



Ohio Department of Commerce

Division of Financial Institutions
77 South High Street • 21st Floor
Columbus, OH 43215-6120
(614) 728-8400 FAX (614) 466-5594
www.com.state.oh.us

Ted Strickland
Governor

Kimberly A. Zurz
Director

April 7, 2008

Michael R. Botros, Statutory Agent
Creative Lending Solutions, Inc.
5785 Far Hills Avenue
Dayton, OH 45429

Re: Revocation of Mortgage Broker Certificate of Registration
Case No. M2006-9992750

Dear Mr. Botros:

The Division has issued a final order revoking the Certificate of Registration for Creative Lending Solutions, Inc.; you will find a copy enclosed.

Because your Certificate of Registration has been revoked, you are not authorized to act as a Mortgage Broker as defined in the Ohio Mortgage Broker Act, Chapter 1322 of the Ohio Revised Code.

If you engage in any of the activities of a mortgage broker, criminal charges may be brought against you, as operating as a mortgage broker without a certificate of registration is a felony.

Respectfully,

Anthony D. Siciliano
Consumer Finance General Counsel
Division of Financial Institutions

ILE

Enclosure

cc: Harjinder Sandhu, Operations Manager
Thomas I. Blackburn, Esq.
Theodore L. Klecker, Esq.
Chester T. Lyman, Esq.

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Ted Strickland
Governor

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

Kimberly A. Zurz
Director

In the matter of:)	Case No. M2006-9992750
)	
CREATIVE LENDING SOLUTIONS, INC.)	<u>DIVISION ORDER</u>
4145 Crossgate Square)	Revocation of Mortgage Broker
Cincinnati, Ohio 45236)	Certification of Registration
)	&
)	Notice of Appellate Rights

On April 27, 2006, the Division issued Creative Lending Solutions, Inc. (hereafter "Respondent") notice of the Division's intent to revoke its mortgage broker certificate of registration because: (1) in 1995, Eric Shropshire, fifty percent shareholder and vice-president/secretary of Respondent, was convicted of forgery; (2) in 1999, Respondent provided incomplete and untruthful information to the Division in its application for a mortgage broker certificate of registration; (3) in 2004, the Division found that Eric Shropshire violated R.C. 1322.07(A), (B), and (C) and that his character and general fitness did not command the confidence of the public and warrant the belief that its business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act; (4) in 2004 and 2005, Respondent provided incomplete and untruthful information to the Division in its mortgage broker certificate of registration renewal applications; (5) Respondent violated R.C. 1322.07(A), (B), and (C); and (6) Respondent's character and general fitness did not command the confidence of the public and warrant the belief that its business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act.

Respondent requested a hearing, and pursuant thereto, an administrative hearing was held in accordance with Ohio Revised Code Chapter 119 on September 28, 2006.

The hearing officer filed a written Report and Recommendation (“Report”) with the Division on March 26, 2007, recommending that the Division not revoke Respondent’s mortgage broker certificate of registration. The Division served Respondent’s attorney with a copy of the Report and a letter explaining Respondent’s right to submit written objections. Respondent filed no objections.

In accordance with R.C. 119.09, the Division has considered the March 26, 2007 Report, all applicable laws, the transcript of testimony, and the exhibits. As a result, the Division modifies and/or disapproves the findings and/or conclusions listed below. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (A copy of the Report is attached hereto.)

The Division modifies paragraph 8 on page 3 of the Report to reflect that State’s Exhibit G, not F, is the 2005 mortgage broker renewal application.

The Division modifies paragraph 9 on page 3 of the Report to substitute Exhibits E-1 through E-38 and Exhibits F and G in place of Exhibit E-6 and E-38 to reflect what constitutes the 1999, 2004, and 2005 applications.

The Division disapproves and modifies the last two sentences of paragraph 3 on pages 5 and 6 of the Report. The explanations for the failure to disclose Eric Shropshire’s 1995 forgery conviction are not credible. Mr. Shropshire admitted to his 1995 felony forgery conviction and sentence of probation. (Transcript, p. 30.) He also remembered the events that led to the felony forgery conviction. (Transcript, pp. 45-46.) Despite this, in 1999, even with a guilty finding of felony forgery by the Hamilton County Court of Common Pleas, Mr. Shropshire told the Division that he had not “been found guilty by a judge or jury for violation of any law[.]” (Exhibits D and E-38.) The sealing of the felony forgery conviction occurred in 2003, four years

after Respondent applied to the Division for a mortgage broker certificate of registration and only shortly after Mr. Shropshire applied to the Division for a loan officer license in 2002. (Exhibits D, E-1 through E-7, and H.) Mr. Shropshire only offered his own self-serving testimony to state that he thought his felony forgery conviction had been expunged. The record is void of any other evidence to suggest that Mr. Shropshire made any attempt to expunge or seal his conviction prior to December 2002. (Exhibit D.)

Further, the interpretation of R.C. 1322.07 is in error. R.C. 1322.07(A), (B), and (C) do not require a deliberative act for their violation. In contrast to R.C. 1322.07(E) and (D), 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. Ohio Dept. of Comm.* (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 mortgage broker or loan officer license 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 disapproves and modifies paragraph 4 on page 6 of the Report and Recommendation. R.C. 1322.03(B), as relied upon by the hearing officer in the Report and Recommendation, did not take effect until May 2, 2002, three years after the application and issuance of Respondent’s mortgage broker certificate of registration. In 1999, R.C. 1322.03(B) stated simply that the applicant shall be investigated and did not mention background checks. (See attached former statute R.C. 1322.03(B).) Further, the conducting of a background check by the Division does not excuse persons from answering questions accurately on the mortgage broker or loan officer license application.

