

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS
CONSUMER FINANCE

In re: Stanislav Tsiperson

Case No. 04-0249-LOD

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF
THE HEARING OFFICER

1. The Ohio Department of Commerce, Division of Financial Institutions ("Division"), proposes that the Loan Officer License Application of Stanislav Tsiperson not be granted. The Division conducted an investigation and found:

- a. On or about September 3, 2003, Mr. Tsiperson attested in a sworn statement that information he provided on a licensing application was truthful, knowing that the information he provided was false. In his Loan Officer License Application, Mr. Tsiperson swore that he had never been convicted of any criminal offense. In 1998, he had been convicted in the Lyndhurst Municipal Court of Cuyahoga County of disorderly conduct.
- b. On or about September 4, 2003, Mr. Tsiperson provided untruthful information regarding his criminal history to the Division.

2. As a result, the Division determined:

- a. Mr. Tsiperson'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 as set forth in Revised Code Section 1322.041(A)(5);
- b. Mr. Tsiperson violated Revised Code Section 1322.07(A), which prohibits a loan officer applicant from "mak[ing] any substantial misrepresentation in any registration or license application";
- c. Mr. Tsiperson violated Revised Code Section 1322.07(B), which prohibits a loan officer applicant from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statements required by state law"; and
- d. Mr. Tsiperson violated Revised Code Section 1322.07(C), which prohibits a loan officer applicant from "[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings.

3. Mr. Tsiperson's address for service is 26151 Lakeshore Blvd, #2112, Euclid, Ohio, 44132. He is hereinafter referred to as the "Respondent." The Respondent is employed by All State Home Mortgage, Inc., 26250 Euclid Avenue, #921, Euclid, Ohio 44132.

4. This matter was initiated by the Superintendent of the Division by the issuance on January 23, 2004 of a Notice of Intent to Deny Loan Officer Application & Notice of Opportunity for a Hearing, together with a covering letter (Exhibit 5).

5. The Respondent signed a certified mail receipt for that document. (Exhibit 5).

6. On February 2, 2004, the Division received a Hearing Request Form from the Respondent (Exhibit 6).

7. On February 2, 2004, the Division wrote to the Respondent acknowledging receipt of the Hearing Request Form and scheduling the hearing for 9:00 a.m. on February 12, 2004. (Exhibit 7). Simultaneously, the Division continued the Hearing until Wednesday, March 3, 2004 at 8:30 a.m. in Room 1908 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio (*Id.*).

8. On March 5, 2004, the Division wrote to counsel for the Respondent granting a continuance of the hearing and rescheduling the hearing for 1:30 p.m. on March 29, 2004, in Room 1908 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio. (Exhibit 8).

9. The hearing was held beginning at 1:30 p.m. on Monday March 29, 2004 in Room 1914 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio. Attending were James M. Evans, Assistant Attorney General of Ohio in the Executive Agencies Section, Jonathan N. Garver, Esq., counsel for the Respondent, and the Respondent.

10. The hearing was conducted pursuant to Section 119 of the Ohio Revised Code. The Division is deemed to have jurisdiction to conduct the proceedings.

FINDINGS OF FACT

1. On September 3, 2003, the Respondent signed a Loan Officer Application (the "Application") under the provisions of the Ohio Mortgage Broker Act, Ohio Revised Code Section 1322. (Exhibit 1).

2. Question 5 of the Application provides:

Have you, or has any company for which you have been an officer, or more than 5% owner or director ever been convicted of **any criminal offense**? (DUIs and DWI's are criminal offenses.)

Yes ☐ No ☐

If yes, submit a detailed explanation of the facts and circumstances that give rise to each charge and a certified copy of the journal entry evidencing the disposition of each charge.

3. In response to Question 5, the Respondent answered "No".

4. Following the submission of the Application, the Division received a report from the National Background Check which disclosed a November, 1998 arrest in Mayfield Heights, Ohio, for disorderly conduct. (Exhibit 2).

5. On October 20, 2003, the Division wrote to the Respondent indicating that the Division was unable to make a decision whether to issue a Loan Officer License because of insufficient evidence and asking for a detailed explanation of the facts and circumstances as well as certified copies of the journal entry from the applicable court. (Exhibit 3). That letter was returned by the United States Postal Service and was re-sent to the Respondent in a letter dated October 31, 2003. (Exhibit 3).

