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

In re: Crystal L. Church

Case No. 04-0130-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 Crystal L. Church not be granted. The Division conducted an investigation and found:

- a. In or around 1982, Ms. Church was convicted of petty theft, a first degree misdemeanor in the Cuyahoga Falls Municipal Court, Summit County, Ohio;
- b. In or around 1993, Ms. Church was convicted of aggravated trafficking, a third degree felony in the Summit County, Ohio Court of Common Pleas;
- c. In or around 1994, Ms. Church was convicted of aggravated assault, a fourth degree felony in the Summit County, Ohio Court of Common Pleas;
- d. In or around 1995, Ms. Church was convicted of theft, a fourth degree felony, in the Summit County, Ohio Court of Common Pleas;
- e. In or around 1996, Ms. Church was convicted of possession of drug paraphernalia, a fourth degree misdemeanor, in the Massillon Municipal Court, Stark County, Ohio; and
- f. In or around 1996, Ms. Church was convicted of possession of cocaine, a fifth degree felony, in the Summit County, Ohio Court of Common Pleas.

2. As a result, the Division determined:

- a. Ms. Church has not proven that she is honest, truthful, and of good reputation, and that there is no basis in fact for believing that she will commit another criminal offense involving theft, drug trafficking, or any criminal offense involving money or securities as set forth in Ohio Revised Code Section 1322.031(A)(2) and 1322.041(A)(3); and
- b. That Ms. Church's character and general fitness do not command the confidence of the public to warrant the belief that the business will be conducted honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act as set forth in Ohio Revised Code Section 1322.041(A)(5).

3. Ms. Church's address for service is 1381 Blake Place, Akron, Ohio, 44307. She is hereinafter referred to as the "Respondent". The Respondent is employed by VP Equity LLC (Exhibit 1A).

4. This matter was initiated by the Superintendent of the Division by the issuance on January 22, 2004, of a Notice of Intent to Deny Loan Officer License & Notice of Opportunity for a Hearing together with a covering letter (Exhibit 1A).

5. The Respondent timely wrote to the Division requesting a hearing (Exhibit 1B).

6. On February 2, 2004, the Division wrote to the Respondent acknowledging receipt of the request for a hearing and scheduling the hearing for February 9, 2004, at 9:00 a.m. (Exhibit 1C). The hearing was simultaneously continued until March 2, 2004 at 1:00 p.m. in Room 1908 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio.

7. The hearing was held beginning at 12:55 p.m. on March 2, 2004, and was attended by: John A. Izzo, Assistant Attorney General, Executive Agencies Section, and the Respondent, pro se. Also attending as a witness was Thomas Church. In attendance also was Diane Wagenbrenner, Staff Attorney for the Division.

8. 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 March 12, 2002, the Respondent signed a Loan Officer Application (the "Application") under the provisions of the Ohio Mortgage Broker Act, Section 1322. (Exhibit 3). She was provided with the standard Explanation and Instructions. (Exhibit 2).

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 or pleaded guilty to any criminal offense, including, but not limited to, theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities?

Yes ☐ No ☐ If the answer is yes, furnish details.

3. In response to Question 5, the Respondent answered "Yes" and further provided "Please See Attached". Attached to the Application was a handwritten paper from the Respondent which provided as follows:

Loan Officer Application #5 Please regard the fact that criminal offenses were extensive from the years 1989 to 1995 because of Drug Addition.

There have been cases that I can't recall the year of which it occurred, due to my illness. But I thank God from where he has brought me. Currently, I have been straight going on seven wonderful years. 1993 – Assault – Summit County Municipal Court, 1994 – Drug Trafficking – Court of Common Pleas Summit County. 1995 – Theft – Municipal Court Summit County. 1991 – Possession of Controlled Substance – Common Pleas Summit County. 1990 – Passing Bad Checks in Township, Stark County.

4. On May 29, 2002, the Division wrote to the Respondent indicating that the Division could not make a decision as to whether to issue the Respondent a mortgage loan officer license because of insufficient evidence based on the background check. (Exhibit 4). That background check indicated fifteen separate criminal convictions or charges. (*Id.*).

5. On June 19, 2002, the Respondent submitted a three page handwritten response to the Division. (Exhibit 5). Journal Entries of several convictions were submitted as Exhibit 7, 8, 9, 10, and 11.

#### CONCLUSIONS OF LAW

1. Ohio Revised Code Section 1322.031(A)(2) requires that in an application for a license as a loan officer, an applicant must submit a statement as to whether the applicant has been convicted 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.

2. 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:

- (3) The applicant has not been convicted or plead guilty to any criminal offense described in Division (A)(2) of Section 1322.031 of the Revised Code, or if the applicant has been convicted of or pleaded guilty to such offenses, the applicant has proven to the superintendent by a preponderance of the evidence, that the applicant's activities and employment records 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.

...

- (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.