The Division disapproves and modifies paragraph 5 on page 6 of the Report. R.C. 1322.04(A)(7), as relied upon by the hearing officer in the Report, did not take effect until May 2, 2002, three years after the application and issuance of Respondent's mortgage broker certificate of registration. In 1999, R.C. 1322.04(A)(7) stated that as a condition of licensure an applicant must not have pleaded guilty to or been convicted of a felony. (See attached former statute R.C. 1322.04(A)(7).) In 1999, the Ohio Mortgage Broker Act did not allow convicted felons any opportunity to prove that their activities and employment record since the conviction show that they are honest, truthful and of good reputation. (See, also, attached former statute R.C. 1322.07(D), which prohibited OMBA registrants and applicants from failing to notify the Division of any felony conviction or any conviction involving fraud.)

The Division disapproves paragraphs 6 and 7 on page 6 and paragraphs 8, 10, 11, and the Recommendation of page 7 of the Report.

As previously discussed in this Order, one does not have to act deliberately to violate R.C. 1322.07(A), (B), and (C). Mr. Shropshire, a fifty percent owner and officer of Respondent, testified that he answered "no" to question 4 on the 2004 Mortgage Broker Renewal which asked whether any member of Creative Lending Solutions had ever been subject to an administrative order. (Transcript, p. 58.) This answer was false, because approximately three weeks prior to the submission of Respondent's 2004 renewal application, Mr. Shropshire received a Division order denying his loan officer license application. (State's Exhibits C and F.) Mr. Shropshire explained that he answered question 4 in the negative "[b]ecause the business [sic] never been, you know, liable for anything, no court orders for the business and things of that nature, so that's why I marked it 'No.'" (Id.) A short time later in the hearing, Mr. Shropshire contradicted himself by stating that it was Mr. Sandhu, Respondent's operations manager, who answered the

questions in the 2004 Mortgage Broker Renewal application, not Mr. Shropshire himself. (Transcript, p. 63). In contrast to his earlier testimony, Mr. Shropshire stated that he never read the renewal application before signing it. (Id.)

Thus, the Division must attempt to weigh the validity of Mr. Shropshire's conflicting statements. One moment, Mr. Shropshire claimed that he personally answered question 4 in the negative because he did not understand that he had been subject to an administrative order or investigation. Moments later, Mr. Shropshire testified that he did not complete the renewal application; he only signed it – without reading it – after Mr. Sandhu filled out the application. Mr. Shropshire's testimony concerning his answering, or not answering, question 4 on the 2004 mortgage broker renewal application lacks credibility.

As Respondent's operations manager, Mr. Sandhu is "the individual responsible for the everyday operations, compliance requirements, and management of a mortgage broker business." (See R.C. 1322.02(H).) Mr. Sandhu claimed that he did not know the reason why the Division denied Mr. Shropshire's loan officer license application and, apparently, was unconcerned. Mr. Sandhu explained: "I didn't get into why he [was denied] – Again, I felt that that was his personal matter that whatever happened with Eric. He's applying for an individual [loan officer] license. If [the Division] didn't give it to him, it has nothing to do with the company at all, you know." (Transcript, pp. 81-82.) Given Mr. Sandhu's indifference toward the denial of Mr. Shropshire's loan officer license and the facts and circumstances surrounding it, the Division believes Mr. Sandhu cannot responsibly manage a mortgage brokerage in compliance with the law. After reviewing Mr. Shropshire's conflicting testimony, Mr. Sandhu's seemingly apathetic testimony and their combined inability to truthfully answer questions in Respondent's applications, the Division concludes that Respondent violated R.C. 1322.07(A), (B), and (C).

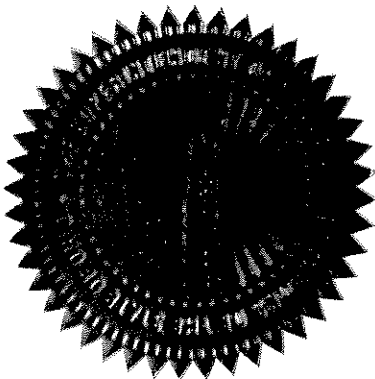
On three occasions in three separate years, Respondent provided false and inaccurate information to the Division in its applications. Yet, on a daily basis mortgage brokers are expected to advise and explain complex documents and concepts to their customers and are must have of a high level of attention-to-detail in the work they perform. Respondent has failed to provide this level of care in the documents it has filed with the Division. Respondent's multi-year pattern of providing false information to the Division establishes that Respondent lacks the requisite character and general fitness to command the confidence of the public and warrant the belief that its business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act. (See R.C. 1322.041(A)(5).)

For the reasons stated herein, the Division finds that Respondent violated R.C. 1322.07(A), (B), and (C) and fails to meet the basic registration requirement in R.C. 1322.041(A)(5). Accordingly, Creative Lending Solutions, Inc.'s mortgage broker certificate of registration is hereby revoked.


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, 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 7th day of April 2008.


LEIGH A. WILLIS
Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce



State of Ohio
Department of Commerce
Division of Financial Institutions

I hereby certify this to be an accurate
and true copy of the original on file in
the Division of Financial Institutions.

Witness my hand and Division Seal this
7th day of April, 2008.