6. In response to that letter, the Respondent submitted a written explanation as follows:

This statement is a detailed explanation to the best of my ability in connection to my arrest in 1998. This is a required response to the inquiry of the Ohio Department of Commerce, Division of Financial Institutions in direct correlation of my application for a Loan Officer License.

To whom it may concern,

To be frankly honest with you, when I received the inquiry I had a difficult time even remembering it. This event took place when I was still a teenager almost six years ago. Once I started thinking about it more and more, I started to recollect the events.

I was over a friend's house with a couple of other buddies. We were all about eighteen years old. We were all having drinks and I guess I've had had a little too much.

I was just in the beginning stages of dating a certain lady friend of mine. She had this other friend who was very jealous and was constantly telling her lies about me.

Well she lived in the same apartment complex as my friend whose house I was at. Some of my friends started to instigate the fact that she was probably out with her friend and that he was probably telling her things about me.

So being a stupid drunk teenager, I had told them to come with me to her building and wait for her. I had stated that if she was going to be dropped off by her friend, that there were going to be problems.

As you may have already guessed, that was exactly what happened. So, me being a belligerent drunk, thinking that I had to prove my manhood to my friends, I started to hit on her friend.

Some neighbors saw this going on outside and had called to police. When the police arrived, they arrested me and kept me in a cell overnight.

In the morning I had a hard time remembering what happened, and I do not remember getting to the police station and getting booked. I did remember the incident as it happened later on in the day.

I knew I was wrong and I did not deny it. I went to court and received a guilty plea. My sentence was suspended and I ended up paying a fine. I had no time or probation.

I've had a clean record since then. I haven't had any arrests or run-ins with the police. I am a college student and a law abiding citizen.

I admit that I've made mistakes in the past. I hope that they will not affect my future. I think I'm a good candidate for the Loan Officer License and an overall good individual.

Thank you for your consideration.

(Exhibit 4)

8. Attached to that letter was a copy of the Lyndhurst Municipal Court Docket showing a conviction for disorderly conduct based on a no contest plea in January, 1999. (Id.).

CONCLUSIONS OF LAW

1. Ohio Revised Code Section 1322.041(A) provides that the Superintendent of the Division shall issue a Loan Officer License if the Superintendent finds that certain conditions are met including:

- (5) 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 Section 1322.01 to 1322.12 of the Revised Code.

2. Ohio Revised Code Section 1322.07 provides in relevant part:

No Mortgage broker, registrant, licensee or applicant for a certificate of registration or license under Sections 1322.01 to 1322.12 of the Revised Code 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 misrepresentations in any registration or license application;

- (B) Make 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[.]

....

3. The Division has the burden to show that the Respondent's character and 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 as well as the burden of showing the violations of Section 1322.07(A), (B) and (C).

DISCUSSION

1. At the time of the hearing in this matter, the Respondent was twenty-three years of age. He was born in Tashkent, Uzbekistan, a former republic of the U.S.S.R. (Tr. 18). He came to the United States with his parents when he was eleven years old and is a native Russian speaker. (*Id.*). He is now a citizen of the United States. (Tr. 19).

2. In 1998, the Respondent graduated from Mayfield High School. (Tr. 19). His work experience began when he was fifteen. (*Id.*). He worked in the computer business for PnP-Group for approximately two and one-half years. (Tr. 19-20). He was in charge of handling all in-store sales, on-line sales and over-the-phone sales as well as receiving cash, checks and credit cards. (Tr. 20). On the weekends, he was in charge of hiring two or three people, loading merchandise on to a truck and going to trade shows where he sold computers. (Tr. 20). He was responsible for accounting for all inventory and sales proceeds. (Tr. 21). He subsequently left PnP-Group's employment on good terms when the computer industry began to decline. (Tr. 21).

3. Respondent's parents divorced. (Tr. 21). The Respondent's father came to live with the Respondent. (*Id.*). The Respondent began supporting both himself and his father financially. (Tr. 22). That has lasted approximately two and one-half to three years. (Tr. 22). The Respondent submitted his 1999, 2000 and 2001 individual income tax returns as evidence of the financial support of his father. (Exhibit B).

4. The Respondent began attending college, initially part-time, and then full time. (Tr. 22). At the same time, the Respondent maintained full time employment. (Tr. 23). Respondent began his studies at Cuyahoga Community College and ultimately transferred to Lakeland Community College. (Tr. 23). He has an Associate's Degree in Business Administration from Lakeland Community College. (*Id.*). Presently he is enrolled at Myers University in a course of study for a bachelor of business administration. (*Id.*). He is on the honors list for the prior semester as well as the current semester. (Tr. 23). The Respondent submitted a letter from Timothy S. Miesse, Associate Vice President for University Expansion at

Myers University, indicating the placement of the Respondent's name on the Honor's List for the 2003 fall semester. (Respondent's Exhibit C).

