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STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

IN RE: : CASE NO.: M2009-664
:
:
JOY E. KIDD, JR., :
:
RESPONDENT : HEARING OFFICER
DELORES EVANS

ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
Issued November 24, 2009

I. FINDINGS OF FACT

A. Background

This matter came before Delores Evans, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions ("Division") to serve as the Hearing Officer for this hearing in accordance with the Ohio Administrative Code and the Ohio Revised Code ("R.C.") Chapter 119. The hearing was held on November 10, 2009 at 77 South High Street, in Columbus, Ohio.

The Division held the hearing to consider the August 19, 2009 Order of Summary Suspension, Notice of Intent to Deny Renewal, and Notice of Hearing ("NOH"). The Division alleged that Joy E. Kidd, Jr. ("Respondent") violated R.C. §1322.052 when he failed to complete at least six hours of approved continuing education ("CE") during the 2008 calendar year.

Janyce C. Katz, Esq., an Assistant Attorney General with the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division at the hearing. Stephen DeFrank, Esq., testified on behalf of the Division. Neither Respondent nor a representative on his behalf appeared at the hearing. State's Exhibits A through E were introduced and admitted into the record at the hearing. The record consists of the Exhibits, properly marked and admitted, the NOH, and the transcript from the hearing. The record was closed at the end of the day on November 10, 2009.

B. Jurisdiction and Procedural Matters

1. On April 30, 2009, the Division received Respondent's 2009 Loan Officer Renewal Application ("Renewal Application"). *State's Exhibit D*

2. On August 19, 2009, the Division issued the NOH. The Division suspended Respondent's loan officer license pursuant to R.C. §1322.10(F)(2) because Respondent failed to fulfill the necessary CE requirement for calendar year 2008. In the NOH, the Division indicated that it also seeks to deny Respondent's 2009 Renewal Application. The Division set the matter for hearing on September 22, 2009. The Division sent the NOH to Respondent by certified mail, return receipt requested. On September 16, 2009, the United States Postal Service returned the NOH to the Division marked "unclaimed, unable to forward." *State's Exhibit A; State's Exhibit B*
3. R.C. §119.07 provides that when any notice sent by certified mail is returned because the party failed to claim the notice, the agency shall send the notice by ordinary mail to the party's last known address and shall obtain a certificate of mailing. Service by ordinary mail is complete when the certificate of mailing is obtained, unless the notice is returned for failure of delivery.
4. On September 17, 2009, in accordance with R.C. §119.07, the Division perfected service when it re-sent the NOH to Respondent by ordinary mail and obtained a certificate of mailing. *State's Exhibit B*
5. On September 17, 2009, the Division also issued a notice rescheduling the hearing to November 10, 2009. The Division sent the notice to Respondent by ordinary mail. *State's Exhibit A*
6. On November 10, 2009, the hearing commenced with only the Division in attendance.

C. Respondent's Activities

7. Stephen DeFrank, an attorney examiner with the Division, reviewed Respondent's loan officer file for compliance with R.C. §1322.052. *Testimony of Mr. DeFrank*
8. Respondent held a loan officer license (#015752) from May 1, 2008 until April 30, 2009. *State's Exhibit C*
9. At the hearing, the Division introduced a printout of Respondent's CE history maintained by the Division. The printout does not reflect that Respondent completed any CE coursework in 2008. *State's Exhibit E; Testimony of Mr. DeFrank*
10. Respondent did not complete the required six hours of approved CE during the 2008 calendar year.

II. CONCLUSIONS OF LAW

11. The Division has procedurally complied with R.C. Chapter 119 and has established jurisdiction over this matter.
12. The Division is responsible for the licensing and regulation of loan officers and mortgage brokers pursuant to the Ohio Mortgage Broker Act, R.C. Chapter 1322.
13. At all times relevant to this matter, Respondent held a loan officer license and was subject to the laws in R.C. Chapter 1322 and the rules promulgated pursuant to that Chapter.
15. R.C. §1322.052, effective May 2, 2002, provides that each mortgage loan officer licensee shall complete at least six hours of approved CE every calendar year.
16. Respondent was a licensed loan officer during 2008, but he failed to fulfill the required six hours of approved CE during the 2008 calendar year and therefore violated R.C. §1322.052.
17. R.C. §1322.10(F)(2) states:

(2) The superintendent shall, without a prior hearing, suspend the certificate of registration of a registrant whose operations manager has failed to fulfill the continuing education requirements of section 1322.052 of the Revised Code and suspend the license of a licensee who has failed to fulfill those continuing education requirements. The suspension shall continue until such time as the required continuing education is completed and a fine of five hundred dollars is paid to the treasurer of state to the credit of the consumer finance fund.
18. R.C. §1322.10(A)(1)(a) authorizes the Division to deny a loan officer license for lack of compliance with any provision of R.C. §§ 1322.01 through 1322.12.
19. The Division has established that Respondent is in violation of R.C. §1322.10(F)(2) and R.C. §1322.10(A)(1)(a) because Respondent did not complete six hours of approved CE coursework for the 2008 calendar. Therefore, sufficient evidence exists to suspend Respondent's loan officer license and deny Respondent's 2009 Renewal Application.

III. RECOMMENDATION

Based upon the evidence submitted into the record for this case, the Division has established a sufficient evidentiary basis for suspending Respondent's 2008 loan officer license and denying Respondent's 2009 Renewal Application pursuant to R.C. § 1322.10(A)(1)(a) because Respondent failed to comply with R.C. § 1322.052.

Respectfully submitted,



Delores Evans
Hearing Officer
November 24, 2009