By: L. Eulank
Division Representative

07 MAR 26 AM 10:51 **STATE OF OHIO
DEPARTMENT OF COMMERCE**

IN THE MATTER OF:	:	DIVISION OF FINANCIAL INSTITUTIONS
	:	
CREATIVE LENDING SOLUTIONS, INC.	:	CASE NO. M2006-9992750
	:	
	:	LANDI JACKSON-FORBES HEARING OFFICER

REPORT AND RECOMMENDATION
Issued March 23, 2007

I. FINDINGS OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the Hearing Officer finds the following to be fact:

A. Jurisdiction and Procedural History

This matter came before Landi Jackson-Forbes, 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 the above captioned matter in accordance with the Administrative Procedures Act, Chapter 119, Ohio Revised Code (hereinafter "Revised Code").

The hearing was scheduled by the Division at the request of Respondent Creative Lending Solutions, Inc. (hereinafter "Respondent" or "Creative Lending") to consider the Division's Notice of Intent to Revoke Mortgage Broker Certificate of Registration and Notice of Opportunity for a Hearing (hereinafter "NOH"), that was issued to Respondent on or about April 27, 2006. The Division issued the NOH to Respondent on the basis that Respondent filed with the Division a sworn or attested mortgage broker certificate of registration application in 1999 that contained untruthful information about the criminal background of one of its senior officers and shareholders and filed sworn or attested to renewal applications with the Division in 2004 and 2005 containing untruthful information regarding administrative actions or orders regarding one of its shareholders or officers. The Division alleges that Respondent's acts demonstrate that it does not have the character and general fitness to 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. The Division also alleges that Respondent act in 1999 violates Revised Code §1322.07(A) and (C) and that Respondent's 2004 and 2005 acts violate Revised Code §1322.07(A), (B) and (C). The Division seeks to revoke the mortgage broker certificate based on the allegations in the NOH.

The hearing was held at 9:30 a.m. on September 28, 2006, at 77 South High Street, 23rd Floor West Conference Room, Columbus, Ohio. The Division, represented by Assistant Attorney General Ted L. Klecker, appeared at the hearing. Attorney Thomas I. Blackburn represented Respondent at the hearing. At the hearing, State's Exhibits A through H were stipulated to and admitted into the record as discussed in the transcript (hereinafter "Tr.").

B. Mortgage Broker Certificate of Registration

1. The Division is the state agency responsible for the administering and enforcing the Ohio Mortgage Broker Act, Revised Code Chapter 1322. (State Ex. A)
2. Creative Lending was issued certificate of registration number MB2519 on or about July 29, 1999 and has thereafter kept the certificate active. Its principle place of business is located at 4245 Crossgate Square, Cincinnati, Ohio. (State Ex. E1 & E9)
3. Hirjander Sandhu and Eric Shropshire are Ohio residents that each own fifty percent of Creative Lending. Mr. Sandhu is the president, treasurer and operations manager of Creative Lending. Mr. Shropshire is Creative Lending's vice president and secretary. (State Ex. E22; Tr. at 23 & 65)
4. Mr. Sandhu came up with the idea to form Creative Lending and asked Mr. Shropshire to join him. The company engages in mortgage broker activities and also does home improvement and construction. Since its formation, Mr. Shropshire has handled the home improvement and construction aspect of the business and Mr. Sandhu has handled the mortgage lending aspect. (Tr. at 79, 84-85 & 88)
5. Eric Shropshire signed under oath and afterwards filed with the Division on May 3, 2002, a Loan Officer License Application ("LO Application") for licensure as a loan officer pursuant to Revised Code Chapter 1322. (State Ex. H)
6. Upon review of the LO Application, the Division determined that Mr. Shropshire's LO Application should be denied because he was convicted of forgery in 1995 and failed to disclose that conviction on the LO Application. The Division issued to Mr. Shropshire a Notice of Intent to Deny on January 22, 2004. Mr. Shropshire did not request a hearing within the statutory timeframe. On March 25, 2004, the Division issued an Order finding that the allegations contained in the Notice of Intent to Deny are true and denied the LO Application. No appeal was taken from the March 25, 2004 Division Order. (State Ex. C & D)
7. Respondent signed under oath and afterwards filed with the Division on April 28, 2004 a mortgage broker renewal application ("2004 Renewal"). Respondent answered in the negative that neither it nor any owner, partner, shareholder, member, officer, director and operations manager had been subject to any federal or state criminal or administrative investigation or order within sixteen months prior to the filing of the 2004 Renewal. (State Ex. F)

8. Respondent signed under oath and afterwards filed with the Division on April 15, 2005 a mortgage broker renewal application ("2005 Renewal"). Respondent answered in the negative that neither it nor any owner, partner, shareholder, member, officer, director and operations manager had been subject to any federal or state criminal or administrative investigation or order within sixteen months prior to the filing of the 2005 Renewal. (State Ex. F)
9. Upon further review of Respondent's 1999 mortgage broker certificate of registration application ("1999 Application"), and 2004 and 2005 Renewals, the Division determined that Creative Lending's mortgage broker certificate of registration should be revoked; consequently the Division issued to Respondent the NOH Revoke on April 27, 2006. *See* State Ex. E6 & E38.
10. The NOH alleges that Respondent's mortgage broker certificate of registration should be revoked for the following reasons:
 - A. 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)(5)
 - B. Respondent's actions of attesting in a sworn statement, on July 19, 1999, that information it provided about the criminal background of one of its senior officers and shareholders (namely Eric L. Shropshire) on its mortgage broker certificate of registration application was complete and truthful when it was not, and submitting that information to the Division on July 27, 1999 to obtain a mortgage broker certificate of registration violated Revised Code §1322.07 (A) and (C).
 - C. Respondent's actions of attesting in a sworn statement on April 14, 2004, that information it provided on its 2004 Renewal about administrative actions or orders that one of its shareholders or officers (namely Eric L. Shropshire) was subject to was complete and accurate when it was not, and submitting it to the Division on April 28, 2004 violated Revised Code §1322.07 (A), (B) and (C).
 - D. Respondent's actions of attesting in a sworn statement on April 18, 2005, that information it provided on its 2005 Renewal application about administrative actions or orders that one of its shareholders or officers (namely Eric L. Shropshire) was subject to was complete and accurate when it was not, and submitting it to the Division violated Revised Code (A), (B) and (C).
11. The Division contends that Creative Lending did not disclose Mr. Shropshire's conviction on the 1999 Application because changes in the Revised Code 1322.03 in 1999 would have barred the grant of the application. (Tr. at 15)

