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**STATE OF OHIO  
DEPARTMENT OF COMMERCE**

IN THE MATTER OF:

**DEMIKA L. MEDALION**

DIVISION OF FINANCIAL  
INSTITUTIONS

CASE NO. M2006-9993054

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**REPORT AND RECOMMENDATION  
ADMINISTRATIVE HEARING OFFICER D. MICHAEL QUINN**

**February 5, 2007**

**I. FINDINGS OF FACT**

After having heard the testimony, considered the evidence, observed and weighed the demeanor and credibility of the witnesses, the following factual findings are made:

**A. BACKGROUND**

The above-captioned matter came before this Hearing Officer, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions (hereinafter the "Division") to serve as Hearing Officer for an adjudicative hearing in accordance with the Administrative Procedures Act, Chapter 119, Ohio Revised Code (hereinafter "O.R.C."). Said hearing was scheduled for 10:00 AM on December 1, 2006, at 77 South High Street, 19<sup>th</sup> Floor, room 1908, Columbus, Ohio. Due to a scheduling conflict, the hearing was moved to room 1918, only a few feet from room 1908. A notice was prominently posted just below the sign for room 1908 that directed interested persons to room 1918 for this hearing. Leading up to, and throughout the course of, the hearing persons within the hearing room could view the hallway in front of room 1908 and could determine that no one came to that door.

The hearing was held at the request of Respondent Demika L. Medalion, of Cincinnati, Ohio (hereinafter the "Respondent") to consider the Division's Notice of Intent to Deny Loan Officer License Application, Notice of Opportunity for a Hearing (hereinafter "NOH"). Said NOH was based upon an allegation that Respondent was convicted of passing a bad check in 2000 and is thereby ineligible to hold a license as a Mortgage Loan Officer. The Division appeared and was represented by the Ohio Attorney General's Office, Assistant Attorney General Laura A. Meehan. Neither Respondent nor any representative appeared or submitted a written statement, even though the start of the hearing was delayed until 10:51 AM.

At the hearing, State's Exhibits A through E were admitted into the record. One witness appeared for the Division.

## **B. JURISDICTION**

The Division issued the NOH against Respondent on October 18, 2006. Service was obtained on October 26, 2006 (Exhibit C). Respondent submitted a written request, received by the Division on October 31, 2006 (Exhibit D). By letter sent regular mail November 1, 2006, the Division scheduled the hearing for November 9, 2006, and then continued the original date of the hearing to December 1, 2006, on its own motion, at which time the hearing went forward without any further communication from Respondent or anyone representing Respondent (Exhibit E).

## **C. PROPOSED ISSUANCE OF ORDER TO DENY LICENSE**

1. The Division is the state agency responsible for the licensing and regulation of Mortgage Loan Officers pursuant to O.R.C. Chapter 1322.
2. Respondent is an individual who wishes to conduct business in Ohio as a Mortgage Loan Officer (hereinafter "Loan Officer.") (Exhibit A.)
3. On August 25, 2006, the Division received from Respondent a Loan Officer Application (hereinafter the "Application"), signed by Respondent on August 22, 2006. (Exhibit A.)
4. On Question 6 on the Application, which asks if the applicant has been convicted of "any criminal offense involving ... passing bad checks ...", Respondent responded "yes." (Exhibit A.)

5. On, or around, August 23, 2000, in Hamilton County Municipal Court, Ohio, Respondent (at the time known as Demika Smith) was found guilty of Passing Bad Checks, a misdemeanor of the first degree. Respondent was sentenced to pay restitution and was placed on probation, which lasted until, on or about, December 4, 2003. (Exhibit B.)
6. Respondent's explanation was that she gave a grocery store a check on an account with insufficient funds. She stated that she was not aware that she had insufficient funds in the account. She states she is now more responsible. (Exhibit B.)
7. Respondent did not appear or otherwise offer any evidence relating to his honesty, truthfulness, good reputation and that there is no basis in fact for believing that she would not commit such offenses again.

## **II. CONCLUSIONS OF LAW**

### **A. JURISDICTIONAL ISSUE**

1. The Division complied with the jurisdictional requirements of Chapter 119, O.R.C.

### **B. LICENSE APPLICATION**

2. In 2000, Respondent was convicted of "a criminal offense involving passing bad checks", an offense specifically cited in section 1322.041(A)(3) O.R.C.
3. The passing bad checks conviction being proven by the Division, the Respondent must now prove, by a preponderance of the evidence, that the Respondent's "activities and employment record 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" in order to obtain a license. The Respondent must also demonstrate that the Respondent's character and general fitness will command the confidence of the public and will warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of sections 1322.01 to 1322.12, O.R.C. Sections 1322.041(A)(3) and 1322.041(A)(5), O.R.C.

4. Respondent did not offer any prove of her honesty, truthfulness, good reputation, or that she will not commit the offense, again.
5. Respondent's failure to put forth any evidence rebutting the Division's allegations requires a finding for the Division.


**C. DISCUSSION**

The Division has proven that the passing bad checks offense occurred. The burden to prove, by a preponderance of the evidence, that she should receive a license now falls to the Respondent. As the Respondent did not submit any written statements – other than Exhibit B which was part of the Application process – did not present any evidence at all, and, in fact, did not appear, there must be a finding for the Division in this case.

**III. RECOMMENDATION**

The recommendation to the Superintendent of Financial Institutions is to **DENY A MORTGAGE LOAN OFFICER'S LICENSE TO DEMIKA L. MEDALION.**

Respectfully submitted,

  
D. Michael Quinn  
Administrative Hearing Officer  
February 5, 2007  
Docket No. 06-DFI-211