

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

In the matter of:)	Case No. 04-0390-LOD
)	
JESSE D. BANKS)	<u>DIVISION ORDER</u>
18095 Blandford)	Denial of Loan Officer License Application
Cleveland, Ohio 44121)	&
)	Notice of Appellate Rights

Respondent, Jesse D. Banks, submitted a loan officer license application (“Application”) to the Division of Financial Institutions (“Division”) on July 10, 2003. On August 25, 2004, the Division notified Banks that it intended to deny his Application because: (1) in 1996 he was convicted of failure to comply with an order or signal of a police officer; (2) in 2002 he was convicted of carrying a concealed weapon; (3) in 2003 he pleaded guilty to two charges of trafficking in drugs, a charge of possession of drugs and a charge of possession of criminal tools and he had 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 drug trafficking or any criminal offense involving money or securities; (4) he violated R.C. 1322.07(A) by failing to disclose his convictions on his loan officer license application; (5) he violated R.C. 1322.07(B) by making a false statement of a material fact or by omitting a statement required by state law on the licensing application; (6) he violated R.C. 1322.07(C), which prohibits an applicant from engaging in improper or dishonest conduct; and (7) because his character and general fitness did 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.

Banks requested an administrative hearing which was held on October 14, 2004. A Report and Recommendation (“Report”) was filed with the Division on July 26, 2005, recommending that the Division grant Respondent’s application. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, 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).

The Division disapproves paragraph 7 on page 5 of the Report and Recommendation.

The age of a person when they commit an offense is not a decisive factor in the Division’s determination of their character and general fitness. Not only was Banks twenty-one when he was convicted in 1996, he was convicted of a crime in 2002, only one year prior to applying for a loan officer license. Additionally, Banks did not disclose his convictions in response to a direct question on the loan officer license application. By not disclosing his convictions he demonstrates an inclination towards dishonesty, which reflects negatively on his character and general fitness.

The Division disapproves paragraphs 10 and 13 on page 6 of the Report and Recommendation.

Respondent’s intent when completing his loan officer license application is irrelevant to the Division’s determination.¹ Respondent’s failure to accurately and honestly answer a direct question in the Application evidences a lack of the requisite fitness required of a loan officer. 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

¹ R.C. 1322.07 (E) and (F) contain language of intent by using the term “knowingly,” whereas, R.C. 1322.07 (A), (B), and (C) do not.

evaluate complicated mortgage documents is a vital part of the job. By carelessly, and thereby inaccurately, answering a straightforward question on the Application, Respondent has demonstrated to the Division that he does not hold the requisite fitness needed to be a loan officer. Respondent testified regarding the wording of question 5, “I understood pretty much its entirety, but I was not paying attention to the detailed wording, I guess, which I should have been...I didn’t take enough time and pay attention to the detail in this question...” (Transcript pgs. 33-4). When further questioned he elaborated that he “...just looked through it and didn’t pay attention to it...” (Transcript pg. 52). The Division has a responsibility to the public to be diligent in its oversight, and this responsibility demands that carelessly completing the Application and falsely answering a question about one’s criminal background be taken seriously. Additionally, Respondent attested to the accuracy and completeness of an application to which he did not pay “attention”.

The Division disapproves paragraph 12 on page 6 of the Report and Recommendation.

Paragraphs D and E of the Division’s Notice of Intent to Deny Banks’ loan officer license application may be used independently. Paragraph D refers to the date that Banks signed and attested to the accuracy of his answers and information contained in his application. Paragraph E refers to the date that Banks actually submitted his application to the Division. These are two distinct acts and thus two distinct violations of the Ohio Mortgage Broker Act.

The Division disapproves C. DISCUSSION and the Recommendation found on pages 6 and 7 of the Report and Recommendation.

Three of the four factors discussed at the beginning of the DISCUSSION section do not effect the Division’s determination of Bank’s character and fitness. While the Division will not dispute the conclusion that Respondent’s demeanor during the hearing conveyed truthfulness, as discussed above, Respondent’s conduct demonstrates an inclination towards sloppy work and dishonesty.

The other three factors discussed include: the fact that Respondent pleaded guilty to drug charges which were dismissed after successful completion of an intervention in lieu of conviction program; that Respondent's other two convictions were misdemeanors; and Respondent's relative youth and basic attempt to comply with the law. The fact that his crimes had not escalated to felonies and that he broke the law when he was younger do not weigh in Banks' favor. While it may help that he never ventured into more serious crimes, misdemeanor offenses are still criminal convictions which were required to be disclosed on the loan officer application. The convictions were not disclosed and this act of dishonesty is what most concerns the Division. Respondent did not take the care which a state licensing application demands. This demonstrates that Banks does not hold the requisite general fitness to become a loan officer and deal with many complex documents that demand attention to detail.

For the reasons stated above, the Division hereby denies the loan officer license application of Jesse D. Banks.

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, 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 10th day of October 2006.

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