12. Fingerprints cards for both Mr. Sandhu and Mr. Shropshire were submitted to the Division on July 27, 1999 with the 1999 Application. The checklist attached to the 1999 Application indicates that the fingerprint cards were reviewed and sent to the Bureau of Criminal Identification and Investigation ("BCI") on July 28, 1999, just one day before the mortgage broker certificate of registration was issued to Creative Lending. No evidence was admitted indicating the results of the criminal background checks. (State Ex. E1, E3 & E9; Tr. at 89)
13. Mr. Sandhu did not know that Mr. Shropshire had a felony conviction when Creative Lending was formed and the 1999 Application was filed with the Division. He explained that he could have and would have started Creative Lending by himself if he believed at the time that he and Mr. Shropshire were doing anything wrong. (Tr. at 81-83 & 88)
14. Mr. Sandhu explained that he relies on the Division to conduct criminal record checks, and that he would have the record checks done if the Division did not have the checks done. He testified as follows:

Well, we applied for our license, we got our license back. My understanding was that everybody has been checked out, including myself and my partner since we got our license. And that is how we've been acting upon ever since we got our license as if they checked everything out and everything is okay.

(Tr. at 87 & 99)
15. Mr. Shropshire explained that he did not disclose the 1995 felony conviction in Schedule 18 of the 1999 Application and on the LO Application because he believed that his attorney had the conviction expunged. He knew that with the submission of his fingerprints that a criminal background was going to be conducted. Mr. Shropshire testified that he became aware that his conviction was not expunged after he received a letter from the Division requesting an explanation of the conviction and court journal entries evidencing the conviction. Mr. Shropshire conviction was expunged from his record on January 15, 2003. Although he had previously worked as a loan officer, he decided to stay with the construction and marketing side of Creative Lending when the Division proposed to deny his LO Application. (State Ex. D; Tr. at 33, 47-48 & 52-56)
16. Neither Mr. Shropshire nor Mr. Sandhu understood that Mr. Shropshire was under investigation when he applied for a loan officer license. They also did not understand that when the Division denied the Mr. Shropshire's LO Application, an administrative "order" had been issued. (Tr. at 36 & 72-75)
17. Mr. Sandhu explained that he considered an "investigation" to be ongoing, whereas he considered a letter from the Division requesting additional information from the applicant as part of the procedure of completing the application. He also considered the Division's request of information from the applicant solely between the applicant and the Division, and does not involve the mortgage broker company. (Tr. at 74-76 &)

18. Mr. Sandhu completed the 2004 and 2005 Renewals, which were both approved by the Division. He was aware that Mr. Shropshire's LO Application had been denied, but had not seen the Division's 2004 Order denying the application until two weeks prior to the September 28, 2006 hearing. He explained that he had no reason not to disclose the Division's denial of Mr. Shropshire's LO Application, if he knew that it was an "administrative order" required to be disclosed, since the Division would be aware of the denial as they denied the LO Application. (Tr. at 72-73 & 89-91)
19. Mr. Shropshire confirmed Mr. Sandhu's testimony that the 2004 and 2005 Renewals were completed by Mr. Sandhu. Mr. Shropshire testified that he did not read the Renewals prior to signing them. He also did not believe that he was under investigation or that the denial of his LO Application was an "administrative order". (Tr. at 62-63)
20. No evidence was introduced that Respondent has violated any other provisions of the Ohio Mortgage Broker Act or had any complaint against it filed with the Division.

II. CONCLUSIONS OF LAW

A. Jurisdiction

The Division procedurally complied with Revised Code Chapter 119 in mailing the NOH, in demonstrating delivery of the NOH, and in scheduling the hearing that had been requested by Respondent within the time parameters established in Revised Code §119.07, §119.08 and §119.09. The Division has jurisdiction in this matter.

B. Mortgage Broker Certificate of Registration

1. Revised Code §1322.10(A)(1) provides that the Division may revoke a mortgage broker certificate of registration if it finds that the registrant has violated or failed to comply with any provision of Revised Code §§1322.01 to 1322.12.
2. Inasmuch as Respondent has previously been issued a certificate of registration by the Division, the Division has the burden of proof to show that Respondent's certificate of registration should be revoked. Based on the evidence entered into the record, a *prima facie* case for revocation has been made.
3. The language in Revised Code §1322.10(A)(1) is permissive not mandatory. Thus, although a registrant may be found to have violated provisions of Revised Code Chapter 1322, the Superintendent has the discretion to determine whether to revoke the certificate of registration. In this instance, the explanations for why Mr. Shropshire's conviction was not disclosed in the 1999 Application was credible and convincing, and does not support a conclusion that Respondent's

obtained the certificate of registration through false or fraudulent representation of a material fact in the 1999 Application in violation of Revised Code §1322.07A). Respondent's explanations also do not support a conclusion that Respondent engaged in conduct that constitutes improper, fraudulent or intentionally conduct was intentionally fraudulent or dishonest dealings in violation of Revised Code 1322.07(C).

