

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

In the matter of:)	Case No. 04-0198-LOD
)	
FREDRICK E. POOCK)	<u>DIVISION ORDER</u>
544 Compton Road)	Denial of loan officer license application
Wyoming, Ohio 45231)	&
)	Notice of Appellate Rights

Respondent, Fredrick E. Poock, submitted a loan officer license application to the Division of Financial Institutions ("Division") on March 26, 2002. On January 22, 2004, the Division notified Poock that it intended to deny his loan officer license application because: (1) in 1995 he was convicted of menacing; (2) in 1995 he was convicted of attempted possession of criminal tools and aggravated menacing; (3) he violated R.C. § 1322.07(A) by failing to fully disclose his criminal convictions on his loan officer license application; (4) he violated R.C. § 1322.07(B) by making a false statement of a material fact or by omitting a statement required on the licensing application and to the Division; (5) he violated R.C. § 1322.07(C) by engaging in conduct that constitutes improper, fraudulent, or dishonest dealings; and (6) because his character and general fitness do not command the confidence of the public and warrant the belief that his business will be operated honestly and fairly in compliance with the purposes of R.C. §§ 1322.01 to 1322.12—the Ohio Mortgage Broker Act.

Poock requested a hearing and an administrative hearing was held on May 25, 2004. A Report and Recommendation was filed with the Division on August 4, 2004, recommending that the Division approve Poock's application and grant him a loan officer license. No objections were filed.

In accordance with R.C. § 119.09, the Division has considered the record, consisting of the Report and Recommendation, the transcript of testimony and the exhibits, as well as all applicable laws. 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. (The Hearing Examiner's Report and Recommendation is attached hereto as Exhibit A.)

The Division disapproves paragraph 19 on page 7-8.

Criminal convictions standing on their own can establish that Respondent's character and 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. A criminal conviction proves that an individual cannot conform to the mandates of the law. Additionally, respondent provided false information concerning these convictions to the Division in response to a direct question. Even if the Division accepts the explanation that Poock misunderstood question 5 on the loan officer license application, the wording of question 5 is clear. On a daily basis loan originators deal with consumers' personal financial information and counsel them on what is most often their largest financial investment. Being able to comprehend and evaluate complicated mortgage documents is a vital part of the job. By not being able to understand a direct question on a licensing application, respondent has demonstrated that he does not hold the necessary fitness to be a loan officer. Additionally, the mere fact that respondent holds other state licenses does not impact the Division's independent determination of his loan officer application.

The Division disapproves paragraph 20 on page 8.

In its Notice of Intent to Deny a Loan Officer License, the Division never alleged that Respondent "intentionally presented false information" to the Division. In fact, sections 1322.07 (A), (B), and (C) do not require that a finding of intent. This lack of a requisite intent becomes more evident when sections 1322.07(D) and (E) both use the term "knowingly." Intent is part of 1322.07, but only when addressing violations of sections 1322.07(D) and (E), not sections 1322.07(A), (B), and (C). Respondent's application indicates that he answered "no" to Question 5. (See Exhibit 1.) Respondent was convicted of a crime. (See Exhibit 5, Transcript pp. 9-10, 13-15, 29-33.) This proves that the applicant violated R.C. §§ 1322.07(A), (B), and (C). The Division does not need to prove intent.

The Division disapproves paragraph 21 and the recommendation on page 8.

The Division met its burden to show that the Respondent's character and 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 Ohio Mortgage Broker Act. Respondent violated R.C. §§ 1322.07(A)-(C) by failing to disclose his criminal convictions. (See Exhibits 1 and 5). Therefore, respondent's loan officer license should be denied.

In accordance with the foregoing, the Division concludes that Fredrick E. Poock's loan officer license application should be denied.

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 must, 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 17th day of November 2005.

ROBERT M. GRIESER

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