3. Because the Respondent has been convicted of theft offenses and drug trafficking, the burden of proof shifted to the Respondent to show by a preponderance of the evidence that the Respondent's activities and employment record since the convictions show that the Respondent is honest, truthful and of good reputation and there is no basis in fact for believing that she will commit another 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. In order to issue a license, the Superintendent of the Division must find that the Respondent's character and general fitness command the confidence of the public to warrant the belief that the business will be conducted honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act.

### DISCUSSION

1. The Hearing Officer notes at the outset that the Respondent does not dispute her involvement on numerous occasions with the criminal justice system. She stands convicted of numerous misdemeanors and felonies. At the hearing in the matter, she asked for a second chance. (Tr. 15). She was a drug addict during the time of her criminal convictions and has been free of that condition since July, 1996. (Tr. 15). The Respondent asserts that she has not the person that she was during the period when she was addicted to drugs. (Tr. 23-24). At the time of the hearing in the matter, she was 44 years old. (Tr. 24). At the time of her convictions she ranged in age from 22 to 36. (*Id.*). The Respondent became involved with drugs following the murder of her mother. (Tr. 25). The Respondent is a high school graduate and has two G.E.D.'s. (Tr. 26). She also has an Associate's Degree in secretarial science from Kent State. (*Id.*). Respondent has been employed with VP Equity LLC since August, 1997. (*Id.*). She started as a telemarketer, progressed to supervisor of the telemarketing program. (*Id.*). After consultations with the president of VP Equity, the Respondent began work as a loan officer. (*Id.*). Prior to working for VP Equity, she worked for Dial America, a telemarketing company. (Tr. 27).

2. The Respondent has lived at the Blake Place address since April, 2000, when she and her husband purchased the home. (Tr. 27). The Respondent submitted, as Exhibit A, letters of recommendation from 1) Mary Ann Powell at Miracle Revival Fellowship Church; 2) Ronald A. Mosley, of Haymarket, Virginia; 3) Kevin Grogan, President of VP Equity LLC; 4) Thomas F. Grogan, Founder of VP Equity; 5) Robert Farmwald of Allstate Insurance; 6) Thomas Miller, Closing Coordinator with Trident; 7) Jeffrey Capps who is an escrow officer from a title company in Cleveland; 8) David A. Given a loan officer/processor for VP Equity; 9) Louis Matteo, a loan officer at VP Equity; 10) Dennis Faubel of Medina, Ohio; 11) Michael Sanders of Real Estate Ambitions, llc; 12) Dollie Pickens of Irwin Mortgage; 13) Duane Angel of Aegis Funding Corp; and 14) Eddie W. Norman, Argent Mortgage Company. (See also Transcript 28-29).

3. The Respondent has been through several drug rehabilitation programs, the most recent of which occurred in 1996 at Oriana House in Akron. (Tr. 31-32). The last treatment program was a four-month supervised program. (Tr. 32). The Respondent claims that she is no longer chemically dependent. (Tr. 33).

4. Testifying in support of the Respondent was her husband, Thomas Church. Mr. Church testified eloquently regarding his wife's recovery from drug addiction. He has known

her for seven years and been married to her for five. (Tr. 36). Mr. Church testified "for the last seven years, with no alcohol or drugs in her life, to see her perform as a mother, as a grandmother, as a wife and as a very spiritual person in the church, she is a completely changed person today". (Tr. 38).

5. In connection with the requirements of Ohio Revised Code Section 1322.031(A)(2), the Respondent has been convicted of certain "disabling offenses", namely theft offenses. The Ohio General Assembly has enacted a statutory procedure whereby particular offenses "automatically disable" an applicant unless he or she can show by a preponderance of the evidence that his/her activities and employment records since the conviction show that he/she is honest, truthful and of good reputation and that there is no basis in fact to believe his/her activities and employment records since the convictions show that he/she will commit such an offense again as set forth in the applicable statute. In this case, the theft and drug trafficking offenses that were committed stretch over a considerable period of time and are particularly serious. There are in fact, multiple offenses. Each involves conduct on the part of the Respondent that is hard to justify in connection with the responsibilities that the Respondent would have as a Mortgage Loan Officer. Likewise, the offenses happened in the relatively recent past. Only eight years has elapsed since the last serious conviction. The criminal record of the Respondent shows a sustained pattern of illegal activity. As a loan officer, the Respondent will be privy to confidential and personal financial details of customers. This Hearing Officer is concerned that the quantity and quality of criminal convictions in the Respondent's past could result in the abuse of the information provided confidentially to the Respondent in her position as a licensed loan officer.

6. In this instance, the Hearing Officer cannot conclude that the Respondent has met her burden of proof. The Respondent has not established to the satisfaction of the Hearing Officer that, by a preponderance of the evidence, the Respondent's activities and employment records since the conviction show that the Respondent is honest, truthful and of good reputation and that there is no basis for believing that the Respondent will commit such an offense again. Further, the Hearing Officer finds that the Division has met its burden of proof to establish that the Respondent's character and general fitness do not command the confidence of the public and does not 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 Ohio Revised Code.

#### RECOMMENDATION

Based upon the above 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  
April 27, 2004