

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

In the matter of:)	Case No. M2006-9992994
)	
BRUCE A. THOMPSON)	<u>DIVISION ORDER</u>
11755 Norbourne Drive, Apt. #712)	Denial of Loan Officer License Application
Cincinnati, OH 45240)	&
)	Notice of Appellate Rights

Respondent, Bruce A. Thompson (“Respondent”), submitted a loan officer license application (“Application”) to the Division of Financial Institutions (“Division”) on July 26, 2006. On September 21, 2006, the Division notified Respondent that it intended to deny his Application because: (1) in or around 1995, Respondent was convicted of passing bad check-insufficient funds; (2) Respondent had not proven that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he will not commit another criminal offense involving passing bad checks or any criminal offense involving money or securities; (3) on or around July 13, 2006, Respondent attested in a sworn statement that information he provided about his criminal background in the Application he submitted to the Division was complete and truthful when it was not; (4) on or around July 26, 2006, in an attempt to obtain a loan officer license, Respondent provided untruthful information about his criminal background to the Division; (5) he violated R.C. 1322.07(A) by making a substantial misrepresentation in the Application; (6) he violated R.C. 1322.07(B) by making a false statement of a material fact or by omitting a statement required by state law in the Application; (7) he violated R.C. 1322.07(C), which prohibits an applicant from engaging in improper or dishonest conduct; and (9) because his character and general fitness did 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 R.C. 1322.01 to 1322.12—the Ohio Mortgage Broker Act.

Respondent requested an administrative hearing, which was held on November 20, 2006. A Report and Recommendation (“Report”) was filed with the Division on December 27, 2006, recommending that the Division grant Respondent’s application. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, the transcript of testimony and exhibits, as well as all applicable laws. As a result, the

Division makes the following findings and conclusions. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (The Report is attached).

The Division modifies Section C, paragraphs 4 and 5 on pages 2 and 3 of the Report.

The Notice of Intent to Deny the Application was based, in part, on Respondent's 1995 conviction for passing bad checks, not the 1993 offense which was not listed in the Notice. (State's Exs. C and F; Trans., pp., 29-30). However, State's Exhibit F contains a 1993 entry for "passing check-insuff funds" from the Hamilton County Municipal Court which indicates Respondent entered a no-contest plea and that he was found guilty as charged. For each passing bad checks conviction, Respondent was ordered to pay restitution. (State's Ex. F).

The Division disapproves paragraph 5 on page 4, paragraphs 6 and 8 on page 5, and paragraphs 11 and 12 on page 6 of the Report.

While it is true that Respondent's 1993 (discussed in the hearing) and 1995 convictions are over ten years old, it is also fact that Respondent failed to disclose his criminal history in the Application. (State's Ex. D). The Application specifically asked whether Respondent had been convicted of any criminal offense including those involving, among other offenses, passing bad checks. (State's Ex. D). Respondent offered several reasons for his nondisclosure, asserting that this omission was due to a lack of awareness, that he had "not been convicted of anything," that it escaped his mind, and that he "was probably rushing." (Trans., pp. 14, 17).

Respondent's clear recall of the events leading to his convictions casts doubt upon his claimed forgetfulness. Respondent explained that he was in his vehicle, pulled over by the police and arrested because the bad check created a warrant. (Trans., p. 16). Respondent testified that there were actually two offenses for which he had appeared in court—on two separate occasions—and entered pleas of no contest. The no-contest pleas were entered, he explained, because he had could not prove that a former girlfriend, not himself, had issued the checks from Respondent's closed bank account (Trans., pp. 15-17).

Information concerning an applicant's criminal history is a material fact for licensing purposes, regardless of how long ago the conviction(s) occurred. See OAC 1307:8-7-09(G). With this in mind, the Division finds that Respondent's untruthful answer to Question 6 of the Application violated R.C. 1322.07(A) which prohibits an applicant from "mak[ing] any substantial misrepresentation in any *** license application." Also, R.C. 1322.07(B) prohibits an applicant from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statements required by state law[.]" Given its ordinary meaning, "false" is defined as "untrue , a

false statement.” (*Blacks Law Dictionary, Seventh Edition*, 1990, p. 618). The term “omission” is defined as “the act of leaving something out.” (*Black’s Law Dictionary, Seventh Edition*, 1999, p. 1116). And, “omit” means “to leave out or leave unmentioned.” (*Merriam-Webster Online Dictionary*, www.m-w.com/dictionary/omit). Accordingly, by answering “No” to Question 6 on the license application, Respondent violated R.C. 1322.07(B). The Division also finds that Respondent’s failure to disclose his criminal conviction to the Division constituted improper dealings in violation of R.C. 1322.07(C).

In total, Respondent has not established that he is honest, truthful, and of good reputation and that there is no basis in fact for believing that he will commit another criminal offense again involving passing bad checks. Respondent presented only his own self-serving testimony about his employment history and stated he has not had any convictions since the 1995 passing bad checks conviction. Without third-party character references, Respondent’s personal statements regarding his honesty, truthfulness, and good character do not sustain the burden of proof imposed by R.C. 1322.031(A)(3). Further, because of Respondent’s failure to disclose his criminal history in the Application, the Division cannot find that Respondent is honest, truthful, and of good reputation pursuant to R.C. 1322.041(A)(3).

Lastly, as the Division has established the basis for and proven the violations of R.C. 1322.07(A), (B), and (C), the Division has established a lack of compliance with the Ohio Mortgage Broker Act. Thus, the Division finds that Respondent’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. R.C. 1322.041(A)(5).

The Division disapproves the Recommendation on page 7 of the Report.

For the reasons stated above, the Division hereby denies the Application of Bruce A. Thompson.

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 21st day of February 2007.

RICHARD F. KECK

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