

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

IN THE MATTER OF: : CASE NO. M2010-396
:
LOUIS A. DANIELE, :
: LISA M. FINNEGAN
RESPONDENT. : HEARING OFFICER
:

ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
Issued August 9, 2010

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 July 27, 2010 at 77 South High Street, 21st Floor, Columbus, Ohio, 43215.

2. The Division held the hearing to consider the May 7, 2010 Notice of Intent to Refuse Loan Officer License Renewal and Notice of Opportunity for a Hearing ("*NOH*"). The Division alleged that Louis A. Daniele ("*Respondent*") violated R.C. 1322.052, as it was in effect in 2009, because he failed to complete at least six hours of approved continuing education during the 2009 calendar year. The Division intends to refuse to renew Respondent's loan officer license for this reason.

3. Janyce C. Katz, Esq., an Assistant Attorney 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 his behalf appeared at the hearing. The Division introduced and the Hearing Officer admitted State's Exhibits A through H into the record at the hearing.

B. Jurisdiction and Procedural Matters

4. On May 7, 2010, the Division issued the NOH notifying Respondent that the Division intended to refuse to renew his loan officer license. The NOH also notified Respondent that he had an opportunity for a hearing on the matter if he requested a hearing within thirty days of the date of the mailing of the NOH. *State's Exhibit A.*

5. The Division sent the NOH by certified mail, return receipt requested, to Respondent's address of record with the Division. Respondent received the NOH on May 10, 2010. *State's Exhibit B; Testimony of Stephen E. DeFrank, Transcript ("Tr. ") at 19.*

6. On June 1, 2010, Respondent requested a hearing. *State's Exhibit A.*

7. On June 3, 2010, the Division mailed a notice to Respondent setting the matter for hearing on June 11, 2010. Within the same notice, the Division rescheduled the hearing for July 27, 2010. *State's Exhibit A.*

8. The Division also faxed to Respondent a copy of the Division's June 3, 2010 hearing notice on July 22, 2010. *State's Exhibit A.*

9. On July 26, 2010, Respondent informed Assistant Attorney General Katz that he did not intend to appear at the hearing. *Tr. at 7.*

10. The Division held the hearing on the date and time, and at the location specified in the June 3, 2010 hearing notice.

C. Respondent's Activities

11. Respondent has held a loan officer license issued by the Division to originate residential mortgage loans pursuant to R.C. Chapter 1322 since May 2002. *State's Exhibit C.*

12. On April 29, 2010, Respondent applied to the Division to renew his loan officer license. *State's Exhibit E, F, and G.*

13. Stephen E. DeFrank, Jr., an attorney examiner with the Division, testified at the hearing. Mr. DeFrank reviews the files of loan officers to verify their compliance with the Ohio Revised Code and the Ohio Administrative Code. *Testimony of Stephen E. DeFrank, Jr., Tr. at 9.*

14. Mr. DeFrank reviewed Respondent's loan officer file and found that Respondent did not take any continuing education courses during the 2009 calendar year. *Testimony of Stephen E. DeFrank, Jr., Tr. at 16-17; State's Exhibit H.*

15. The Ohio Mortgage Broker Act requires all loan officers to complete continuing education during the calendar year that they hold a license. As a license holder in 2009, Respondent was required to complete six hours of continuing education for the 2009 calendar year but did not do so. *Testimony of Stephen E. DeFrank, Jr., Tr. at 14, 16-17; State's Exhibit A.*

II. CONCLUSIONS OF LAW

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

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

18. The Division may renew a loan officer license annually if the licensee meets the requirements of R.C. 1322.041(B). One of the requirements of R.C. 1322.041(B) is that the licensee must complete approved continuing education in accordance with R.C. 1322.052.

19. R.C. 1322.052, as it was in effect for 2009, required that loan officers licensed by the Division complete six hours of approved continuing education courses during each calendar year.


20. R.C. 1322.10(A)(1)(a) authorizes the Superintendent of the Division to refuse to renew a loan officer license if the Superintendent finds that a licensee failed to comply with any provision of R.C. 1322.01 to 1322.12.

21. Respondent's failure to complete six hours of approved continuing education courses for calendar year 2009 constitutes a violation of R.C. 1322.052. Accordingly, the Division is authorized to refuse to renew Respondent's loan officer license pursuant to R.C. 1322.10(A)(1)(a) for his non-compliance with R.C. 1322.052.

III. RECOMMENDATION

Based upon the evidence submitted into the record for this case, the Division has established a sufficient evidentiary basis to refuse to renew Respondent's loan officer license pursuant to R.C. 1322.10(A)(1)(a) because Respondent failed to comply with R.C. 1322.052 for calendar year 2009. Therefore, the Hearing Officer respectfully recommends that the Superintendent of the Division refuse to renew Respondent's loan officer license.

Respectfully submitted,

_____
Lisa M. Finnegan (0033537)
Administrative Hearing Officer
August 9, 2010