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STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

IN THE MATTER OF: : CASE NO. M2006-9993031
: :
: :
Jeffrey H. Turner : James J. Lawrence, Hearing Officer

ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
January 2, 2007

I. FINDINGS OF FACT

A. Background

This matter came before James J. Lawrence, an attorney licensed to practice law in the state of Ohio and duly appointed by the Ohio Division of Financial Institutions (Division) to serve as Hearing Officer for this hearing in accordance with Ohio Revised Code (R.C.) Chapter 119, the Administrative Procedure Act. The hearing was held at 3:00 p.m. on December 11, 2006, at 77 South High Street, Columbus, Ohio. The hearing was held at the request of Respondent Jeffrey H. Turner (Respondent) to consider the allegations in the Division's Notice of Intent to Revoke Loan Officer License and Notice of Opportunity for Hearing (NOH).

The Division alleges that Respondent failed to provide complete and accurate information about an unpaid civil judgment on his 2006 escrow loan officer renewal application filed in March of 2006. Therefore, the Division asserts that Respondent's escrow loan officer license should be revoked pursuant to the Ohio Mortgage Broker Act, R.C. Chapter 1322, for the following reasons:

1. By failing to disclose information about an unpaid civil liability on his 2006 escrow loan officer application, the Respondent failed to comply with R.C. 1322.07 (A), (B) and (C).
2. As a result of the above conduct, the Respondent's loan officer license should be revoked in accordance with R.C. 1322.10(A)(1)(a).

Matthew J. Lampke, Esq., Deputy Attorney General, from the Executive Agencies Section of the Office of the Attorney General, represented the Division at the hearing. Respondent failed to appear at the hearing without explanation for his absence. At the hearing, State's Exhibits A through E were admitted into the record.

B. Jurisdiction and Procedural Matters

The Division issued the NOH to Respondent on October 24, 2006 by certified mail, return receipt requested. (Exhibit A.) Respondent's hearing request was received by the Division on November 6, 2006. (Exhibit B.) The Division scheduled the hearing for November 16, 2006 but, on its own motion, continued the hearing to December 11, 2006. Notice of the date, time and location of the hearing was sent by ordinary mail addressed to the same address as the NOH. (Exhibit B.)

C. Respondent's Escrow Loan Officer Renewal Application

1. The Respondent filed an escrow loan officer renewal application on March 27, 2006. (Exhibit E.)
2. Question 3 of that application asked the following question:
 3. Do you have any unpaid civil judgments against you? If yes, a certified copy of the judgment entry and proof of payment history MUST be attached to this application or the application will not be processed. (Emphasis in original.)
3. In response to Question 3, the Respondent answered "No." (Exhibit E; TR at 11.)
4. The Division renewed Respondent's escrow loan officer license in 2006 based upon the information in the application. (TR at 11.)
5. After it renewed the license, the Division obtained a certified copy of a complaint filed in December of 2005 against Respondent in Franklin County Municipal Court, Case No. 2005 CVF 054287. (Exhibit D.) As a result of this complaint, the Court issued a Judgment in the amount of \$7,900.00 against Respondent on February 28, 2006. (Exhibit C.)
6. At the hearing, Jason K. Wright, Staff Attorney for the Consumer Finance Section of the Division, testified that the Division has no information indicating that the judgment in Case No. 2005 CVG 054287 has been satisfied. (TR at 13.)

II. CONCLUSIONS OF LAW

A. Jurisdictional and Procedural Matters.

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

B. Escrow Loan Officer License.

1. The Division is the state agency responsible for the licensing and regulation of loan officers pursuant to R.C. Chapter 1322.

2. R.C. 1322.041(B) provides that the Superintendent of Financial Institutions (Superintendent) shall renew a loan officer license if the Superintendent finds that certain conditions are met, including, among other requirements not relevant here, the applicant meets the conditions set forth in R.C. 1322.041(A)(2) to (5).

3. R.C. 1322.041(A)(5) provides:

The applicant's character and general fitness 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 sections 1322.01 to 1322.12 of the Revised Code.

4. R.C. 1322.10(A)(1)(a) provides that the Superintendent may revoke a loan officer license if the Superintendent finds that a loan officer has violated or failed to comply with any provision of R.C. 1322.01 to 1322.12.
5. R.C. 1322.07 provides, in part, that no applicant for a loan officer license shall do any of the following:

(A) Obtain a certificate of registration or license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application.

(B) Make any false or misleading statements of a material fact, omissions of statements required by state law, or false promises regarding a material fact, through advertising or other means, or engage in a continued course of misrepresentations.

(C) Engage in conduct that constitutes improper, fraudulent, or dishonest dealings.

* * *

6. R.C. 1322.031(A) provides that an application for a license as a loan officer shall provide, among other things, any further information that the Superintendent requires.

7. Ohio Adm. Code 1301:8-7-21 provides that in determining "character and general fitness" as those terms are used in R.C. 1322.041(A)(5) the Superintendent shall consider, among other things, whether the licensee has failed to fully satisfy any judgment or award issued by any court of competent jurisdiction.

8. The NOH asserts that Respondent's escrow loan officer license should be revoked because Respondent failed to disclose the pending judgment on his 2006 escrow loan officer renewal application. As a result Respondent made a substantial misrepresentation on a loan officer license application in violation of R.C. 1322.07(A); made a false or misleading statement of a material fact, and an omission of a statement required by state law in violation of R.C. 1322.07(B);

engaged in conduct that constitutes improper, fraudulent or dishonest dealings in violation of R.C. 1322.07(B).

9. Pursuant to R.C. 1322.031(A)(4) the Superintendent requires an applicants for escrow loan officer license renewals to state whether or not they have any unpaid civil judgments against them. This is information which the Superintendent uses in determining whether an applicant's character and general fitness to be a loan officer meet the standard prescribed by R.C. 1322.041(A)(5). Ohio Adm. Code 1301:8-7-21(H). Information about unpaid civil judgments is information required by state law and has a material and substantial impact on the Superintendent's decision to renew a loan officer license.

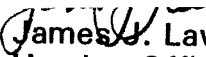
10. The Respondent offered no explanation for his failure to answer question 3 of the escrow loan officer renewal application correctly. In the absence of such information, the record in this matter supports the Division's finding that Respondent violated R.C. 1322.07(A), (B) and (C) by failing to disclose the unpaid civil judgment issued by the Franklin County Municipal Court on his 2006 escrow loan officer renewal application. As a result of this violation, Respondent did not comply with R.C. 1322.01 through 1322.12.

11. The Respondent failed to comply with R.C. 1322.01 to 1322.012. Under such circumstances, R.C. 1322.10(A)(1) provides that after notice and opportunity for a hearing conducted in accordance with R.C. Chapter 119, the Superintendent may, among other things, revoke a loan officer license.

III. RECOMMENDATION

I respectfully recommend that the Superintendent of Financial Institutions revoke the Respondent's escrow loan officer license pursuant to R.C. 1322.10(A)(1).

Respectfully Submitted,


James W. Lawrence
Hearing Officer
January 2, 2007