

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

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DIVISION OF FINANCIAL
INSTITUTIONS

05 MAY 17 PM 12:45

REPORT AND RECOMMENDATION OF HEARING OFFICER

IN THE MATTER OF Andrew A. Conroy

Ohio Department of Commerce, Division of Financial Institutions
Case Number: 04-0397-LOD

FINDINGS OF FACT

1. On or about February 20, 2004, Andrew A. Conroy ("Respondent" herein) submitted an application to the Ohio Department of Commerce, Division of Financial Institutions (the "Division"), for licensing as a loan officer pursuant to Chapter 1322 of the Ohio Revised Code (the "Application"). A copy of the Application is attached and incorporated as Exhibit A herein.
2. On or about August 25, 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 Chapter 1322 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 February 28, 2004. At the Hearing, the Division was represented by Assistant Attorney General Emily Smith, Esq., Mark Rhea, Division Consumer Finance Staff Attorney, was also present on behalf of the Division. Respondent failed to appear at the Hearing.

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 1322.031, 1322.041, 1322.07, 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 1322.031, 1322.041, 1322.07, 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

According to testimony provided by the Division, Respondent failed to disclose certain information relating to Respondent's criminal history as required by the Application (Tr. Pages 8, 9, 14, 15)

Based on the failure to disclose the criminal history, and based on the criminal history itself, the Division contended that Respondent fails to meet the criteria contained in Chapter 1322 of the Ohio Revised Code pertaining to requirements for licensing as a loan officer in the State of Ohio. (Tr. Pages 14, 15)

Section 1322.041(A)(5) of the Ohio Revised Code states that the Superintendent of the Division (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).

At the Hearing, the Division presented its evidence, including copies of the Application, the Notice, the Request for Hearing, and notice of the time and date of the Hearing. The Division also provided the testimony of Mr. Rhea regarding the Application and the files of the Division.

Respondent failed to appear at the Hearing. Nothing in the record indicated that Respondent sought or received an extension or continuance of the Hearing, or notified the Division that Respondent would not be present. Respondent therefore presented no evidence or testimony at the Hearing to contradict or to refute the Superintendent's findings under Ohio Revised Code sections 1322.031, 1322.041, 1322.07 and 1322.10.

In light of the lack of appearance by the Respondent, Respondent has failed to provide evidence sufficient to overcome the Superintendent's determinations under the referenced sections of Chapter 1322 of the Ohio Revised Code.

RECOMMENDATIONS

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

Respectfully submitted,



Jeffery E. Smith, Hearing Examiner

10 May 05
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 10702
AMOUNT \$100.-
DATE 2/20/04
REC. BY [Signature]

Check #700.-

80044

LO 20038

1. Company Name: 1. Portland Finance Company Number: _____
(Mortgage Broker Registrant) (Office Use Only)

2. Loan Officer:

Name: Andrew A Conroy
First MI Last

Address: 109 Cushing Ave. Rattening OH 45429
Residence Address City State Zip

Date of Birth: 5-6-76 Social Security Number: [REDACTED]

Driver License or State ID Number RR 344639 Issuing State: OH

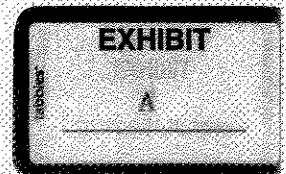
Home Telephone Number: (937) 396-0690 Fax Number: Same

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.

4. Have you or has any company for which you have been an officer, or more than 5% owner or director, ever had any type of approval to conduct business (such as a license or certificate of authority) revoked, suspended, or refused to be renewed or been fined by any regulatory agency? Include any authority granted by any state or federal regulatory agency. Yes ☐ No ☒
If the answer is yes, furnish details.



Bob Taft
Governor

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

Lt. Governor Jennette Bradley
Director

In the matter of:)	Case No. 04-0397-LOD
)	
ANDREW A. CONROY)	Notice of Intent to Deny Loan Officer License Application
109 Cushing Avenue)	&
Kettering, Ohio 45429)	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

ANDREW A. CONROY ("Respondent") has applied to the Division for a loan officer license. His address of record is 109 Cushing Avenue, Kettering, Ohio 45429, and his date of birth is May 6, 1976. Respondent's employer of record is Heartland Home Finance, 7123 Pearl Road, Suite 303, Middleburg Heights, Ohio 44130.

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:

- A. In or around 1997, in the Court of Common Pleas, Cuyahoga County, Ohio, Respondent was convicted of AGGRAVATED ASSAULT, a felony of the fourth degree.
- B. On or around February 16, 2004, Respondent attested in a sworn statement that information he provided about his criminal background on his loan officer license application he submitted to the Division was complete and truthful when it was not.
- C. On or around February 20, 2004, in an attempt to obtain a loan officer license, Respondent provided untruthful information about his criminal background to the Division.

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

- 1. Respondent's action, as listed above in Paragraph A, shows his 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).
- 2. Respondent's action, as listed above in Paragraph B, shows his 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).

3. Respondent's action, as listed above in Paragraph C, shows his 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).
4. Respondent's action listed in Paragraph B violated R.C. 1322.07(A), which prohibits a loan officer applicant from "mak[ing] any substantial misrepresentation in any registration or license application[.]"
5. Respondent's action listed in Paragraph C violated R.C. 1322.07(A), which prohibits a loan officer applicant from "mak[ing] any substantial misrepresentation in any registration or license application[.]"
6. Respondent's action listed in Paragraph B 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[.]"
7. Respondent's action listed in Paragraph C 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[.]"
8. Respondent's action listed in Paragraph B violated R.C. 1322.07(C), which prohibits a loan officer applicant from "[e]ngage[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings."
9. Respondent's action listed in Paragraph C violated R.C. 1322.07(C), which prohibits a loan officer applicant from "[e]ngage[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 25th day of August, 2004.



ROBERT M. GRIESER

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

Certified Mail No. 7002 2030 0002 6802 6868