. I told them I did it and took myself in to talk to them. When I talked to the police they asked me to press charges many times. I was going to school in California, I didn't want the hassle and I didn't really care. Five months later I got my summons on the phone twelve days short of one year from the incident and was dumb enough to take myself two hours up there. If I didn't go I wouldn't be writing this letter now. Hind side is always 20/20 and I wished I had walked away from it. Unfortunately at that point in my life walking away from physical confrontations was not in my character. God knows that I have paid for any thing that I have done wrong. I just want to provide a living for my family.

(Exhibit 5).

7. The Respondent also submitted copies of the Journal Entries and other court documents. (Exhibit 4, Exhibit 5).

CONCLUSIONS OF LAW

1. Ohio Revised Code Section 1322.031(A)(2) requires that in an application for a license as a loan officer, an applicant must submit a statement as to whether the applicant has been convicted 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.

2. Ohio Revised Code Section 1322.041(A) provides that the Superintendent of the Division shall issue a Loan Officer License if the Superintendent finds that certain conditions are met including:

- (5) The applicant's 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 Section 1322.01 to 1322.12 of the Revised Code.

3. The division has the burden to show that the Respondent's character and 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.

DISCUSSION

1. The Hearing Officer notes for the record that the Respondent had listed Emerald Mortgage as his employer but does not have a position with that organization pending the determination of his Application.

2. At the time of the hearing in this matter, the Respondent was 30 years of age. (Tr. 33). At the time of his conviction for Aggravated Assault, he was 20 years of age. (*Id.*). He graduated from Strongsville High School in 1992. (Tr. 34).

3. The Respondent has had steady employment since high school, including work as a manager at a gymnasium and at the Ritz Carlton in Cleveland. (Tr. 34). He also attended Cuyahoga Community College West in Parma for about one and one-half years and then went to Cal State Northridge. (Tr. 35). He is eight credits short of finishing his college degree. (*Id.*).

4. In California, he worked as a security officer or bouncer in several establishments. (*Id.*).

5. Since his release from incarceration following the conviction for aggravated assault, he has worked as a van driver. (Tr. 35-36). He has also worked for Heartland Home Finance. (Tr. 36). He has also worked for Dollar Savings Bank. (Tr. 37).

6. The Respondent has a Maryland Mortgage Broker License as well as an Automobile Salesman's License in Ohio. (Tr. 37).

7. The Respondent submitted several letters of recommendation. Officer Brian Noble of the Harrisburg Police Department wrote to say that he had worked with the Respondent in connection with a refinancing of Officer Noble's home. Officer Noble found the Respondent to be courteous and polite. (Respondent's Exhibit A).

8. Jason R. Chatal, Vice President with Emerald Financial Group LLC wrote to say that he had never seen behavior on the part of the Respondent that would make him ineligible for a mortgage broker license. (Respondent's Exhibit B).

9. Frank Spevak, President of Direct Source Mortgage Services Ltd., wrote to state that if a license is granted to the Respondent, there will be a position for him at Direct Source Mortgage Services Ltd. (Respondent's Exhibit C).

10. Kristen Bentley of Advantage One Mortgage Group wrote to state that she has known the Respondent for five years and worked with him in the mortgage industry for an equal amount of time. She found the Respondent to be professional, experienced and knowledgeable. (Respondent's Exhibit D).

11. Colleen Moran, President of Advantage One Mortgage Group, LLC penned a letter to state that the Respondent has been honest with his clients. (Respondent's Ex. B).

12. Diana Pence, a Senior Loan Processor for Heartland Finance, presented a letter that found the Respondent to be professional, intelligent and honest. (Respondent's Exhibit 4).

13. Gilbert Camargo, Branch Manager for American Nationwide Mortgage Company, sent a letter in which he described the Respondent as the most honest person he has met in ten years in the industry. (Respondent's Exhibit G).

14. Ron Barry wrote to state that he has worked in the financial industry for seven years and finds the Respondent to be of the highest standards in the industry. (Respondent's Exhibit H).

15. Christopher R. Reynolds, President of Tier One Title Agency, Inc., wrote a letter in support of the Respondent. He has known the Respondent for over five years and has had a professional relationship with him for an equal amount of time. He has never had any issues with loans originated by the Respondent. He finds the Respondent by far exceeds his peers in the industry. (Respondent's Exhibit 5).

16. Leslie Lewis submitted an e-mail indicating that the Respondent had done a wonderful job in handling the refinancing of her home. (Respondent's Exhibit J).

17. Samuel Ferguson, Branch Manager with American Nationwide Mortgage Co., submitted a letter indicating that he has worked with the Respondent for four years, that he is in good standing in his community and has an excellent customer referral base. (Respondent's Exhibit K).

18. Finally, Mike Gleba, an Account Executive with Wilmington Finance, submitted a letter indicating that he has known the Respondent professionally for two years and has worked on many projects with him. Mr. Gleba found the Respondent to have conducted himself in a professional manner and with outstanding business ethics. (Respondent's Exhibit L).

19. The Respondent has begun a relationship with a family that has accepted him into their circle. (See Tr. 44). This is an important relationship to Respondent.