5. The Respondent is currently employed by All State Home Mortgage on a full time basis. (Tr. 24). He started at All State Home Mortgage in August, 2003. (Tr. 24). Prior to working there, he knew nothing about the mortgage industry. (Tr. 24). He began an extensive training program. (Tr. 24-25). During this process, the Respondent maintained his full time student status. (Tr. 25). During his work at All State, the Respondent has not received any customer complaints. (Tr. 26). Several happy customers have made references in favor of the Respondent. (Tr. 26).

6. The Respondent does not deny his single conviction for disorderly conduct. (Tr. 27). He was eighteen at the time of that episode. (*Id.*).

7. The Respondent acknowledges that he did not disclose the disorderly conduct conviction on the Application. (Tr. 28). He took only two to five minutes to complete the application. (*Id.*). According to the Respondent, "Just I wasn't even thinking about it. It just didn't even cross my mind." (Tr. 28).

8. The Respondent submitted two self-written letters in support of the Application. The first letter is marked as Exhibit 4 and is set forth above. The second was submitted by the Respondent under date of March 2, 2004 and is as follows:

As you know, I have filed an appeal from the denial of my application for a loan officer license. The purpose of this letter is to supplement my initial response to your request for information and to address the questions and concerns raised by the Division of Financial Institutions.

As you know, I am 23 years old. When I was 11 years old, I immigrated to the United States from Uzbekistan, a republic of the former Soviet Union. In 1998, I graduated from Mayfield Heights High School. Also, in 1998, I became a citizen of the United States. My parents divorced in 1999. At the time of my parents' divorce, my father was unemployed. For approximately two years, I worked in order to support myself and my father. I am enclosing copies of my IRS Form 1040 for the years 2000 and 2001 (page 1 only), which show that I took my father as a dependent for those two years.

Since then, I have struggled to pursue a college education and to support myself. I took several courses at Cuyahoga Community College, then transferred to Lakeland Community College. In 2003, I was awarded an associate degree from Lakeland Community College. I am currently enrolled at Myers University working on a bachelor's degree in business administration.

Initially, I supported myself by working in the computer business. I worked for a few different companies selling computers. From May 2001 through December 2003, I worked for PnP Group, Inc. With the slow-down in the technology industry, I decided to seek employment in another field. About six months ago, I was hired by my current employer, All State Home Mortgage.

Although I have earned sales commissions, much of my time with All State has been devoted to training and learning the industry.

I wish to assure you in the strongest terms possible that it was not my intent to deceive or mislead the Division of Financial Institutions when I submitted my application or when I responded to your inquiries. I now realize that I made a mistake when completing the application for a loan officer license and I wish to apologize for that. In my follow-up letter, I truthfully told you that I had forgotten about the disorderly conduct incident when I was completing the application. It simply didn't register with me at the time. As you know, that incident happened when I was 18 years old. Of course, I now realize that the incident in question resulted in a conviction, even though there was no trial and no jail sentence. If anything, the incident in question is something that I have been trying to forget about ever since it happened, if that makes any sense to you. I am not proud of it, but I am proud of how hard I have worked since then and what I have accomplished over the last 5 years.

In addition to the failure to disclose the conviction, I now also realize that my letter contained another inaccuracy which should be corrected. In my letter, I stated that I had pled "guilty". My attorney has since called my attention to the court records which state that I had pled "no contest" and was found guilty by the court. Here again, my memory and my lack of experience caused me to make a mistake. Thankfully, I have only limited experience in dealing with the courts. I confess that I did not fully understand what had occurred. Once again, I wish to assure you that I did not intentionally misrepresent the facts.

I sincerely hope that you will reconsider the denial of my application. I have worked very hard to get to where I am right now and I don't know what I will do if I am unable to pursue my current career path. I realize that I have made mistakes related to my application and I have learned some important lessons as a result of those mistakes. If anything, I am wiser for having gone through this experience. I wish to assure you that, if granted a license, I will conduct myself in accordance with all of the rules and laws which apply to loan officers.

