

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

In the matter of:)	Case No. M2009-640
)	
GARY C. LIVENGOD)	Notice of Intent to Refuse Loan Officer License Renewal
160 Elm Street)	&
Ravenna, OH 44266)	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, and the rules adopted thereunder. In accordance therewith, the Division is accountable for the licensing of individuals as residential mortgage loan officers.

RESPONDENT

GARY C. LIVENGOD ("Respondent") is an individual who holds a loan officer license (LO.032750) issued pursuant to R.C. Chapter 1322. Respondent has applied to renew his loan officer license. His address of record is 160 Elm Street, Ravenna, Ohio 44266, and his date of birth is June 6, 1974. Respondent's employer of record is Mortgatopia, LLC d/b/a Amerifirst Mortgage, 555 Metro Place North, Suite 175, Dublin, Ohio 43017. Respondent's license application remains pending.

NOTICE OF PROPOSED ACTION

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

BASIS FOR PROPOSED ACTION

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

- 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 or applicant has violated or failed "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) as effective in April 2009, provided that a loan officer license shall be renewed if the applicant meets the conditions of R.C. 1322.041(A)(2) to (6).
- C. R.C. 1322.041(A)(6) as effective in April 2009, provided that a loan officer license shall be issued if 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 the purposes of sections 1322.01 to 1322.12 of the revised code.

- D. R.C. 1322.07(A) prohibits an applicant from obtaining a “license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application.”
- E. On or around February 6, 2009, in the Portage County Common Pleas Court, Respondent entered a Written Plea of Guilty to indictment count one violation of R.C. 2919.21 non-support of dependents, a felony of the fifth degree.
- F. On or about February 6, 2009, the Portage County Common Pleas Court accepted Respondent’s written plea of guilty and convicted Respondent of felony non-support of dependents.
- G. On or about April 16, 2009, the Portage County Common Pleas Court sentenced Respondent for felony non-support of dependents.
- H. On or about April 30, 2009, Respondent submitted an application to renew his loan officer license pursuant to R.C. Chapter 1322. Respondent’s application remains pending.
- I. The 2009 loan officer renewal application asked “During the past twenty-four months: 2. Have you ever been convicted of or pled guilty or nolo contendere to, or been convicted in any federal, state or military court, of a misdemeanor or criminal offense?” Respondent answered “No,” thus making a false or fraudulent representation of a material fact or an omission of a material fact required by state law, or making a substantial misrepresentation in a license application in violation of R.C. 1322.07(A).
- J. The 2009 loan officer renewal application asked “During the past twenty-four months: 6. Have you been subject to any federal, state or military criminal or administrative investigation or order? Please include pending or ongoing investigations.” Respondent answered “No,” thus making a false or fraudulent representation of a material fact or an omission of a material fact required by state law, or making a substantial misrepresentation in a license application in violation of R.C. 1322.07(A).

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

- 1. Respondent pleaded guilty to and was convicted of a felony in 2009.
- 2. Respondent failed to disclose his guilty plea and conviction to a felony on his 2009 renewal application.
- 3. Respondent made a false or fraudulent representation of a material fact or an omission of a material fact required by state law, or made a substantial misrepresentation in a license application in violation of R.C. 1322.07(A).
- 4. Because Respondent failed to comply with R.C. 1322.07(A), the Division is authorized to refuse issuance of a loan officer license to Respondent pursuant to R.C. 1322.10(A)(1(a)).
- 5. Because Respondent provided false information on his loan officer application, Respondent lacks 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 sections 1322.01 to 1322.12 of the revised code.

6. Because Respondent lacks the character and fitness required by R.C. 1322.041(A)(6), the Division is authorized to refuse issuance of a loan officer license pursuant to R.C. 1322.041(B) and 1322.10(A)(1)(a).

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 refusing to renew Respondent's loan officer license.

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: Lori A. Massey, Consumer Finance 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 refusing to renew Respondent's loan officer license.

Signed and sealed this 12th day of April, 2010.

LEIGH A. WILLIS

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