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**STATE OF OHIO
DEPARTMENT OF COMMERCE**

IN THE MATTER OF:

MATTIE L. WILLIAMS

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DIVISION OF FINANCIAL
INSTITUTIONS

CASE NO. M2006-9993022

**REPORT AND RECOMMENDATION
ADMINISTRATIVE HEARING OFFICER D. MICHAEL QUINN**

Issued March 21, 2007

I. FINDINGS OF FACT

After having heard the testimony, considered the evidence, observed and weighed the demeanor and credibility of the witnesses, the following factual findings are made:

A. BACKGROUND

The above-captioned matter came before this Hearing Officer, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions (hereinafter the "Division") to serve as Hearing Officer for an adjudicative hearing in accordance with the Administrative Procedures Act, Chapter 119, Ohio Revised Code (hereinafter "O.R.C."). Said hearing was held at 2:00 PM on December 4, 2006, 2006, at 77 South High Street, 23rd Floor, West Conference room, Columbus, Ohio.

The hearing was held at the request of Respondent Mattie L. Williams, of Lakewood, Ohio (hereinafter the "Respondent") to consider the Division's Notice of Intent to Deny Loan Officer License Application, Notice of Opportunity for a Hearing (hereinafter "NOH"). Said NOH was based upon an allegation that Respondent was convicted of grand theft in 1977 and is thereby ineligible to

obtain a license as a Mortgage Loan Officer. The Division was represented by the Ohio Attorney General's Office, Assistant Attorney General Laura A. Meehan. Respondent appeared and was represented by Karen E. Hamilton, Esq., of Columbus.

At the hearing, State's Exhibits A through F were admitted into the record, as discussed in the transcript (hereinafter "Tr."). The Respondent appeared as a witness.

Respondent requested that she be allowed to submit letters of recommendation at a later date and it was agreed to by the Division and consented to by the Hearing Officer. There is an acknowledgment of the hearsay nature of the proposed exhibits and the Division's hearsay objection to them on those grounds. The record remained open to receive Respondent's exhibits until January 4, 2007, and for the State's response until January 11, 2007. Three exhibits were received on January 4: a sworn affidavit from a former co-worker and attorney (Exhibit 1); a sworn affidavit from the President of Third Community Mortgage Corp., Respondent's proposed employer (Exhibit 2); and a sworn affidavit from Respondent's legal counselor for the hearing (Exhibit 3). (It is noted that, to correct an obvious typographical error, the latter affidavit was resubmitted January 5, 2007.) No response was submitted by the state.

B. JURISDICTION

The Division issued and mailed the NOH against Respondent on September 27, 2006. Respondent requested a hearing, which was received by the Division on October 23, 2006. By letter of October 24, 2006, the Division scheduled the hearing for November 2, but continued the hearing to November 17, 2006, on its own motion. Due to a scheduling conflict, Respondent was granted a continuance to December 4, 2006, at which time the hearing went forward.

C. PROPOSED ISSUANCE OF ORDER TO DENY LICENSE APPLICATION

1. The Division is the state agency responsible for the licensing and regulation of Mortgage Loan Officers pursuant to O.R.C. Chapter 1322.
2. Respondent is an individual who wishes to conduct business in Ohio as a Mortgage Loan Officer. (Exhibit A.)
3. On, or before, August 22, 2006, the Division received from Respondent a Loan Officer Application (hereinafter the "Application"). (Exhibit A.)

4. Respondent signed the Application, attesting to her responses, on August 1, 2006. (Exhibit A; Tr. pp. 17-18.)
5. Within the Application, Question 6 asked: "Have you been arrested for, convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities?" (Exhibit A.)
6. Respondent answered "yes" to Question 6 in the Application. (Exhibit A; Tr. p. 18.)
7. On, or about, December 9, 1977, Respondent pleaded No Contest to, and was convicted of, one count Grand Theft, in Cuyahoga County Court of Common Pleas. (Exhibit B.)
8. Respondent's explanation of the theft charge was as follows: Respondent had a child when she was 16 and living at home with her parents. Respondent went on welfare and her parents took the food stamps to help pay to support the baby and handled the contacts with the welfare department. In 1974, when Respondent was 18, she obtained employment with the Cuyahoga County Probate Court as a clerk. After Respondent's baby became ill, the hospital bill was submitted to Human Services for payment. Some time later, in 1976, Respondent was charged by Human Services as having received an overpayment in 1974. Respondent was appointed an attorney who counseled her to plead No Contest, upon which plea Respondent was found guilty. Respondent was sentenced to three years probation on condition she make restitution of \$3,264.00 in installments of \$40.00 per month. Respondent made complete restitution. (Exhibit B; Tr. pp. 18-20, 27-30.)
9. The charges were when Respondent was 20 years old, 30 years prior to the Application. The violation was two years prior. (Exhibits A, B.; Tr. pp. 27-29)
10. Respondent acknowledges her conviction of the offense. (Exhibit A; Tr. pp. 18, 28.)
11. At the time Respondent was convicted, and for about five years thereafter, Respondent worked for the Cuyahoga County Probate Court, as a docket clerk. (Tr. pp. 21, 30-31.)