(Respondent's Exhibit A)

9. The Respondent acknowledges that he learned a lesson in needing to slow down and pay more attention to important documentation that he is filling out. (Tr. 33).

10. The Respondent submitted four letters in support of the Application. The first was from Pierre John Jamnicky. (Respondent's Exhibit D). Mr. Jamnicky found that the Respondent constantly exhibited absolute honesty and accountability for the merchandise and the funds.

11. The Respondent also submitted a letter from Terry Ollervides, Sales Manager for All State Home Mortgage. He wrote that the Respondent's honesty and integrity never came

into question during his employment. He has demonstrated a high level of responsibility and trustworthiness. (Respondent's Exhibit E).

12. The Respondent also submitted a letter from Michael McCandless, President of All State Home Mortgage. Mr. McCandless wrote that the Respondent has worked under the supervision of several managers, all of whom have given him very positive reviews. Likewise, Mr. McCandless found that customer feedback on the Respondent has been positive. (Respondent's Exhibit F).

13. Nancy Weingart, an academic counselor at Myers University, wrote in support of the Respondent. She is the Respondent's academic advisor. She found him to be responsible for getting paperwork and other responsibilities completed on time and that the Respondent is an affable person who get along well with others. (Respondent's Exhibit G).

14. The Hearing Officer notes that the Respondent submitted a letter dated March 2, 2004 which is marked as Respondent's Exhibit H which is identical to Respondent's Exhibit A. Likewise, Respondent's Exhibit I is identical to Exhibit 4.

15. On cross-examination, the Respondent was shown a copy of Articles of Incorporation filed with the Ohio Secretary of State in November, 2000, as part of the process of forming a new corporation entitled Insan American Inc. (Exhibit 9). The Articles of Incorporation appear to be signed by the Respondent and an individual named Gamal Sodanbekov. The Articles of Incorporation list an address in Mayfield Heights, Ohio as the residence of the Respondent and the address for the Respondent in his capacity as statutory agent for the new corporation. (*Id.*). However, the Respondent has no recollection of having signed those Articles of Incorporation. (Tr. 43). He is not the "Stanislav Tsiperson" that signed as an incorporator on October 17, 2000. (Tr. 45). The Respondent is not involved with that corporation. (Tr. 45-46). It is not the Respondent's signature on the Articles of Incorporation. (Tr. 46). The address on the Articles of Incorporation is however, the Respondent's address. (Tr. 47). Mr. Gamal Sodanbekov is not the Respondent's business partner. (Tr. 48).

16. The Respondent also acknowledges that he had a conviction for driving under the influence in 1998. (Tr. 51).

17. The Respondent submitted a copy of actions taken by the State Medical Board of Ohio in connection with a medical license procedure. (Respondent's Exhibit J). Respondent asserts that, in that instance, the physician did not disclose a non-Ohio license suspension and, while the Board found her conduct constituted fraud and misrepresentation or deception, it nonetheless granted her license on probationary terms. (*See* Tr. 54-55).

18. Before the Hearing Officer is the record of a twenty-three year old man with a single criminal conviction approximately five years before the hearing in this matter. The misdemeanor criminal conviction was for disorderly conduct and was unrelated in every way to the mortgage industry. Nonetheless, the conviction was not disclosed to the Division on the Application. Failure to disclose a conviction on the Application is, in the eyes of the Division, a violation of Section 1322.07(A), (B) and (C). It is also, according to the Division, recent history of dishonesty which constitutes evidence that the Respondent does not possess the character and

general fitness to 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.

19. In this case, the Hearing Officer cannot find that the failure to disclose a conviction was justified. The Respondent spent a night in jail as part of the criminal process and he should certainly have recalled his involvement with the criminal justice system. Moreover, the Hearing Officer is concerned that the Respondent's name appears on Articles of Organization filed with the Ohio Secretary of State that the Respondent denies having signed. The Respondent likewise denies that the individual whose name also appears on the Articles of Incorporation is a business partner. Yet, those Articles reflect an address that was the Respondent's address. The Hearing Officer believes that the Division has established its burden of proof that the 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. Likewise, the Respondent violated Sections 1322.07(A), (B) and (C) by failing to disclose the criminal conviction.

RECOMMENDATION

Based on the findings of fact, conclusions of law, and discussion set forth herein, it is the recommendation of the Hearing Officer that the Superintendent of the Division not grant a Loan Officer License to the Respondent.

Respectfully submitted,

Kenneth R. Cookson ✓
Hearing Officer
May 18, 2004