

**STATE OF OHIO
DEPARTMENT OF COMMERCE**

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IN THE MATTER OF: **JANET E. YOUNG**
CASE NUMBER: **M2006-9992745**

**DIVISION OF FINANCIAL
INSTITUTIONS
CONSUMER FINANCE SECTION**

**William E. Leber, Esq.
Hearing Examiner**

**REPORT AND RECOMMENDATION
Issued November 14, 2006**

Findings of Fact.

This matter came before me, William E. Leber, an attorney licensed to practice law in Ohio, upon appointment by the Division of Financial Institutions, a Division of the Ohio Department of Commerce. Accordingly, a hearing was held on October 3, 2006, at the Vern Riffe Center for Government and the Arts in Columbus in accordance with the Ohio Administrative Procedure Act, Revised Code Chapter 119 and with the Ohio Mortgage Broker Act, Revised Code Chapter 1322.

At the hearing, a stenographic record of the hearing was made at the expense of the Ohio Department of Commerce. The respondent, Janet E. Young, represented herself *pro se*, and the Department of Commerce, Division of Financial Institutions (also referred to herein as the "State") was represented by Assistant Attorney General Todd A. Nist.

1. On or about July 27, 2006, the Division of Financial Institutions, Consumer Finance Section transmitted a Notice of Intent to Deny Loan Officer License Application and Notice of Opportunity for Hearing to Janet E. Young. That Notice of Intent to Deny Loan Officer License Application and Notice of Opportunity for Hearing was returned to the Division of Financial Institutions unclaimed.
2. On or about August 23, 2006, the Division of Financial Institutions, Consumer Finance Section transmitted a Notice of Intent to Deny Loan Officer License Application and Notice of Opportunity for Hearing to Janet E. Young. The Notice of Intent to Deny Loan Officer License Application and Notice of Opportunity for Hearing was received by Janet E. Young, on August 24, 2006. Notice of Intent to Deny Loan Officer License Application and Notice of Opportunity for Hearing reported the intention of the Division of Financial Institutions to deny the respondent's license

application because the State had determined that the respondent had not complied with the provisions of Revised Code sections 1322.031(A)(2), 1322.041(A)(3), 1322.041(A)(5), 1322.07(A), 1322.07(B) and 1322.07(C). (States Exhibit 3).

3. On or about August 28, 2006, the Division of Financial Institutions, Consumer Finance Section received a hearing request form from Janet E. Young with reference to case number 2006 - 9992745 (States Exhibit 2).

4. On or about August 30, 2006 of the Division of Financial Institutions transmitted a letter to Janet E. Young, scheduling a hearing in case number M2006 - 9992745 for Wednesday, October 4, 2006 at 2:00 p.m. in room 1910 at 77 S. High St, Columbus (States Exhibit 1).

5. On or about March 22, 2006, Janet E. Young, filed a Loan Officer Application form with the Ohio Division of Financial Institutions. In response to question number five on the application, "Have you or has any company for which you have been Officer, or more than 5% owner or director, ever been convicted of any criminal offense? Exclude minor misdemeanor traffic and parking offenses. (DUIs and DWI as are criminal offenses.)" the respondent answered "yes" and reported, in the space provided for details, "DUI/1988." The respondent provided no further information on the application form itself or on an attached criminal history attestation page which is attached to and made a part of the loan officer application form. Both the Loan Officer Application Form and the Criminal History Attestation Page provided for a notary statement in conjunction with the signature of the applicant, here, Janet Young (States Exhibit 4).

6. On or about April 10, 2006, the Division of Financial Institutions, Consumer Finance Section mailed a letter to Janet E. Young under the signature of Consumer Finance General Counsel Anthony Siciliano advising her that her application had been forwarded to the Consumer Finance Legal Section for investigation (States Exhibit 5). Also included in States Exhibit 5 and attached to the April 10, 2006 letter of Attorney Siciliano is a hand written note from the respondent and a photocopy of a criminal record from the City of Lancaster, Ohio. The handwritten note and the photocopy of the Lancaster criminal record were identified and verified by the respondent in her testimony (States Exhibit 5, and transcript pages 17 and 18).

7. The public records of the City of Lancaster, Fairfield County, as confirmed by the admission of the respondent, established that on or about July 5, 1985, the respondent pleaded guilty to a violation of Revised Code Section 2913.11. The record confirmed that the respondent had been fined \$100 and that she had been assessed costs of \$65.50, and had been sentenced to 30 days in jail, which sentence was suspended, on two years good behavior and restitution (States Exhibit 5).