4. Revised Code §1322.03 (B) provides that upon the filing of the application for a certificate of registration, the Division shall conduct a criminal records check based on the fingerprints of the applicants. Both Mr. Sandhu and Mr. Shropshire submitted fingerprints to the Division in conjunction with the 1999 Application. It is understandable that they would believe that a criminal background check had been conducted and nothing found when the certificate of registration was issued. Issuance of the certificate of registration confirmed Mr. Shropshire's belief that his 1995 conviction had been expunged.
5. The Division's argument that Respondent intentionally did not disclose the conviction because it would have barred the issuance of the certificate of registration does not take into consideration that Revised Code §1322.04(A)(7) provides that the applicant, in this case, Mr. Shropshire, would have had an opportunity to prove that his activities and employment record since his conviction show that he is honest, truthful and of good reputation. The Division's argument also does not consider that if the Division had denied the certificate of registration, Mr. Sandhu, who has no criminal record, could have formed Creative Lending on his own.
6. There is no dispute that the Division denied Mr. Shropshire a loan officer license in 2004. However, the explanations offered by Mr. Sandhu and Mr. Shropshire on why the Division's "investigation" and "order" were not disclosed on the 2004 and 2005 Renewals do not demonstrate that they intentionally tried to hide this fact from the Division. No reason to hide the fact of the Division's investigation or order from the Division would be logical if Mr. Shropshire or Mr. Sandhu understood that the Division's inquiry about Mr. Shropshire's conviction and the Division's denial of the LO Application was to be disclosed in the Renewals.
7. It does not appear that either Mr. Sandhu or Mr. Shropshire have much experience with governmental agencies to know that a government agency, such as the Division, is an administrative agency, and what constitutes an administrative "investigation" or "order". It would appear from what the Division constitutes as an investigation that any application from a registrant, owner, partner, shareholder, member, officer, director, or operations manager is considered an investigation. If this being the case, then any registrant that has had one of the named persons apply for licensure to the Division must always answer questions inquiring about an administrative investigation or order in the affirmative, whether the outcome of the "investigation" is positive or negative.

8. Mr. Shropshire's and Mr. Sandhu's testimony regarding how they understood the request for an explanation of Mr. Shropshire's conviction and the subsequent Division Order denying the license does not demonstrate they had the requisite intent to violate Revised Code §1322.07 (A), (B) or (C).
9. The Division has also charged that Respondent's character and general fitness does not command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance the purposes of the Ohio Mortgage Broker Act.
10. Respondent has been in existence for over seven years. No evidence was presented that there have been complaints about or against Creative Lending's practices. Mr. Sandhu does not have a criminal record, other than traffic related. Mr. Shropshire's one conviction, which occurred over eleven years ago, has been expunged. Thus, the Hamilton County Court of Common Pleas, which convicted Mr. Shropshire in 1995, believes that he is rehabilitated.
11. The evidence does not demonstrate that Respondent has not operated in a manner consistent with the requirements of the Ohio Mortgage Broker Act, and that its principles, Mr. Sandhu and Mr. Shropshire do not possess the character and fitness to own, operate or participate in the operation of a mortgage broker. No evidence has been presented to justify revocation of the mortgage broker certificate of registration.

III. RECOMMENDATION

In careful consideration of the record made in this matter, I recommend that the Superintendent of Financial Institutions not revoke the certificate of registration of Creative Lending Solutions, Inc. It is further recommended that the Division seal its official records and the portions of the record in this case; including this Report and Recommendation, dealing with Respondent's expunged and sealed conviction. The Division should only release, disseminate, or make available those records, and information or other data concerning the expunged and sealed conviction in a manner consistent with Revised Code Chapter 2953.

Respectfully submitted,



Landi Jackson-Forbes

Hearing Officer

March 23, 2007

Docket No. 06-DFI-097

Jan 1

IN THE COURT OF COMMON PLEAS
- GENERAL DIVISION -
TRUMBULL COUNTY, OHIO

CASE NUMBER: 2006 CV 1930

MONTHER S. SHEHABI,
aka Paul Shehabi,

PLAINTIFF-APPELLANT,

VS.

JUDGE W. WYATT McKAY

DIRECTOR, OHIO DEPARTMENT
OF COMMERCE DIVISION OF FINANCIAL
INSTITUTIONS CONSUMER FINANCE,
et al.,

DEFENDANT-APPELLEE.

JUDGMENT ENTRY

07 MAR 12 AM 9:09

This matter, which is an Administrative Appeal from a decision of the **OHIO DEPARTMENT OF COMMERCE--DIVISION OF FINANCIAL INSTITUTIONS CONSUMER FINANCE**, comes before this Court on the Briefs of the parties. The Court has reviewed the record, all affidavits, exhibits, and all memoranda of law and fact.

Plaintiff-Appellant files this Appeal from the Order of the Department of Commerce dated July 19, 2006, which denied Plaintiff-Appellant's application for a mortgage broker's license in the State of Ohio under provisions contained in Chapter 1322 of the Ohio Revised Code.

