

Bob Taft
Governor

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

Doug White
Director

In the matter of:

CHARLES A. YURCH
82 Landings Way
Avon Lake, OH 44012

) Case No. 04-0101-LOR
)
) **DIVISION ORDER**
)
) **Revocation of Loan Officer License**
)

Pursuant to R.C. 1322.10(B), the Division of Financial Institutions ("Division") conducted an investigation into the affairs of Respondent, Charles A. Yurch, a loan officer licensed with the Division. On April 8, 2004, the Division notified Mr. Yurch that it intended to revoke his loan officer license and fine him because he knowingly made fraudulent, false, or misleading statements on a document related to a mortgage, violating R.C. 1322.07(E) and because he engaged in conduct that constitutes improper, fraudulent, or dishonest dealings in violation of R.C. 1322.07(C). These violations occurred when Mr. Yurch signed a Verification of Employment document for Beth Negray's mortgage application, stating that Beth Negray was working for CMS Home Loans, Ltd. when she was not.

Mr. Yurch requested a hearing and an administrative hearing was held on August 4, 2004. A Report and Recommendation was filed with the Division on February 2, 2005 finding Mr. Yurch violated R.C. 1322.07(C) and R.C. 1322.07(E). The hearing officer recommended that the Division permit Mr. Yurch to maintain his license but recommended that the Division impose a fine in the sum of \$1,000.00. 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 exhibits, as well as all applicable laws. As a result, the Division makes the following findings and conclusions. 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 Report and Recommendation is modified or disapproved as follows. Throughout the Report and Recommendation, the name of Mr. Yurch's business is inaccurately referred to as "CMH." The name of the business is CMS Home Loans, Ltd. Accordingly, the report is hereby amended to reflect the accurate name of Mr. Yurch's mortgage brokerage company.

In paragraphs 2 and 7, the Hearing Officer erroneously writes that Mr. Ron Schnauffer is the owner of "First Nations" mortgage. Mr. Ron Schnauffer is the owner of Family Home Mortgage Corporation (Exhibit F). The report is hereby modified to reflect the proper name of the company.

The first sentence of paragraph 9 of the hearing officer's Report and Recommendation is modified to omit the word "essentially" to state: "At the hearing, Mr. Yurch admitted the underlying facts of the case against him." During the hearing, Mr. Yurch acknowledged that on August 6, 2002 he signed an employment verification document relating to the mortgage application of Beth Negray, representing that Beth Negray was the Operations Manager of CMS Home Loans Ltd. from June 7, 2002 through August 6, 2002 with an annual salary of \$80,000. (Transcript p. 16). He testified that when he signed the verification, he knew what he was signing. (Transcript, p. 18). He testified that he was aware that the verification was false, that Ms. Negray was not employed by CMS Home Loans, Ltd. during the period of June 7, 2002 through August 6, 2002. (Transcript p.17). Further, Mr. Yurch testified that he signed the verification of employment with intent to deceive and to be dishonest. (Transcript, p. 44).

Paragraph 9 of the Report and Recommendation generally describes the underlying facts of the case. In order to demonstrate Ms. Negray was not working for CMS during the time the verification stated she was, the Report and Recommendation cites to Exhibit D, Ms. Negray's Schedule 18, filed with the Division to qualify herself as Operations Manager of First Nations. The Schedule 18 indicates Ms. Negray was working for First Nations in June 2002. The Report and Recommendation seems to suggest that all the evidence in the record indicates Ms. Negray worked for First Nations in June 2002. However, state's Exhibit F, Beth Negray's "Schedule A" filed with the Division for the purpose of becoming Operations Manager of CMS, indicates that she commenced employment with First Nations in August 2002, but fails to list an employer for the month of July. Paragraph 9 is modified to include Exhibit F, which indicates that Ms. Negray commenced employment with First Nations in August 2002 and fails to list an employer for the month of July 2002.

Paragraph 13 of the Report and Recommendation, which states in part that Mr. Yurch's company has undergone two comprehensive audits without issue, is disapproved because there was no testimony or other evidence in the record to support a characterization of the audit as "comprehensive." Further, Mr. Yurch did not testify the results of the audit found no issues. He testified that he considered the issues found to be "minor things." (Tr. p. 41)

The Division disapproves the first sentence of Paragraph 19. Employment Verifications are made in the ordinary course of business for a mortgage broker business owner. The record reflects

that Mr. Yurch was the owner of CMS Home Loans Ltd. when he made the false statements on the employment verification.

The Division disapproves paragraph 31. Employment verifications that are used to qualify applicants for residential mortgage loans are mortgage related documents that are integral to the business of mortgage brokering. Further, although the Division only presented evidence to address the Notice, no evidence was presented by either party to prove that “Yurch has no previous violations.”

The Division disapproves paragraphs 3, 11, 21, and 25 to the extent that the hearing officer writes that “Mr. Yurch represented to a lender that Ms. Negray served as CM[S]’s operations manager several months before this was the case” (Paragraph 3), “prematurely represent” (Paragraph 11), “improperly premature” (Paragraph 21), and “misrepresentation had some basis in fact” (Paragraph 25). Such characterizations suggest that because Ms. Negray ultimately became Operations Manager of CMS Home Loans, Ltd., Mr. Yurch’s false statements on the mortgage documents were not a serious violation.

In paragraph 27 the hearing officer found that Mr. Yurch violated R.C. 1322(C) and (E). The correct citations, referred to by the hearing officer in paragraphs 18 and 22, are 1322.07(C) and 1322.07(E). Paragraph 27 is hereby amended to correct the typographical error to reflect the proper citations.

Paragraphs 7, 10, 12, 20-21, 24-25, 26, 29, 32 are disapproved for the reasons stated herein:

The record reflects that Mr. Yurch knowingly made a false statement on a document related to a mortgage when he signed an employment verification containing false information. Mr. Yurch knew the purpose of the verification form was to qualify an applicant for a mortgage. (Tr. 17, 18). Knowingly making a false statement on a document related to a mortgage is a violation of division (E) of section 1322.07 of the Revised Code. Such conduct also violates division (C) of section 1322.07 of the Revised Code which prohibits a registrant or licensee from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings. At the hearing, Mr. Yurch presented his own testimony, the testimony of William Swanner, Mark Lundy, and Ronald Cherni, as well as affidavits of two individuals, attempting to show that despite his wrongdoing he was of good character. The fact that the loan applicant happened to be Mr. Yurch’s girlfriend, who later became his wife, or that sometime after Mr. Yurch made the false statement he hired his girlfriend as his company’s operations manager, do not lessen the egregious nature of his conduct. The Ohio General Assembly has declared that a violation of R.C. 1322.07(E) warrants not only administrative

penalties, but also one of the most severe criminal sanctions imposed under the Ohio Mortgage Broker Act. (See R.C. 1322.07(E), R.C. 1322.99(A))

In accordance with the foregoing, the Division concludes that the loan officer license of Charles Yurch should be revoked and that Charles Yurch should be fined in the sum of \$1,000. Pursuant to R.C. 1322.10(A)(2), such fine shall be made payable to the treasurer of state to the credit of the consumer finance fund created in compliance with R.C. 1321.21.

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 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 Respondent is located, or in 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 24th day of June, 2005.

Robert M. Grieser

ROBERT M. GRIESER

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