8. The respondent did not report the criminal violation described in paragraph 7, above, on the Loan Officer Application Form she filed with the Division of Financial Institutions as described in paragraph 5, above.

9. At the close of the hearing on October 4, 2006, the record of the hearing was allowed to remain open until the close of business on November 3, 2006 (Transcript

page 20) for the respondent to provide recommendations and other documentation regarding her character and good business reputation.

10. On November 3, 2006, the Department of Commerce received a cover letter and five pages of correspondence from the respondent, Janet E. Young, which included letters of recommendation from the CEO/Owner and the General Sales Manager of her employer, Oxford Lending Group, LLC, and a report on the respondent from the Mortgage Asset Research Institute, Inc. (Exhibit A1 through A6).

Conclusions of Law

A. In accordance with the provisions of the Ohio Mortgage Broker Act, Chapter 1322. of the Revised Code, the Ohio Division of Financial Institutions is responsible for the administration of the act. Accordingly, the Division of the Financial Institutions has the authority to accept or deny applications for licensing as a mortgage loan officer.

B. In the matter of Janet E. Young, the Division of Financial Institutions provided sufficient and proper written notice to respondent Janet E. Young of the denial of her application for a license as a loan officer, and provided her with an appropriate hearing in accordance with the provisions of the Ohio Administrative Procedure Act, Revised Code Chapter 119 ., and the Ohio Mortgage Broker Act, Revised Code Chapter 1322 .

C. The Division of Financial Institutions failed to establish that the respondent had not complied with the provisions of Revised Code section 1322.031(A)(2). That paragraph requires that an applicant for licensing as a loan officer provide a statement as to whether or not the applicant has been convicted of or pleaded guilty to any of a series of enumerated criminal violations. The respondent provided a statement to the Division of Financial Institutions, but that statement was inaccurate. The respondent did, however, provide a statement as required by 1322.031(A)(2).

D. The Division of Financial Institutions failed to establish that the respondent had not complied with the provisions of Revised Code section 1322.07(C). That paragraph requires that no applicant for licensing as a loan officer shall "Engage in conduct that constitutes improper, fraudulent, or dishonest dealings." That provision does not refer to prior conduct. The Division of Financial Institutions did not establish that the respondent had engaged in improper, fraudulent, or dishonest conduct in her actions as an applicant for licensing. The State established that the respondent had been convicted of the criminal offense described in paragraph 7, above, but the state did not establish that the respondent's inaccurate application constituted "improper, fraudulent, or dishonest dealings."

E. The Division of Financial Institutions did establish that the respondent did not comply with the provisions of Revised Code section 1322 .041(A)(3). The State established in paragraph 7, above, that the respondent had been convicted of a criminal offense listed in that section which had not been reported in her application.

F. The Division of Financial Institutions did establish that the respondent did not comply with the provisions of Revised Code section 1322 .041(A)(5). The State established that the respondent had been convicted of an enumerated criminal offense, which had not been reported in her application, and the respondent did not provide adequate support for a

determination by the Superintendent of Financial Institutions that the applicant's character and general fitness command the confidence of the public and warrant a belief that the business will be operated honestly and fairly. In response to the omission of a criminal offense in the application, the respondent provided only two letters from her current employers in support of her business reputation and fitness to serve as a loan officer.

G. The Division of Financial Institutions did establish that the respondent did not comply with the provisions of Revised Code section 1322 .07(A). The State established that the respondent had made a "substantial misrepresentation" in her application for licensing as a loan officer. That is, the respondent made an untrue statement of fact regarding her 1985 conviction in Fairfield County for violation of Revised Code section 2913.11. It is noted that the conviction was over 20 years old, but the respondent nonetheless failed to report the conviction in her application.

H. The Division of Financial Institutions did establish that the respondent did not comply with the provisions of Revised Code section 1322 .07(B). The State established that the respondent made a false statement regarding her prior conduct in her application for licensing as a loan officer.

Recommendation of Action.

Based on the foregoing, I recommend that the Division of Financial Institutions deny the Loan Officer License Application of Janet E. Young.

Respectfully submitted,

William E. Leber, Esq.
Hearing Examiner
November 14, 2006