

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

DIVISION OF FINANCIAL
INSTITUTIONS

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IN RE: : CASE #: M2006-9992779
: :
MELANE K. SMITH : HEARING OFFICER
: MARK J. BALLENGER, ESQ.
(Denial of Loan Officer :
License) :

ADMINISTRATIVE HEARING OFFICER'S
REPORT
Issued August 17, 2006

BACKGROUND

On or about May 10, 2006, the Ohio Division of Financial Institutions ("the State") served Melane K. Smith ("the Applicant") with notice that it intended to deny her a loan officer license. On June 9, 2006, she requested a hearing about the matter. In turn, her request was honored.

This case was heard on July 20, 2006, beginning at 10:05 a.m. at 77 S. High Street, Columbus, Ohio, Rm. 1908. A stenographic record was made of the proceeding.

The Applicant attended the hearing and acted *pro se*. Assistant Attorney General Ted Klecker presented the case on behalf of the State.

This report is hereby filed with the Superintendent of the Division of Financial Institutions and the Applicant.

INDEX OF EXHIBITS ADMITTED TO RECORD

Exhibit #/Document I.D. Description of Exhibit

STATE'S EXHIBITS

- | | |
|-----------|---|
| 1. Exh. 1 | Copy of March 2002 Loan Officer Application ("Application #1") |
| 2. Exh. 2 | Copy of May 13, 2002, State's letter seeking more information from the Applicant about her concealed firearm conviction |
| 3. Exh. 3 | Copy of December 6, 2002, letter notifying the Applicant that Application #1 was withdrawn because the Applicant did not respond to the request for additional information about the concealed firearm conviction |

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|-----------|---|
| 4. Exh. 4 | Copy of December 2005 Loan Officer Application ("Application #2") |
| 5. Exh. 5 | Copy of January 11, 2006, letter seeking more information from the Applicant about the conviction for carrying a concealed firearm |
| 6. Exh. 6 | Copy of court documents |
| 7. Exh. 7 | Loan Officer License Application Denial with notices of the reasons for denial and opportunity for hearing and certified mail receipt |
| 8. Exh. 8 | Copy of letter requesting a hearing |
| 9. Exh. 9 | Copy of Notice of Hearing |

**APPLICANT'S
EXHIBITS**

- | | |
|------------|--|
| 10. Exh. A | Copy of letter from Mr. Jeffrey R. Bing |
| 11. Exh. B | Copy of letter from Mr. Steffan V. Johnson |
| 12. Exh. C | Copy of letter from Mr. Max Jones III |

TESTIMONY GIVEN BY

- The State's witness, Anthony Siciliano, Counsel for Consumer Finance
- The Applicant
- Applicant's character witness, Max Jones III

FINDINGS OF FACT

1. The State advised the Applicant of the reasons for its intent to deny her a loan officer license. (See the attached two pages, marked "Copy.")
2. In Application #1 (withdrawn because information about the Applicant's conviction was not provided within a 90-day deadline to the State by the Applicant) and Application #2, submitted to the State in March 2002 and December 2005, respectively, the Applicant, in answering a question in a list of questions, checked the "no" box thereby indicating that she had never been convicted of any criminal offense, including one for carrying a concealed weapon. (Exhs. #1 and #4, Question #5 on both applications, and Tr.¹ pp. 18-19, 21-24, and 29.) The Applicant's signature appears in the "Attestation" section at the end of both Application #1 and Application #2, where directly above her signature, it states: "Being first duly cautioned, I hereby swear or affirm that I have completed the foregoing Loan Officer Application fully and frankly," and "[t]he answers are complete and true of my own knowledge." (Exhs. #1 and #4 and Tr. pp. 30-32.)

¹ "Tr." refers to the transcript of the subject hearing.

3. The evidence presented at hearing showed Application #1 and Application #2 contained false information; despite what the Applicant attested to in both Application #1 and #2, she was convicted of a first degree misdemeanor of carrying a concealed weapon, after pleading guilty, in the Common Pleas Court of Franklin County, Ohio, in the year 1993. (Exh. #6 and Tr. pp. 33-37, 40-45, and 48-49.) This plea was made despite her contention that she didn't know there were guns in the car in which she was riding and that they belonged to her date with whom she was going to dinner. (Tr. pp. 37-38 and 65.) She knowingly attested to and submitted the false loan officer applications. (Tr. 45.)

CONCLUSIONS OF LAW

The Applicant knowingly attested to false information and submitted it as a part of her loan officer applications. This shows she lacks the character to command the confidence of the public and warrant the belief that she would operate a loan officer business honestly – a requirement for licensure under R.C. 1322.041(A)(5). (Findings of Fact #2 and #3.)

Additionally, by her false attestations and submissions, the Applicant has arguably violated: R.C. 1322.07(A) (prohibition against making any substantial misrepresentation in a license application); R.C. 1322.07(B) (prohibition against making a false or misleading statement of a material fact), and R.C. 1322.07(C) (prohibition against engaging in conduct that constitutes improper, fraudulent, or dishonest dealings).

RECOMMENDATION OF ACTION

Therefore it is recommended that the Superintendent of the Division of Financial Institutions deny the Applicant's request for the issuance of a loan officer license.

Respectfully submitted,



Mark J. Ballenger
Administrative Hearing Officer