20. Other than the two convictions, the Respondent has only had a driving under the influence conviction "a couple of years ago." (Tr. 45).

21. The Respondent at the time of the criminal episode in Wood County was an experienced body builder. (Tr. 45). He had won competitions in that sport. (Tr. 45-46). The episode in Bowling Green "completely changed the Respondent's life." (Tr. 46). He had wanted to be a physical education teacher and that was his course of study in college. (Tr. 46). The

conviction for aggravated assault makes him ineligible for that profession. (Tr. 46-47). Respondent describes himself at the time of the Wood County criminal episode as a "stupid young kid full of testosterone." (Tr. 48). He thought that because he was a bouncer and a security guard that he was indestructible. (*Id.*).

22. Since that involvement in Wood County, the Respondent has reduced his weightlifting and trimmed down. (Tr. 48).

23. Testifying in support of Respondent was Randy McNeal. Mr. McNeal is a Homeland Security Emergency Response Trainer/Instructor and a member of the Pickaway County Search and Recovery Team. (Tr. 55). He is the head coach of The Ohio State University's Scuba Team and a volunteer at the YMCA. (*Id.*). He has known the Respondent since 1991 when they met at the Yacht Club in Sandusky. (Tr. 56). Respondent's parents and Mr. McNeal used adjacent docks there. (Tr. 56). At the time, the Respondent was probably a sophomore in high school. (*Id.*). He has watched the Respondent evolve from a child to a man. (Tr. 56). The Respondent has spent considerable time with Mr. McNeal, including having stayed over the night before the hearing in this matter at Mr. McNeal's house. (Tr. 57). The Respondent spent the evening playing with Mr. McNeal's 7-year old, 9-year old and younger child. (Tr. 57). For some time, Mr. McNeal has had the utmost confidence in the Respondent. Mr. McNeal even entrusted the Respondent with keys to Mr. McNeal's boats and "there was never a time [when Mr. McNeal] felt uncomfortable with him." (Tr. 57).

24. Mr. McNeal recounted that the Respondent has worked hard in the loan industry for five or six years. (Tr. 58). He recalled that the Respondent wanted to become a physical education teacher but with a criminal conviction is prohibited from doing that. (*Id.*).

25. Mr. McNeal has never heard anyone speak badly of the Respondent. (Tr. 59). The Respondent has multiple friends, a fact that impressed Mr. McNeal. (Tr. 59).

26. Mr. McNeal describes the Respondent as having been a "cocky kid" when he was in high school and college. (Tr. 61). Mr. McNeal has watched him progress and now the Respondent is described as a mature adult. (Tr. 61).

27. Mr. McNeal believes that the Respondent has taken responsibility for his convictions, including having paid the medical bills of the injured person. (Tr. 64).

28. The Respondent answered Question 5 of the Application correctly. His description of the aggravated assault conviction is reflective of the cockiness that the Respondent apparently exhibited in his college days. The conviction occurred from an episode that the Respondent now regrets. Based on the opportunity to observe the Respondent and his demeanor while testifying, the Hearing Officer is not convinced that the Respondent understands that the fight which led to the conviction could have been avoided by a strategic retreat from the confrontation. It appears from the record that the Respondent was presented with numerous opportunities to withdraw, but, in his opinion, at the time, he could not. (Tr. 23). The conviction for aggravated assault, and to a much lesser degree, the conviction for menacing, show a marked immaturity on the part of the Respondent at the time of those episodes.

29. The Respondent has submitted numerous letters in support of his character. Likewise, Mr. McNeal testified favorably about the Respondent's character. There is no evidence in the record to suggest that the Respondent is not honest. It appears likely that if granted a license that he will operate his business honestly and fairly and in compliance with the purposes of the Ohio Mortgage Broker Act.

30. This case, however, turns on whether the Respondent has the general fitness to command the confidence of the public and warrant the belief that the business will be operated honestly and fairly. The Hearing Officer is not convinced that the Respondent has that general fitness. His answer to Question 5 does not demonstrate the seriousness with which the Application should have been approached. Likewise, the episodes around both criminal convictions show a marked level of immaturity. The convictions happened several years ago. However, the Respondent's testimony regarding what he would do in similar circumstances, has not convinced the Hearing Officer that the type of behavior exhibited by the Respondent in the two criminal episodes would not be repeated again. The Hearing Officer is not convinced that the Respondent has demonstrated an appropriate increase in maturity in understanding since the Wood County episode. That level of immaturity is further reflected in Exhibits 4 and 5 when the Respondent provided a current recollection of the events surrounding both the criminal convictions. Those written reports submitted by the Respondent himself did not provide support to the Hearing Officer for a finding that the Respondent has the general fitness to have a license. By contrast, the Division has shown the existence of criminal convictions and the circumstances surrounding them.

31. Accordingly, the Hearing Officer finds that the Division has met its burden in this matter under the provisions of Revised Code Section 1322.041(A)(5).

RECOMMENDATION

Based on the findings of fact, conclusions of law, and discussion set forth herein, it is the recommendation of the Hearing Officer that the Superintendent of the Division not grant a Loan Officer License to the Applicant.

Respectfully submitted,

Kenneth R. Cookson
Hearing Officer
May 24, 2004