

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

In the matter of:)	Case No. M2008-458
)	
RICHARD B. DISO)	<u>DIVISION ORDER</u>
523 Shanahan Road)	Denial of Loan Officer License
Lewis Center, Ohio 43035)	Renewal Application
)	&
)	Notice of Appellate Rights
)	

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division") and charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act, as codified in Ohio Revised Code ("R.C.") Chapter 1322, finds that this Order is necessary and appropriate, in the interest of the public, and is consistent with the purposes of the Ohio Mortgage Broker Act; and

WHEREAS, **RICHARD B. DISO** ("Respondent") applied to the Division to renew his loan officer license in 2008 pursuant to R.C. Chapter 1322; and

WHEREAS, on January 9, 2009, the Division issued Respondent a Notice which informed him that the Division had conducted an investigation of Respondent and, as a result thereof, alleged that:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to renew a loan officer license if the Division finds that the licensee has violated "or fail[ed] to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted[.]"
- B. R.C. 1322.041(B)(3) provides that a loan officer license will be renewed annually if the superintendent finds that the applicant meets the conditions set forth in divisions (A)(2) to (6) of R.C. 1322.041.
- C. The Division is required by Ohio Admin. Code 1301:8-7-21(H) to consider an applicant's "failure to fully satisfy any judgment or award issued by any court of competent jurisdiction" in order to determine an applicant's character and general fitness.
- D. In October 2007, in Delaware County Common Pleas Court case *Discover Bank v. Richard B. Diso* (Case No. 2007CVH080978), default judgment was entered for Discover Bank against Respondent in the amount of \$17,539.74 plus costs and interest.
- E. In December 2007, in Delaware County Common Pleas Court case *FIA Card Services a/k/a Bank of America v. Richard B. Diso* (Case No. 2007CVH08946), default judgment was entered for FIA Card Services a/k/a Bank of America against Respondent in the amount of \$23,820.14 plus costs and interest. In February 2008, Certificate of Judgment

No. 08-CJ-44-304 was entered against the Respondent related to the FIA Card Services a/k/a Bank of America default judgment.

- F. In March 2008, in Delaware County Common Pleas Court case *Capital One Bank v. Richard B. Diso* (Case No. 2007CVH121499), default judgment was entered for Capital One Bank against Respondent in the amount of \$12,935.53 plus costs and interest. In May 2008, Certificate of Judgment No. 08-CJ-45-211 was entered against the Respondent related to the Capital One Bank default judgment.
- G. In March 2008, Respondent submitted to the Division a Notification of Judgment form, supporting documentation and a statement informing the Division of his refusal to pay the civil judgments entered against him.
- H. In November 2008, Respondent informed the Division that he had not paid and reiterated his refusal to pay the civil judgments entered against him.
- I. Respondent's actions, as described in paragraphs D, E and F, show 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. See R.C. 1322.041(A)(6) and Ohio Admin. Code 1301: 8-7-21(H).
- J. Because Respondent did not meet the conditions for renewal outlined in R.C. 1322.041(A)(6) and (B)(3), the Division has the authority to refuse to renew Respondent's loan officer license. See R.C. 1322.10(A)(1)(a).

The Notice also informed Respondent that he had thirty (30) days to request an adjudicatory hearing pursuant to R.C. Chapter 119 regarding the Division's allegations set forth in the Notice.

Respondent requested an administrative hearing, which was scheduled for February 25, 2009, and rescheduled at Respondent's request to April 21, 2009. The hearing was rescheduled again at the request of Respondent's counsel to June 30, 2009. On June 29, 2009, Respondent filed a voluntary Chapter 7 petition in the United State's Bankruptcy Court for the Southern District of Ohio. On June 30, 2009, Respondent's counsel filed a Notice of Bankruptcy with the Hearing Officer requesting that the administrative matter be stayed until the resolution of the bankruptcy case. The Hearing Officer cancelled the June 30, 2009 hearing and on July 27, 2009 issued an Order staying the hearing and scheduling a telephone status conference for December 11, 2009.

After the December 11, 2009 conference call, position statements were filed by the parties. On March 10, 2010, the hearing was rescheduled to and held on April 28, 2010. Respondent's counsel participated in the April 28, 2010 hearing by telephone for the limited purpose of reiterating the Respondent's position. The hearing officer's Report and Recommendation (the "Report and Recommendation") was filed with the Division on May 14, 2010 (a copy is attached). The Report and Recommendation recommended that the Division deny Respondent's 2008 loan officer license renewal application. Objections were filed on May 25, 2010.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report and Recommendation, the transcript of testimony and exhibits, the objections filed, as well as all applicable laws. Any finding and/or conclusion not specifically addressed below is approved, adopted and incorporated herein.

The Division modifies paragraph 34 of the Report and Recommendation to remove the words “financial responsibility” and the last sentence, “The superintendent shall not use a credit score as the sole basis for a license denial [.]” because those words and the last sentence were not included in R.C. 1322.041(A)(6) prior to the January 1, 2010 amendments. The Division also modifies paragraph 37 of the Report and Recommendation to substitute the words “lack of character and general fitness” for the words “lack of financial responsibility” because the words “financial responsibility” were not included in R.C. 1322.041(A)(6) prior to the January 1, 2010 amendments.

Respondent Richard B. Diso’s 2008 loan officer renewal application is DENIED.

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 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 7th day of July, 2010.

LEIGH A. WILLIS

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