The timeline in this Appeal is correctly spelled out in Exhibit B to Defendant's Brief in support of his position and is incorporated herein. Specifically, on two separate occasions, Plaintiff-Appellant filed applications before the State of Ohio Department of Commerce for a license to become a mortgage broker with false information. At the time, Plaintiff-Appellant had a criminal record and was in the process of attempting to have this record sealed. However, a

motion to have said criminal record sealed was not filed until April 29, 2003, and ultimately was not sealed until May 18, 2004. The Court specifically notes that the record clearly shows that the March 20, 2003, application was notarized on March 20, 2003, before Appellant even filed a motion with the Court to seal his criminal records. In that notarized application, and in the following application filed April 23, 2004, Plaintiff-Appellant swore that he did not have a criminal record. The record also details that Plaintiff-Appellant received a letter from the probation department in Summit County on or about May 7, 2003, that asked him to fill out a questionnaire concerning his motion to seal his criminal record.

In Plaintiff-Appellant's defense, he alleges that his provision of false information to the State in his applications was wholly unintentional, because he believed that his criminal record was immediately sealed upon the filing of his motion. Plaintiff-Appellant was unrepresented by counsel when he filed this motion before the Summit County Court of Common Pleas. An administrative hearing was held on October 12, 2005, and testimony was offered on Plaintiff-Appellant's behalf to substantiate this claim. The hearing officer then filed a statement of facts and conclusions of law and recommended that Plaintiff-Appellant be granted an application. The final administrative decision, the subject of this appeal, rejected the hearing officer's recommendation.

This appeal was filed pursuant to Ohio Revised Code §119.12, which provides in part that:

The court may affirm the order of the agency complained of in the appeal if it finds, upon consideration of the entire record and any additional evidence the court has admitted, that the order is supported by reliable, probative, and substantial evidence and is in accordance with law. In the absence of this finding, it may reverse, vacate, or modify the order or make such other ruling as is supported by reliable, probative, and substantial evidence and is in accordance with law. The court shall award compensation for fees in accordance with section 2335.39 of the Revised Code to a prevailing party, other than an agency, in an appeal filed pursuant to this section.

In an administrative appeal pursuant to R.C. § 119.12, the trial court reviews an agency's order to determine whether it "is supported by reliable, probative, and substantial evidence and is in accordance with law." R.C. § 119.12. An agency's findings of fact will be presumed to be correct and deferred to by the reviewing court unless the court determines that "the agency's findings are internally inconsistent, impeached by evidence of a prior inconsistent statement, rest upon improper inferences, or are otherwise unsupportable." Ohio Historical Society v. State Employment Relations Bd. (1993), 66 Ohio St.3d 466, 471.

The evidence required by R.C. § 119.12 can be defined as follows: (1) "Reliable" evidence is dependable; that is, it can be confidently trusted. In order to be reliable, there must be a reasonable probability that the evidence is true. (2) "Probative" evidence is evidence that tends to prove the issue in question; it must be relevant in determining the issue. (3) "Substantial" evidence is evidence with some weight; it must have importance and value. Our Place, Inc. v. Ohio Liquor Control Comm. (1992), 63 Ohio St.3d 570, 571

At the administrative hearing, Plaintiff-Appellant offered a plethora of evidence that supported his position that his application was made mistakenly and/or without actual malice. Nonetheless, the Court agrees with Defendant-Appellee's interpretation of the statute and of the standard of review in administrative appeals. First, the Court agrees that Chapter 1322 does not require knowledge of the false information provided in the application. Furthermore, the evidence is irrefutable that on March 20, 2003, Plaintiff-Appellant did in fact swear under oath that he had no criminal record, when in fact, he had not even yet filed his motion to seal his criminal record. The Court further agrees with Defendant-Appellee that the General Assembly has empowered Defendant-Appellee to reject recommendations of hearing officers pursuant to R.C. § 119.09.

The issues of fact that were already determined by the Defendant-Appellee are not ripe for determination by this Court, and this Court acknowledges that reasonable minds may come to

different conclusions in this case. However, the Court must apply the above stated standard of review in an appeal of an administrative agency's actions. The Court further finds that the decision of the Defendant-Appellee is supported by reliable, probative, and substantial evidence and is in accordance with law and is, therefore, AFFIRMED. This appeal is hereby dismissed at Plaintiff-Appellant's cost.

Case Concluded.

SO ORDERED.

W. Wyatt McKay
JUDGE W. WYATT McKAY

Date: 2/26/07

TO THE CLERK OF COURTS:
YOU ARE ORDERED TO SERVE COPIES OF THIS JUDGMENT
ON ALL COUNSEL OF RECORD OR UPON THE PARTIES
WHO ARE UNREPRESENTED FORTHWITH
BY ORDINARY MAIL.

W. Wyatt McKay
JUDGE W. WYATT McKAY

3-7-07

Copies to:

M. Rigelsky

T. Lipka

Director Ohio Dept. of
Commerce Division

CLERK OF COURTS
TRUMBULL COUNTY

2007 MAR -7 9:16

TRUMBULL COUNTY
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TITLE XIII [13] COMMERCIAL TRANSACTIONS -- OHIO UNIFORM COMMERCIAL CODE
CHAPTER 1322: MORTGAGE BROKERS

ORC Ann. 1322.03 (Anderson 2000)

§ 1322.03 Application for certificate; fee; investigation; disposition of receipts.

