

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

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| In the matter of: |) | Case No. M2006-9992706 |
| |) | |
| TERRY L. HOGAN |) | <u>DIVISION ORDER</u> |
| 620 Plymouth Drive |) | Denial of Loan Officer License Application |
| Boardman, OH 44512 |) | & |
| |) | Notice of Appellate Rights |

Respondent, Terry L. Hogan (“Respondent”), submitted a loan officer license application (“Application”) to the Division of Financial Institutions (“Division”) on March 2, 2006. On May 10, 2006, the Division notified Respondent that it intended to deny his Application because: (1) in 2006, Respondent attested in a sworn statement that information he provided about his criminal background in the Application was complete and truthful when it was not; (2) in 2006, in an attempt to obtain a loan officer license, Respondent provided untruthful information about his criminal background to the Division; (3) he violated R.C. 1322.07(A) by making a material misrepresentation in the Application; (4) 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; (5) he violated R.C. 1322.07(C), which prohibits an applicant from engaging in improper or dishonest conduct; and (6) 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 September 12, 2006. Respondent appeared without counsel. A Report and Recommendation (“Report”) was filed with the Division on March 6, 2007, recommending that the Division deny 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. (A copy of the Report is attached).

The Division disapproves paragraphs 5 through 10 on pages 4 and 5 of the Report.

The interpretation of R.C. 1322.07 in the Report is in error. R.C. 1322.07(A), (B), and (C) do not require a deliberative act for their violation. In contrast to 1322.07(E) and (F), which contain language of intent by use of the term “knowingly,” R.C. 1322.07(A), (B), and (C) do not employ such language. (See *Shehabi v. Director, Ohio Dept. of Comm. Div. of Financial Institutions Consumer Finance* (Feb. 26, 2007), Trumbull C.P. No 2006 CV 1930, unreported). Accordingly, an applicant that fails to carefully read and answer each question in a loan officer application, swears to its veracity, and then files such application with the Division is in violation of R.C. 1322.07(A), (B), and (C) when such answer is patently untrue. The Division finds that Respondent, through carelessly completing the application and swearing to its accuracy despite falsely answering a question concerning his criminal history, has violated R.C. 1322.07(A), (B), and (C).

Additionally, Respondent’s carelessness evidences a lack of the requisite fitness needed of a loan officer. On a daily basis loan originators deal with consumers’ personal financial information and counsel them on what is most often their largest financial investment. Being able to comprehend, evaluate and explain complicated mortgage documents is a vital part of the job. By not taking the Application seriously, Respondent has demonstrated to the Division that he does not hold the requisite fitness required of a loan officer. For this reason and Respondent’s violation of R.C. 1322.07(A), (B), and (C), the Division finds that 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. R.C. 1322.041(A)(5).

For the reasons stated above, the Division hereby denies the Application of Terry L. Hogan.

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 3rd day of April 2007.

RICHARD F. KECK

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