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STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

IN THE MATTER OF: : CASE NO. M2009-778
:
DOROTHY J. BOYCE, :
: LISA M. FINNEGAN
RESPONDENT. : HEARING OFFICER
:

ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
Issued December 18, 2009

I. FINDINGS OF FACT

A. Background

1. This matter came before Lisa M. Finnegan, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Department of Commerce, 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 Division held the hearing on December 3, 2009 at 77 South High Street, 23rd Floor, Columbus, Ohio, 43215.

2. The Division held the hearing to consider the October 7, 2009 Notice of Intent to Deny Loan Officer License Application, and Notice of Opportunity for a Hearing ("NOH"). The Division alleged that Dorothy J. Boyce ("Respondent") violated R.C. § 1322.052 because she failed to complete at least six hours of approved continuing education during the 2007 calendar year.

3. Janyce C. Katz, Esq. and Dalia Mohammad, Esq., Assistant Attorneys General with the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division at the hearing. Stephen E. DeFrank, Jr., Esq. testified on behalf of the Division. Neither Respondent nor anyone on her behalf appeared at the hearing. The Division introduced and the Hearing Officer admitted State's Exhibits A through G into the record at the hearing.

B. Jurisdiction and Procedural Matters

4. On October 7, 2009, the Division issued to Respondent the NOH notifying him that the Division intended to deny his loan officer license application pursuant to R.C. § 1322.10(A)(1)(a) because Respondent failed to fulfill her continuing education requirement for calendar year 2007. The NOH also notified Respondent that she had an opportunity to request a hearing within thirty-one days from the date of the mailing of the NOH. *State's Exhibit C.*

5. The Division sent the NOH to Respondent by certified mail, return receipt requested. The Division obtained service on October 13, 2009. *State's Exhibit D.*
6. On October 14, 2009, Respondent timely requested a hearing. *State's Exhibit B.*
7. On October 16, 2009, the Division mailed a notice to Respondent setting the matter for hearing on October 21, 2009. Within the same notice, the Division rescheduled the hearing for November 12, 2009. *State's Exhibit A.*
8. On November 12, 2009, the Hearing Officer granted Respondent's request for a continuance of the hearing. On November 17, 2009, the Division sent to Respondent a letter and the Hearing Officer's continuance order indicating that the Hearing Officer had rescheduled the hearing to December 3, 2009. *State's Exhibit A.*
9. The Division held the hearing on the date, time, and location as specified in the Division's November 17, 2009 letter and the Hearing Officer's continuance order.

C. Respondent's Loan Officer License

10. Respondent held a loan officer license (# LO.009741.000) from July 2003 through April 30, 2007. Respondent did not renew her license in 2007. *State's Exhibit G.*
11. Stephen E. DeFrank, Jr., Esq., an attorney examiner with the Division, testified at the hearing. Mr. DeFrank reviews the files of loan officers and mortgage brokers to verify their compliance with the annual continuing education requirement of R.C. § 1322.052. Mr. DeFrank reviewed Respondent's continuing education file. *Testimony of Stephen E. DeFrank, Jr., Transcript ("Tr.") at 9-17.*
12. At the hearing, the Division introduced a printout of Respondent's continuing education file maintained by the Division. The printout showed that Respondent did not complete the required six hours of continuing education during the 2007 calendar year. *State's Exhibit G; Testimony of Stephen E. DeFrank, Jr., Tr. at 15.*
13. On May 21, 2009, Respondent applied for a loan officer license. *State's Exhibits E and F; Testimony of Stephen E. DeFrank, Jr., Tr. at 14.*
14. On July 29, 2009, Respondent submitted a letter to the Division indicating that she did not complete previous continuing education because she was not employed by a mortgage broker between October 2006 and December 2008. *State's Exhibit G.*
15. Respondent was required to complete continuing education if she held a loan officer license at any time during the calendar year. Respondent also was required to complete continuing education even if she was not working for a mortgage broker and her license was in escrow. Respondent held a loan officer license from January 2007 through April 30, 2007; therefore, she was required to complete continuing education for calendar year 2007. *Testimony of Stephen E. DeFrank, Jr., Tr. at 15-16.*

16. The Division seeks to deny Respondent's loan officer license application because she did not complete her required six hours of continuing education during the 2007 calendar year. *State's Exhibit A*.

II. CONCLUSIONS OF LAW

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

18. The Division is responsible for the licensing and regulation of loan officers and mortgage brokers pursuant to the Ohio Mortgage Broker Act, R.C. Chapter 1322.

19. R.C. § 1322.052 requires that loan officers licensed by the Division complete six hours of continuing education courses during each calendar year.

20. Ohio Administrative Code ("Ohio Adm.Code") 1301:8-7-09 (F) states that an applicant who previously held a loan officer license and failed to complete the continuing education requirement of R.C. § 1322.052 must complete that requirement before the Division will issue the applicant a new license.

21. Ohio Adm.Code 1301:8-7-08(C)(3)(b) states that a license in escrow does not exempt the licensee from the continuing education requirements of R.C. § 1322.052.

22. R.C. § 1322.10(A)(1)(a) authorizes the Division to deny a loan officer license application for lack of compliance with any provision of R.C. §§ 1322.01 through 1322.12.

23. The Division has established that Respondent is in violation of R.C. § 1322.052 because Respondent failed to complete six hours of continuing education courses during the 2007 calendar year. Therefore, sufficient evidence exists to deny Respondent's loan officer license application pursuant to R.C. § 1322.10(A)(1)(a).

III. RECOMMENDATION

Based upon the evidence submitted into the record for this case, the Division has established that Respondent did not complete the statutorily required six hours of continuing education during the 2007 calendar year. The Division has provided a sufficient evidentiary basis to deny Respondent's loan officer license application pursuant to R.C. § 1322.10(A)(1)(a) for Respondent's failure to comply with R.C. § 1322.052. Therefore, the Hearing Officer respectfully recommends that the Superintendent of the Division deny Respondent's loan officer license application.

Respectfully submitted,

Lisa M. Finnegan
Administrative Hearing Officer
December 18, 2009