(A) An application for a certificate of registration as a mortgage broker shall be in writing, under oath, and in the form prescribed by the superintendent of financial institutions. The application shall be accompanied by an application fee of three hundred fifty dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code and shall provide all of the following:

(1) The location or locations where the business is to be transacted and whether any location is a residence. If any location where the business is to be transacted is a residence, the application shall be accompanied by a certified copy of a zoning permit authorizing the use of the residence for commercial purposes, or shall be accompanied by a written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision. The application also shall be accompanied by a photograph of each location at which the business will be transacted.

(2)(a) In the case of a sole proprietor, the name and address of the sole proprietor;

(b) In the case of a partnership, the name and address of each partner;

(c) In the case of a corporation, the name and address of each shareholder owning five per cent or more of the corporation;

(d) In the case of any other entity, the name and address of any person that owns five per cent or more of the entity that will transact business as a mortgage broker.

(3)(a) If the applicant is a partnership, the applicant shall designate one of the partners named in the application pursuant to division (A)(2)(b) of this section as responsible for managing the operations of the location or locations where the business is to be transacted.

(b) If the applicant is a corporation, the applicant shall designate one of the shareholders named in the application pursuant to division (A)(2)(c) of this section as responsible for managing the operations of the location or locations where the business is to be transacted.

(c) If the applicant is any other entity, the applicant shall designate a natural person that owns five per cent or more of the entity that will transact business as a mortgage broker as responsible for managing the operations of the location or locations where the business is to be transacted.

(4) Evidence that at least one of the following applies to the sole proprietor, partner, shareholder, or natural person designated on the application pursuant to division (A)(3) of this section as responsible for managing the operations of the location or locations where the business is to be transacted:

(a) Except as provided in division (D)(2) of this section, the sole proprietor, partner, shareholder, or natural person has earned at least an associate degree in an area relating to finance, banking, or business administration, and the degree was earned at an accredited college or university, including an accredited community or technical college.

(b) The sole proprietor, partner, shareholder, or natural person possesses at least three years of experience in the mortgage and lending field, which experience may include employment with or as a mortgage broker or with a financial institution, mortgage lending institution, or other lending institution, or possesses at least three years of other experience related specifically to the business of mortgage loans that the superintendent determines meets the requirements of division (A)(4)(b) of this section.

(5) Evidence of compliance with the surety bond requirements of section 1322.05 of the Revised Code and with sections 1322.01 to 1322.12 of the Revised Code;

(6) In the case of a foreign corporation, evidence that it maintains a license pursuant to Chapter 1703. of the Revised Code to transact business in this state;

(7) A statement that the applicant has not been convicted of or pleaded guilty to a criminal offense, the violation of which is a felony, or any criminal offense involving fraud;

(8) Any further information that the superintendent requires.

(B) Upon the filing of the application and payment of the application fee, the superintendent shall investigate the applicant. If, in order to issue a certificate of registration to an applicant, investigation by the superintendent outside this state is necessary, the superintendent may require the applicant to advance sufficient funds to pay the actual expenses of the investigation, if it appears that these expenses will exceed three hundred fifty dollars. The superintendent shall provide the applicant with an itemized statement of the actual expenses that the applicant is required to pay.

(C) All funds advanced and application and renewal fees paid to the superintendent under this section and section 1322.04 of the Revised Code shall be paid by the superintendent to the treasurer of state to the credit of the consumer finance fund created in section 1321.21 of the Revised Code.

(D)(1) Division (A)(4) of this section does not apply to any registrant that, on March 4, 1996, is registered as a mortgage broker under sections 1322.01 to 1322.12 of the Revised Code under a certificate of registration issued pursuant to those sections prior to March 4, 1996, provided that the certificate of registration is not surrendered by the registrant or revoked or refused renewal by the superintendent of financial institutions at any time after March 4, 1996.

(2) Except as provided in division (D)(3) of this section, on and after the effective date of this amendment, evidence of education provided in division (A)(4)(a) of this section shall not be accepted on an application of a person applying as a new applicant for a certificate of registration as a mortgage broker. However, on and after the effective date of this amendment, a person who, prior to that date, submitted evidence of education as provided for in division (A)(4)(a) of this section may renew a certificate of registration as a mortgage broker, provided that the person is registered on that date as a mortgage broker pursuant to section 1322.04 of the Revised Code, and a certificate of registration as a mortgage broker is not surrendered by the person or revoked or refused renewal by the superintendent at any time after that date.

(3) For a period ending three years after the effective date of this amendment, evidence that the person designated as responsible for managing the operation of a location or locations where business is or will be transacted meets the educational requirements specified in division (A)(4)(a) of this section shall be acceptable on an application for a certificate of registration as a mortgage broker, if the superintendent determines that both of the following apply:

(a) Prior to the effective date of this amendment, the person was designated pursuant to division (A)(3) of this section as responsible for managing the operations of a location or locations where a registrant's business was transacted, having met the educational requirements provided in division (A)(4)(a) of this section;

(b) The person is designated as responsible for managing the operations of an entity described in division (A)(2) of this section where the mortgage broker business is or will be transacted.

HISTORY: HISTORY

: 144 v S 323 (Eff 4-16-93); 146 v H 282 (Eff 3-4-96); 146 v S 293 (Eff 9-26-96); 147 v H 522. Eff 3-18-99.

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TITLE XIII [13] COMMERCIAL TRANSACTIONS -- OHIO UNIFORM COMMERCIAL CODE
CHAPTER 1322: MORTGAGE BROKERS

ORC Ann. 1322.04 (Anderson 2000)

§ 1322.04 Conditions for issuance of certificate; renewal; change in designated manager.

(A) Upon the conclusion of the investigation required under division (B) of section 1322.03 of the Revised Code, the superintendent of financial institutions shall issue a certificate of registration to the applicant if the superintendent finds that the following conditions are met:

(1) The application is accompanied by the application fee of three hundred fifty dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code and complies with division (A) of section 1322.03 of the Revised Code.

(2) If the application is for a location that is a residence, that the applicant has obtained a valid zoning permit authorizing the use of the residence for commercial purposes, or has obtained a valid written opinion or other document issued by the county or political subdivision where the residence is located certifying that the use of the residence to transact business as a mortgage broker is not prohibited by the county or political subdivision. The application also is accompanied by a photograph of each location at which the mortgage broker's business will be transacted.

(3)(a) The sole proprietor, partner, shareholder, or natural person designated on the application, pursuant to division (A)(3) of section 1322.03 of the Revised Code, as responsible for managing the operation of the location or locations where the business is to be transacted meets the educational or experience requirements provided in division (A)(4) of section 1322.03 of the Revised Code.

(b) If a partner, shareholder, or natural person designated pursuant to division (A)(3) of section 1322.03 of the Revised Code ceases to be responsible for managing the operation of the location or locations where the business is to be transacted, the applicant shall comply with the requirements that apply to a registrant under division (E) of this section.

(4) In the case of a foreign corporation, the applicant maintains a license pursuant to Chapter 1703. of the Revised Code to transact business in this state.

(5) The applicant complies with the surety bond requirements of section 1322.05 of the Revised Code.

(6) The applicant complies with sections 1322.01 to 1322.12 of the Revised Code.

(7) The applicant has not pleaded guilty to or been convicted of a criminal offense, the violation of which is a felony, or any criminal offense involving fraud.

(8) The applicant's financial responsibility, experience, character, and general fitness 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 sections 1322.01 to 1322.12 of the Revised Code.

For purposes of determining whether an applicant that is a partnership, corporation, or other entity has met the conditions set forth in division (A)(8) of this section, the superintendent shall determine which partners, shareholders, or persons named in the application pursuant to division (A)(2) of section 1322.03 of the Revised Code must meet the

conditions set forth in division (A)(8) of this section. This determination shall be based on the extent and nature of the partner's, shareholder's, or person's ownership interest in the partnership, corporation, or entity that is the applicant.

(B) The certificate of registration issued pursuant to division (A) of this section may be renewed annually on or before the thirtieth day of April upon payment of a renewal fee of three hundred fifty dollars for each location of an office to be maintained by the applicant in accordance with division (A) of section 1322.02 of the Revised Code and a finding by the superintendent that the applicant meets the conditions set forth in divisions (A)(2) to (8) of this section and that the applicant's certificate of registration is not subject to an order of suspension or revocation by the superintendent. If a renewal fee is received by the superintendent after the thirtieth day of April, the certificate of registration shall not be considered renewed, and the applicant shall cease activity as a mortgage broker and apply for a certificate of registration as a mortgage broker.

(C) No application or renewal fee required by division (A) or (B) of this section shall be returned after a certificate of registration has been issued or renewed by the superintendent.

(D) Division (A)(3) of this section does not apply to any registrant that, on March 4, 1996, is registered as a mortgage broker under sections 1322.01 to 1322.12 of the Revised Code under a certificate of registration issued pursuant to those sections prior to March 4, 1996, provided that the certificate of registration is not surrendered by the registrant or revoked or refused renewal by the superintendent of financial institutions at any time after March 4, 1996.

(E) If a partner, shareholder, or natural person designated pursuant to division (A)(3) of section 1322.03 of the Revised Code is no longer responsible for managing the operation of the location or locations where business is to be transacted, the registrant shall do all of the following:

(1) Designate another partner, shareholder, or natural person as responsible for managing the operation of the location or locations where business is to be transacted;

(2) Within ten days after the designation described in division (E)(1) of this section, notify the superintendent in writing of the designation;

(3) Submit any additional information that the superintendent requires to establish that the newly designated partner, shareholder, or natural person complies with the experience requirements set forth in division (A)(4)(b) of section 1322.03 of the Revised Code.

HISTORY: HISTORY

: 144 v S 323 (Eff 4-16-93); 146 v H 282 (Eff 3-4-96); 146 v S 293 (Eff 9-26-96); 147 v H 522. Eff 3-18-99.

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TITLE XIII [13] COMMERCIAL TRANSACTIONS -- OHIO UNIFORM COMMERCIAL CODE
CHAPTER 1322: MORTGAGE BROKERS

ORC Ann. 1322.07 (Anderson 2000)

§ 1322.07 Prohibitions.

No registrant or applicant for a certificate of registration under sections 1322.01 to 1322.12 of the Revised Code shall do any of the following:

- (A) Obtain a certificate of registration through any false or fraudulent representation or make any substantial misrepresentation in any registration application;
- (B) Make false promises through advertising or other means or engage in a continued course of misrepresentations;
- (C) Engage in conduct that constitutes improper, fraudulent, or dishonest dealings;
- (D) Fail to notify the division of financial institutions if the registrant or applicant, in a court of competent jurisdiction of this state or any other state, is convicted of or pleads guilty to a criminal offense, the violation of which is a felony, or any criminal offense involving fraud.

HISTORY: HISTORY

: 144 v S 323 (Eff 4-16-93); 146 v S 293. Eff 9-26-96.