

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

DIVISION OF FINANCIAL INSTITUTIONS
2009 AUG -4 AM 10:30

IN RE: : CASE NO.: M2009-423
: :
SIMON Y. AMOR, : :
: :
RESPONDENT : HEARING OFFICER
: DELORES EVANS

ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
Issued August 4, 2009

I. FINDINGS OF FACT

A. Background

This matter came before Delores Evans, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions ("Division") to serve as the Hearing Officer for this hearing in accordance with the Ohio Administrative Procedure Act ("O.A.C.") and Ohio Revised Code ("R.C.") Chapter 119. The hearing was held on July 23, 2009 at 77 South High Street, Room 1936, in Columbus, Ohio.

The Division held the hearing to consider the June 1, 2009 Order of Summary Suspension, Notice of Intent to Deny Renewal, and Notice of Hearing ("NOH"). The Division alleged that Simon Y. Amor ("Respondent") violated R.C. §1322.052 when he failed to complete at least six hours of approved continuing education ("CE") during the 2008 calendar year.

Jennifer Croskey, Esq., an Assistant Attorney General with the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division at the hearing. Stephen DeFrank, Esq., testified on behalf of the Division. Neither Respondent nor a representative on his behalf appeared at the hearing. State's Exhibits 1 through 8 were introduced and admitted into the record at the hearing. The Record consists of the Exhibits, properly marked and admitted, the NOH, and the transcript from the hearing. The record was closed at the end of business on July 23, 2009.

B. Jurisdiction and Procedural Matters

1. On or before April 30, 2009, the Division received Respondent's 2009 Loan Officer Renewal Application. *State's Exhibit 6; Testimony of Mr. DeFrank*

2. On June 1, 2009, the Division issued the NOH. The Division suspended Respondent's loan officer license pursuant to R.C. §1322.10(F)(2) because Respondent failed to fulfill the necessary CE requirement for calendar year 2008. In the NOH, the Division indicated that it also seeks to deny Respondent's 2009 Loan Officer Renewal Application. The Division scheduled the matter for hearing on June 25, 2009. The Division sent the NOH to Respondent via certified mail, return receipt requested. *State's Exhibit 1; State's Exhibit 2*
3. On June 23, 2009, the United States Postal Service returned the NOH and certified mail envelope to the Division marked "return to sender unclaimed, unable to forward." *State's Exhibit 3*
4. R.C. §119.07 provides that when any notice sent by certified mail is returned because the party failed to claim the notice, the agency shall send the notice by ordinary mail to the party's last known address and shall obtain a certificate of mailing. Service by ordinary mail is complete when the certificate of mailing is obtained, unless the notice is returned for failure of delivery.
5. On June 26, 2009, in accordance with R.C. §119.07, the Division perfected service when it re-sent the NOH to Respondent via ordinary mail and obtained a certificate of mailing. *State's Exhibit 4; State's Exhibit 5; Testimony of Mr. DeFrank*
6. On June 24, 2009, the Division issued a notice rescheduling the hearing to July 23, 2009. The Division sent the notice to Respondent via ordinary mail. *State's Exhibit 4*
7. On July 23, 2009, the hearing commenced with only the Division in attendance. The Hearing Officer, the Attorney General's Office, nor the Division received any communication from Respondent concerning the hearing.

C. Respondent's Activities

8. Stephen DeFrank, an attorney examiner with the Division, reviews loan officers' files to verify their compliance with the annual CE requirement of R.C. Chapter 1322. Mr. DeFrank reviewed Respondent's loan officer file. *Testimony of Mr. DeFrank*
9. Respondent held a loan officer license (#012390.001) in 2007 and 2008. *State's Exhibit 8; Testimony of Mr. DeFrank*
10. At the hearing, the Division introduced a printout of Respondent's CE history maintained by the Division. The printout indicated that Respondent completed six hours of approved CE coursework in 2008. However, the Division applied those six CE credits to Respondent's 2007 CE requirement when he failed to timely fulfill his 2007 CE requirement. *State's Exhibit 7; Testimony of Mr. DeFrank*

11. The printout does not demonstrate that Respondent attended any additional CE courses in 2008 or 2009. *State's Exhibit 7; Testimony of Mr. DeFrank*
12. Respondent did not complete the required six hours of approved CE during the 2008 calendar year. *Testimony of Mr. DeFrank*

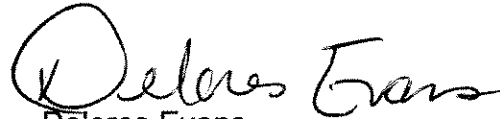
II. CONCLUSIONS OF LAW

13. The Division has procedurally complied with R.C. Chapter 119 and has established jurisdiction over this matter.
14. 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.
15. R.C. §1322.052, effective May 2, 2002, provides that each mortgage loan officer licensee shall complete at least six hours of approved CE every calendar year.
16. Respondent was a licensed loan officer during 2008, but he failed to fulfill the required six hours of approved CE during the 2008 calendar year.
17. R.C. §1322.10(F)(2) provides that a suspension of a loan officer license shall continue until the required continuing education is completed and a fine of five hundred dollars is paid to the Treasurer of the State to the credit of the Consumer Finance Fund.
18. R.C. §1322.10(A)(1)(a) authorizes the Division to deny a loan officer license for lack of compliance with any provision of R.C. §1322.01 through 1322.12.
19. The Division seeks to deny Respondent's 2009 Loan Officer Renewal Application because Respondent failed to complete six hours of approved CE courses during the 2008 calendar year.
20. The Division has established that Respondent is in violation of R.C. §1322.052. Therefore, sufficient evidence exists to suspend Respondent's loan officer license and deny Respondent's 2009 Loan Officer Renewal Application.

III. RECOMMENDATION

Based upon the evidence submitted into the record for this case, the Division has established a sufficient evidentiary basis for suspending Respondent's loan officer license and denying Respondent's 2009 Loan Officer Renewal Application because Respondent failed to comply with R.C. §1322.052. Therefore, the Hearing Officer respectfully recommends that the Division deny Respondent's 2009 Loan Officer Renewal Application.

Respectfully submitted,

A handwritten signature in cursive script that reads "Delores Evans". The signature is written in dark ink and is positioned above the printed name and title.

Delores Evans
Hearing Officer
August 4, 2009