

STATE OF OHIO
DEPARTMENT OF COMMERCE
Division of Financial Institutions
Consumer Finance

In the matter of:) Case No. M2006-999982
)
NEIL HAIRSTON) <u>DIVISION ORDER</u>
2400 Nissi Drive) Denial of Loan Officer License Application
Columbus, OH 43219) &
) Notice of Appellate Rights

Respondent, Neil Hairston (“Respondent”), submitted a loan officer license application (“Application”) to the Division of Financial Institutions (“Division”) on January 12, 2006. On May 24, 2006 the Division notified Respondent that it intended to deny his Application because: (1) in or around 2001, in the Franklin County Court of Common Pleas, Ohio, Respondent was convicted of nonsupport of dependents, a felony of the fifth degree; (2) in or around 2003, in the Franklin County Municipal Court, Ohio, Respondent was convicted of domestic violence; (3) in or around 2003, in the Franklin County, Municipal Court, Ohio, Respondent was convicted of obstructing official business; (4) Respondent had not proven that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he will not commit another criminal offense involving money or securities; (5) on or around January 3, 2006, Respondent attested in a sworn statement that information he provided about his criminal background in the Application he submitted to the Division was complete and truthful when it was not; (6) on or around January 12, 2006, in an attempt to obtain a loan officer license, Respondent provided untruthful information about his criminal background to the Division; (7) he violated R.C. 1322.07(A) by making a substantial misrepresentation in the Application; (8) he violated R.C. 1322.07(B) by making a false statement of a material fact or by omitting a statement required by state law in the Application; (9) he violated R.C. 1322.07(C), which prohibits an applicant from engaging in improper or dishonest conduct; and (10) because his character and general fitness did 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 R.C. 1322.01 to 1322.12—the Ohio Mortgage Broker Act.

Respondent requested an administrative hearing, which was held on November 2, 2006. A Report and Recommendation (“Report”) was filed with the Division on January 11, 2007, recommending that the Division grant Respondent’s application. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, the transcript of testimony and exhibits, as well as all applicable laws. As a result, the Division makes the following findings and conclusions. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (The Hearing Examiner’s Report is attached).

The Division disapproves the first, second and fourth paragraphs under **CONCLUSIONS OF LAW** found on page 2 and 3 of the Report.

The language of Question six of the loan officer license application is taken directly from R.C. 1322.031(A)(2). Respondent was convicted of a fifth degree felony for non-support of dependents. (State’s Exs. G, H and I). This is an offense involving money, thus Respondent’s offense is burden shifting under R.C. 1322.041(A)(3). Respondent did not satisfy his burden as the only evidence he presented was his own self-serving testimony. His felony conviction was in 2001, and in 2003, only two years before he applied to be a loan officer, he was convicted of domestic violence. Since his conviction for non-support of dependents, Respondent has violated his probation by failing to make payments and for committing other crimes. (See Tr. pgs. 31-34, State’s Exs. J and L). Respondent did not satisfy his burden that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he will not commit another criminal offense involving money or securities. Additionally, based upon these recent convictions, the Division finds that Respondent’s character and fitness do not command the confidence of the public and warrant the belief that he will do business honestly and fairly in compliance with the Ohio Mortgage Broker Act.

Lastly, the Division disapproves the Recommendation on page 3 of the Report.

The record, as discussed above, does not support the conclusion that Respondent meets the conditions for licensure set forth in 1322.041(A)(2), (3), and (5).

For the reasons stated above, the Division hereby denies the loan officer license application of Neil Hairston.

It is so ordered.

NOTICE OF APPELLATE RIGHTS

Respondent is hereby notified that pursuant to R.C. 119.12, this Order may be appealed by filing a notice of appeal with the Ohio Division of Financial Institutions setting forth the order appealed from and the grounds for the appeal. A copy of such notice of appeal must, pursuant to R.C. 119.12, must also be filed with the court of common pleas of the county in which the place of business of the Respondent is located, or the county in which the Respondent is a resident. A notice of appeal must be filed within fifteen (15) days after the date of mailing of this Order.

Signed and sealed this 23rd day of March 2007.

RICHARD F. KECK

Acting Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce