

Rec'd 6-14-04

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

REPORT AND RECOMMENDATION OF HEARING OFFICER

IN THE MATTER OF Alex Michael Cordell

Ohio Department of Commerce, Division of Financial Institutions
Case Number: 04-0164-LOD

FINDINGS OF FACT

1. On or about April 10, 2002, Alex Michael Cordell ("Respondent" herein) submitted an application and related materials (the "Application" herein) to the Ohio Department of Commerce, Division of Financial Institutions (the "Division" herein) for licensing as a loan officer as defined in Chapter 1322 of the Ohio Revised Code. A copy of the Application is attached and incorporated as Exhibit A.
2. On or about January 22, 2004, the Division notified Respondent that it intended to deny the Application, and, by Division Order, provided Respondent with timely notice of opportunity for a hearing in accordance with the Ohio Administrative Procedure Act, Chapter 119, Ohio Revised Code (the "Notice"). A copy of the Notice is attached and incorporated as Exhibit B herein. The Division Order charged that Respondent failed to meet the certain designated requirements for licensing contained in Sections 1322.041 and 1322.10 of the Ohio Revised Code, and cited the circumstances as described in the Notice.
3. In response to the Notice, Respondent requested a hearing and, in response to that request, a hearing was held (the "Hearing" herein) at the Vern Riffe Center for Government and the Arts on May 13, 2004. At the Hearing, Respondent was represented by Gregory D. Slemmer, Esq., and the Division was represented by Assistant Attorney General Daniel P. Jones, Esq.
4. Respondent did not contest that, for the purposes of the Hearing and this administrative proceeding, the allegations of fact set forth in the Notice were true, through stipulation with respect to admission of the Notice. (Tr. Pages 9, 12)
5. As of the date of the Application, Respondent was employed as a loan officer by OLM Financial Group, Inc.

CONCLUSIONS OF LAW

1. That the conduct of the Respondent established a statutory rationale for denying the Application of the Respondent based on the provisions of Sections 1322.041 and 1322.10 of the Ohio Revised Code.
2. That the documentation presented by the Division established a sufficient and reasonable basis for the Division to deny Respondent's Application for licensing as a loan officer.
3. That the information and documentation available to the Division prior to the hearing established a statutory rationale under Sections 1322.041 and 1322.10 of the Ohio Revised Code for the denial of Respondent's Application, and the record of the Hearing supports that denial.

DISCUSSION

At the Hearing, Respondent and the Division stipulated to the evidence relating to Respondent's criminal record as described in the Notice. (Tr. Pages 9, 12)

Insofar as Respondent's criminal record involves a conviction specifically included in Ohio Revised Code section 1322.041(A)(3), the burden of proof is on the Respondent to prove, by a preponderance of the evidence, that Respondent's activities and employment record since the conviction meet the criteria set forth in that section.

Section 1322.041(A)(5) of the Ohio Revised Code states that the Superintendent shall issue a loan officer license if the Superintendent finds that the applicant's 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 stated provisions of Ohio law.

The Act provides that the Superintendent is charged with regulation and oversight of mortgage brokers and loan officers in the State of Ohio, and part of the Superintendent's consideration in that regard relates to the character and general fitness of the Respondent and the ability of the Respondent to command the confidence of the public as set forth in subsection 1322.041(A)(5) of the Ohio Revised Code. That provision requires that the Superintendent issue a loan officer license if, among things, Respondent's character and general fitness (1) command the confidence of the public and (2) warrant the belief that the business will be operated honestly and fairly in compliance with applicable law. These standards require subjective analysis, and the General Assembly has decided that it is appropriate that the Superintendent undertake a determination, based on industry and regulatory experience, as to whether an applicant's character and fitness enable the applicant to meet the referenced requirements. See *Leon v. Ohio Bd. Of Psychology*, 63 Ohio St. 3d 683, 1992 Ohio 105, 590 N.E. 2d 1223 (1992). See also *Lorain City Bd. Of Edn. v. State Emp. Relations Bd.*, 40 Ohio St. 3d 257, 533 N.E. 2d 264 (1988).

Respondent presented only his own testimony, and certain unsubstantiated purported testimonial letters, in support of the statutory factors considered under Ohio Revised Code sections 1322.041(A)(3) and (A)(5). Respondent's testimony related primarily to the circumstances surrounding his criminal conviction, his military and work history, his medical condition, and his

personal philosophy regarding issues related to the mortgage business. No third-party witnesses were presented at the Hearing to support or corroborate Respondent's position.

Respondent admitted that he failed to disclose the criminal conviction cited in the Notice in response to question 5 of the Application, testifying that he misunderstood the question and that his medication and medical condition "...definitely played a part..." in his incorrect response. (Tr. Pages 43, 44, 57, 58, 59)

Respondent's conviction does not appear to evidence a crime or pattern of criminal behavior which would otherwise give cause for concern that Respondent would be unable overcome the conviction as provided in Ohio Revised Code section 1322.041(A)(3). However, given the lack of objective witnesses and evidence, and the failure to disclose the conviction in the Application, it is difficult to conclude by a preponderance of the evidence that Respondent has met his burden under Ohio Revised Code section 1322.041(A)(3).

Further, the conviction and Respondent's failure to disclose the conviction in the Application calls into question Respondent's character and fitness, and whether Respondent meets the criteria contained in Ohio Revised Code section 1322.041(A)(5). Other than his own testimony, Respondent provided no evidence at the Hearing regarding his character and fitness under Ohio Revised Code section 1322.041(A)(5). Given the lack of objective witnesses and evidence, and the failure to disclose the conviction in the Application, it is likewise difficult to conclude that Respondent has met his burden under Ohio Revised Code section 1322.041(A)(5).

Other than his own testimony, Respondent did not present any other evidence or testimony to explain why he failed to disclose the conviction in response to the referenced question 5 in the Application.

Again, while Respondent's criminal conviction does not appear to evidence a pattern of ongoing criminal behavior, Respondent unfortunately failed to disclose the conviction as required by question 5 in the Application. The relevant provisions of Ohio law do not provide an excuse by mistake, misunderstanding, or misreading of the question at issue, however caused, or require any evidence with respect to intent or knowledge. Therefore, there is support for the Division's assertion that Respondent violated subsections (A), (B), and (C) of Ohio Revised Code Section 1322.07 in failing to disclose the criminal violations.

In light of the limited objective evidence provided by Respondent, and the failure to disclose the conviction as required by the Application, Respondent has failed to provide evidence sufficient to overcome the Superintendent's findings under Ohio Revised Code sections 1322.041 and 1322.07.

RECOMMENDATIONS

For the reasons set forth herein, it is hereby recommended that the referenced Application be denied.

Respectfully submitted,





Jeffery E. Smith, Hearing Examiner



11 June 04

Date

Loan Officer Application
Ohio Mortgage Broker Act
Ohio Revised Code Chapter 1322
Ohio Administrative Code Chapter 1301:8-7
(Print or type using black or blue ink.)

CHECK NO 1702
AMOUNT 100-
DATE 4/10/02
REC. BY 12

1. Company Name: O2M Company Number: 802513
(Mortgage Broker Registrant) (Office Use Only) 008201

2. Loan Officer:

Name: Alex Michael Cordell
First MI Last
Address: 8326 High Ridge Dr Powell Ohio 43065
Residence Address City State Zip

Date of Birth: July 21, 1973 Social Security Number: [REDACTED]

Driver License or State ID Number RR 121411 Issuing State: 3/17/01

Home Telephone Number: (614) 889-823 Fax Number: _____

Has your name ever been legally changed? Yes ☐ No ☒
If yes, attach a certified copy of the name change order(s).

Have you ever used or been known by any other name? Yes ☐ No ☒
If the answer is yes, furnish details.

3. Will you hold any other job (including self-employment) while you are employed as a mortgage loan officer? Yes ☒ No ☐

If the answer is yes, furnish details.

Serving At Columbus Firm Market

4. Have you or has any company for which you have been an officer, or more than 5% owner or director, ever had a license, certificate, approval to conduct business, or otherwise, canceled, suspended, revoked, fined or refused to be renewed by any court or regulatory agency in this state or any other state? Yes ☐ No ☒

If the answer is yes, furnish details.

68:6 NY 01 11/10/02

02/13/02
LOA

EXHIBIT

A

5. Have you or has any company for which you have been an officer, or more than 5% owner or director, ever been convicted of or pleaded guilty to any criminal offense including, but not limited to, theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities?
If the answer is yes, furnish details. Yes ☐ No ☒

6. Have you or has any company for which you have been an officer, or more than 5% owner or director, ever been subject to any adverse judgment for conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty?
If the answer is yes, furnish details. Yes ☐ No ☒

7. Have you filed for personal bankruptcy or have you ever been a director, an officer, or more than 5% shareholder, a partner or a joint venturer in any business enterprise which has been insolvent or filed for protection from its creditors?
If the answer is yes, furnish details. Yes ☐ No ☒

8. The applicant must submit a fingerprint background check as part of the application.
(Please refer to page 6 of this application for instructions on completing the background verification.)

ATTESTATION

State of

Ohio

Ss.

County of

Franklin

Being first duly cautioned, I hereby swear or affirm that I have completed the foregoing Loan Officer Application fully and frankly. The answers are complete and true of my own knowledge.

Alex Cornell
Loan Officer Applicant PRINTED Name

[Signature]
Loan Officer Applicant SIGNATURE

Subscribed and sworn to or affirmed before me this 15th day of March, 2002

Seal or stamp must be affixed to original

Michelle Lee Anderson
Notary Public PRINTED Name

[Signature]
Notary Public SIGNATURE

My Commission Expires 6-21-04

Certificate of Employment

(This form must be completed by the Operations Manager designated under the Mortgage Broker Act, pursuant to R.C. 1322.03.)

In the Matter of the Application of Alex M. Cordell (full legal name)
to apply for a license as a Loan Officer under the Ohio Mortgage Broker Act.

Mortgage Broker Information

Registration Number: MB - 3588

Name of Company: OHM Financial Group, Inc.

Address: 555 Metro Place N. Ste. 650
(Street)

Dublin OH 43017 Franklin
(City) (State) (Zip) (County)

Telephone Number: 614-760-0101 Fax Number: 614-760-0100

Contact Person: Matthew C. Swearingen

ATTESTATION

I CERTIFY that Alex Michael Cordell
(Applicant First Name) (Middle Name) (Last Name)

will be employed by the above listed Mortgage Broker upon issuance of his/her mortgage loan officer license.

State of Ohio
County of Franklin Ss.

Being first duly cautioned, I hereby swear or affirm that I have completed the foregoing Certificate of Employment fully and frankly. The answers are complete and true of my own knowledge.

Subscribed and sworn to or affirmed before me this 4th day of April, 2007.

Matthew C. Swearingen
Operations Manager PRINTED Name

[Signature]
Operations Manager SIGNATURE

Michelle Anderson
Notary Public PRINTED Name

[Signature]
Notary Public SIGNATURE

My Commission Expires 6-21-08

Seal or stamp must be affixed to original.

Loan Officer Application
Ohio Mortgage Broker Act
Ohio Revised Code Chapter 1322
Ohio Administrative Code Chapter 1301:8-7

In the Matter of the Application of

Alex Michael Cordell (full legal name)
to apply for a license as a Loan Officer in compliance with the Ohio Mortgage Broker Act.
Ohio Revised Code Chapter 1322 and Ohio Administrative Code Chapter 1301:8-7.

I hereby make Application for a license as a Loan Officer in Ohio, pursuant to the Ohio Mortgage Broker Act. In conformity therewith, I am submitting the following (check each item being submitted) by mailing those items checked to the Division of Financial Institutions:

- ☐ (1) One original properly executed Certificate of Employment completed by the Mortgage Broker with whom the Applicant is or will be exclusively employed as a loan officer;
- ☐ (2) One original Mortgage Loan Officer License Application, properly executed;
- ☐ (3) A fingerprint identification card or an Applicant will submit to NBCI background check;
- ☐ (4) A nonrefundable application fee in the amount of \$100, by check or money order made payable to the Department of Commerce, Division of Financial Institutions.

I have read the Ohio Mortgage Broker Act, codified in Revised Code Chapter 1322, and the rules relating thereto, found in Ohio Administrative Code Chapter 1301:8-7, which pertain to mortgage brokering in Ohio. I understand that it is a crime to act as a loan officer in Ohio without first having obtained a license from the Superintendent of Financial Institutions for the Department of Commerce. I further understand that submission of my application materials does not authorize me to act as a loan officer; rather, I must first be issued a license by the Superintendent to act as a mortgage loan officer in Ohio.

I also understand that if I am issued a mortgage loan officer license, that license, or the authority granted under that license, is not assignable and cannot be franchised by contract or by any other means. I realize that if I am granted a license, I have ninety days from the date the license is issued to successfully complete an examination approved by the Superintendent. If I fail to do so, my license will automatically terminate.

[Signature]
Signature of Applicant

3/15/02
Date

NATIONAL BACKGROUND CHECK, INC.
REGISTRATION FORM
Applications with the Division of Financial Institutions
PLEASE PRINT

Today's Date 4/2/02 Applicant S. S. # [REDACTED]
Name of Applicant Alex Cornell Home Phone: 889-1823
Home Address 8326 High Ridge Dr Applicant E-mail: _____
City, State, Zip Powell, Ohio 43065

Has Application Been Made to The Division of Financial Institutions? ☐ Yes ☐ No

Name of Company or Employer: QLM Financial Group

Employer Agency File / Registration Number: 802513

Please indicate type of application:

- ☒ Mortgage Broker - Loan Officer License
- ☐ Mortgage Broker Certificate
- ☐ Check Cashier's Loan License
- ☐ Credit Service Organization Certificate
- ☐ Check Cashing Business License
- ☐ Ohio Mortgage Loan Act Certificate
- ☐ Pawnbroker's License

- ☐ Precious Metal Dealer's License
- ☐ Insurance Premium Finance License
- ☐ Small Loan License
- ☐ Bank Charter
- ☐ Credit Union Charter
- ☐ Savings Bank Charter
- ☐ Savings & Loan Charter

RECEIVED
2002 APR - 9 P 1:32
DIVISION OF FINANCIAL
INSTITUTIONS

RESULTS WILL BE FAXED TO:

The Division of Financial Institutions
614/728-0380

PAYMENT: \$34.95 (Please pay NBCI this fee)

CASH _____ M.O. _____ CHECK X
\$25 fee charged for all returned checks.

RELEASE OF BACKGROUND CHECK RESULTS

I hereby certify that I have given National Background Check, Inc., permission to obtain all criminal history information pertaining to me in the files of the Ohio Bureau of Criminal Identification and Investigation (BCI&I) and to release that information to the Division of Financial Institutions.

By placing my fingerprint images on the WEBCHECK Scanner, I am authorizing BCI&I to release criminal history information about me to National Background Check, Inc., and to the Division of Financial Institutions for a period of one year from the date of this transaction. I hereby release BCI&I and any and all individuals connected therewith from all liability in connection with the dissemination of such criminal history information.

Signature: [Signature]

Date: 4/2/02

For Office Use Only

MAILED 1 SITE M Date Prints Taken _____ Date of Deposit _____

NO HIT _____ Authentication # CAK Date Results Sent By _____

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

In the matter of:

ALEX MICHAEL CORDELL
8326 High Ridge Drive
Powell, Ohio 43065

) Case No. 04-0164-LOD

)
) Notice of Intent to Deny Loan Officer License Application
) &
) Notice of Opportunity for a Hearing

JURISDICTION

The Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act, codified in Ohio Revised Code ("R.C.") Chapter 1322. In accordance therewith, the Division is accountable for the licensing of individuals as residential mortgage loan officers.

RESPONDENT

ALEX MICHAEL CORDELL ("Respondent") has applied to the Division for a loan officer license. His address of record is 8326 High Ridge Drive, Powell, Ohio 43065, and his date of birth is July 21, 1973. Respondent's employer of record is Apex Mortgage, 2550 Corporate Exchange, Columbus, Ohio 43231.

NOTICE OF PROPOSED ACTION

In accordance with sections 1322.041 and 1322.10 of the R.C., and R.C. Chapter 119, the Division intends to DENY Respondent's loan officer license application.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.031(B), and has found the following:

1. In or around 1997, in the Upper Arlington Mayor's Court, Franklin County, Ohio, Respondent was convicted of PASSING BAD CHECKS, a misdemeanor of the first degree.
2. On or around March 15, 2002, Respondent attested in a sworn statement that information he provided on a licensing application was truthful, knowing that the information he provided was false.
3. On or around April 10, 2002, Respondent provided untruthful information to the state of Ohio, Department of Commerce, Division of Financial Institutions.

As a result of the findings listed above, the Division has determined that:

- I. Respondent has not proven that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he will not commit another criminal offense involving passing bad checks or any criminal offense involving money or securities. See R.C. sections 1322.031(A)(2) and 1322.041(A)(3).
- II. 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).