12. Respondent has been employed at a mortgage company where she worked with borrowers who were in default, putting them on a repayment plan or entering forbearance agreement. At this time Respondent had access to customer financial records and worked with realtors and mortgage companies. No issues arose concerning Respondent's access to the records. (Tr. p. 23.)
13. During her work experiences, Respondent worked in two different law firms. In one she was a bankruptcy paralegal and bankruptcy manager, overseeing seven or eight persons, and in the other she was a foreclosure paralegal and, then, promoted to the bankruptcy section. (Tr. pp. 22, 25.)
14. Respondent is currently working for a real estate and credit counseling service. (Tr. p. 26.)
15. Each job change was the result of a voluntary departure for advancement. (Tr. p. 25.)
16. The mortgage broker, for whom Respondent would be employed, if the license is granted, is aware of the 30-year old conviction and believes she will be trustworthy. (Exhibit 2; Tr. 26.)
17. Respondent has not received public assistance since her conviction and probation. (Tr. p. 30.)
18. Respondent has held positions since her conviction which required her to handle money for the businesses and for their clients without any issues arising. (Tr. pp. 31-33.)
19. Respondent's Exhibits 1, 2 and 3 are letters of recommendation from persons who were not in attendance at the hearing. Because an administrative hearing is designed to permit a respondent an opportunity to offer an explanation without the formalities or expense of a trial, Exhibits 1, 2 and 3 were admitted into the record and considered. Because the State could not cross examine the letter writers to test the authenticity, accuracy or details of the documents, the letters have been afforded reduced weight. However, the specificity of the letters, and that all three were notarized, causes more weight to be granted these letters than would normally be the case.

II. CONCLUSIONS OF LAW

A. JURISDICTIONAL ISSUE

1. The Division procedurally complied with O.R.C. Chapter 119.

B. LICENSE APPLICATION

2. Respondent has been proven to have been convicted of a theft offense specifically cited in sections 1322.041(A)(3) and (4), O.R.C.
3. The theft offense is in the category which automatically requires the Respondent to prove, by a preponderance of the evidence, that the Respondent's "activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again." Section 1322.041(A)(3), O.R.C.
4. Respondent demonstrated by a preponderance of the evidence that her activities and employment record since the conviction show that she is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again. All testimony indicated that Respondent has held, and continues to hold, positions of trust after the theft conviction and behaved honestly in those positions, including handling money and client financial information. Respondent's conviction was 30 years ago when she was considerably younger and has had no other violations.
5. Respondent demonstrated honesty by responding truthfully to the Application's Question 6.
6. Respondent's exhibits demonstrate that her former co-workers and her prospective employer all believe her to be honest and trustworthy.

C. DISCUSSION

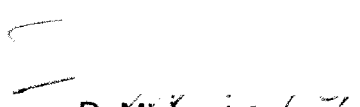
The court at the time made the determination if the events which lead to Respondent's criminal conviction were inadvertent or deliberate, and who was at fault, and it is not the point of this administrative hearing to relitigate those matters. It was 30 years ago and Respondent has not only

not had any further convictions, she has held a number of positions in which she has demonstrated honesty and trustworthiness and that she is not likely to commit the offense again.

III. RECOMMENDATION

The Division has proven the prior theft conviction. Respondent did present sufficient evidence to prove that a license should be issued. Consequently, the recommendation to the Superintendent of Financial Institutions is to **GRANT A MORTGAGE LOAN OFFICER'S LICENSE TO MATTIE L. WILLIAMS.**

Respectfully submitted,


D. Michael Quinn
Administrative Hearing Officer
March 21, 2007
Docket No. 06-DFI-0205