EXHIBIT

B

- III. Respondent violated R.C. 1322.07(A), which prohibits a loan officer applicant from "mak[ing] any substantial misrepresentation in any registration or license application[.]"
- IV. Respondent violated R.C. 1322.07(B), which prohibits a loan officer applicant from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statement required by state law[.]"
- V. Respondent violated R.C. 1322.07(C), which prohibits a loan officer applicant from "[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings."

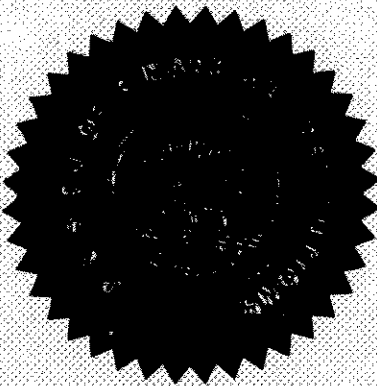
NOTICE OF OPPORTUNITY FOR A HEARING ON PROPOSED ACTION

Therefore, pursuant to R.C. Chapters 1322 and 119, Respondent is hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to issue an order denying Respondent a loan officer license under the Ohio Mortgage Broker Act.

Respondent is further notified, pursuant to R.C. Chapter 119, that Respondent is entitled to a hearing on this matter. If Respondent desires to request a hearing, the request must be made in writing, and must be received in the offices of the Ohio Division of Financial Institutions within thirty (30) days of the time of the mailing of this Notice. Hearing requests should be addressed: Ohio Division of Financial Institutions, Attn: Mark L. Rhea, Consumer Finance Staff Attorney, 77 South High Street, 21st Floor, Columbus, Ohio 43215-6120.

At the hearing, Respondent may appear in person, by Respondent's attorney, or by such other representative as is permitted to practice before the Agency, or Respondent may present its position, arguments, or contentions in writing, and, at the hearing, may present evidence and examine witnesses appearing for and against Respondent.

If the Ohio Division of Financial Institutions does not receive a written request for a hearing in its offices within thirty (30) days of the time of the mailing of this Notice, the Superintendent will issue an order denying Respondent a loan officer license.



Signed and sealed this 22nd day of January, 2004.

ROBERT M. GRIESER
Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce



Ohio Department of Commerce

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

Bob Taft
Governor

Lt. Governor Jennette Bradley
Director

January 22, 2004

Loan Officer License Application Denial

Dear Applicant:

The Division intends to deny your loan officer license application. You will find the reason(s) for the denial detailed in the enclosed public notice, which also explains that you have a right to a hearing on the matter if properly requested.

If you wish to request a hearing, the request must be made in writing and the written request must be received in the offices of the Ohio Division of Financial Institutions within thirty (30) days of the date of the mailing of this notice. If you fail to request a hearing within this statutory time period, the Division will issue an order denying your application.

To request a hearing, fill out the enclosed HEARING REQUEST FORM and MAIL your request to: Ohio Division of Financial Institutions, Consumer Finance Legal Section, 77 South High Street, 21st Floor, Columbus, OH 43215-6120. All hearings will be held in Columbus, Ohio.

Remember, if you wish to contest the Division's decision to deny your loan officer license application, the Division must RECEIVE the enclosed HEARING REQUEST FORM no later than February 23, 2004. FAXED REQUESTS WILL NOT BE ACCEPTED.

Respectfully,


Amanda M. Axtell
Consumer Finance Counsel
Division of Financial Institutions

Enclosures

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Alex Michael Cordell
116 East Tompkins Street
Columbus, OH 43202

2. Article Numb
(Transfer from)

7002 2030 0002 6800 6136

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERYA. Signature *[Signature]* ☐ Agent
☐ AddresseeB. Received by (Printed Name) *[Signature]* C. Date of DeliveryD. Is delivery address different from item 1? ☐ Yes
If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail ☐ Express Mail
☐ Registered ☐ Return Receipt for Merchandise
☐ Insured Mail ☐ C.O.D.4. Restricted Delivery? (Extra Fee) ☐ Yes

UNITED STATES POSTAL SERVICE



First-Class Mail
Postage & Fees Paid
USPS
Permit No. G-10

RECEIVED
DIVISION OF FINANCIAL
INSTITUTIONS
04 FEB -9 PM 12:38

• Sender: Please print your name, address, and ZIP+4 in this box •

Iris Eubank, Administrative Assistant
Ohio Division of Financial Institutions
77 South High Street, 21st Floor
Columbus, Ohio 43215-6120

NID 2nd Attempt 2-6-64