

Ted Strickland  
Governor

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

Kimberly A. Zurz  
Director

In the matter of:	)	Case No. M2009-1149
	)	
<b>JEREMIAH A. DENTON</b>	)	<b><u>DIVISION ORDER</u></b>
115 Paddle Wheel Drive	)	<b>Refusal to Issue Loan Officer License</b>
New Richmond, OH 45157	)	<b>&amp;</b>
	)	<b>Notice of Appellate Rights</b>
	)	

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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, as codified in Ohio Revised Code ("R.C.") Chapter 1322, and finds that this Order is necessary and appropriate, in the interest of the public, and is consistent with the purposes of the Ohio Mortgage Broker Act.

On March 16, 2010, the Division of Financial Institutions issued notice to Jeremiah A. Denton ("Respondent") that the Division intended to refuse to issue him a loan officer license and that set forth the following allegations and findings:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to issue a loan officer license if the Division finds that the applicant has violated "or failed to comply with any provisions 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 under a certificate of registration or license."
- B. The version of R.C. 1322.041(A)(3) in effect at the time Respondent submitted his application required the Division to issue a license if, among the requirements, the applicant had not been convicted or pleaded guilty to theft.
- C. In or around 2001, in the Hamilton Municipal Court, located in the City of Hamilton, Butler County, Ohio, Respondent was convicted of theft, a misdemeanor of the first degree.
- 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 about November 27, 2007, in Case No. M2007-66, the Division issued an Order denying Respondent's 2006 loan officer license application.
- F. On or about September 14, 2009, Respondent submitted an application for a loan officer license pursuant to R.C. Chapter 1322.
- G. Loan officer application Question Number Eight (8) asked "Have you ever had any type of approval or application to conduct business (such as a license or certificate or authority) denied, revoked, suspended, or refused to be renewed; or have you ever been fined by any state or federal regulatory authority or court in relation to any claim of misconduct in a business transaction?" Respondent answered "Yes," and disclosed that his loan officer license application was denied in 2002. However, Respondent failed to disclose the November 27, 2007 denial of his 2006 loan officer license application. Therefore, Respondent made 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's actions, as listed above, show Respondent's 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)(6).
- 2. Because Respondent was convicted of theft in 2001, the Division has the authority under the version of R.C. 1322.041(A)(3) in effect at the time he submitted his application to refuse to issue Respondent a loan officer license.
- 3. Because Respondent failed to comply with R.C. 1322.07(A), the Division has the authority to refuse to issue Respondent a loan officer license.
- 4. Because Respondent was convicted of theft and violated R.C. 1322.07(A), pursuant to R.C. 1322.10(A)(1)(a) the Division has authority to refuse to issue Respondent a loan officer license.

The Notice also informed Respondent that he had thirty (30) days to request an adjudicatory hearing pursuant to R.C. Chapter 119 regarding the Division's allegations set forth in the Notice.

Respondent requested an administrative hearing, which was scheduled for June 8, 2010. Respondent appeared at the June 8, 2010 hearing and was represented by counsel. The hearing officer's report and recommendation (the "Report and Recommendation") was filed with the Division on July 1, 2010 (a copy is attached). The Report and Recommendation found that the Respondent failed to establish the licensing conditions as set forth in R.C. 1322.041(A)(3) in

effect at the time Respondent filed his 2009 application but recommended the Division permit Respondent to withdraw his 2009 application and be permitted to re-apply under R.C. 1322.031 and 1322.041 as amended.

Pursuant to R.C. 119.09, the Division may approve, modify, or disapprove the recommendation of a hearing officer based upon the report, recommendation, transcript of testimony and evidence, or objections of the parties and any additional testimony and evidence permitted. In accordance therewith, the Division has considered the record, consisting of the Report and Recommendation, the transcript of testimony and exhibits, as well as all applicable laws. Any finding and/or conclusion not specifically addressed in the attached Memorandum in Support is approved, adopted and incorporated herein.

For the reasons provided herein and in the attached Memorandum in Support, the Division modifies the Report and Recommendation. The Division has weighed the evidence and hereby REFUSES to issue a loan officer license to Respondent Jeremiah A. Denton.

IT IS SO ORDERED.

#### **NOTICE OF APPELLATE RIGHTS**

Respondent is hereby notified that pursuant to R.C. 119.12, this Division Order may be appealed by filing a notice of appeal with the Division setting forth the Order that Respondent is appealing from and stating that the Division's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may also include, but is not required to include, the specific grounds for the appeal. The notice of appeal must also be filed with the appropriate court of common pleas in accordance with R.C. 119.12. In filing the notice of appeal with the Division or court, the notice that is filed may be either the original notice or a copy of the original notice. A notice of appeal must be filed within fifteen (15) days after the date of mailing of this Division Order.

Signed and sealed this 22<sup>nd</sup> day of September, 2010.

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**LEIGH A. WILLIS**  
Deputy Superintendent for Consumer Finance  
Division of Financial Institutions  
Ohio Department of Commerce

**STATE OF OHIO  
DEPARTMENT OF COMMERCE  
DIVISION OF FINANCIAL INSTITUTIONS**

**Memorandum in Support of the Division Order  
To Refuse the Loan Officer/Originator License Application of Jeremiah A. Denton**

**Case No. M2009-1149**

The Ohio Department of Commerce, Division of Financial Institutions (the "Division") hereby approves all of the Findings of Fact and Conclusions of Law set forth in the Administrative Hearing Officer's Report and Recommendation (the "Report and Recommendation") issued July 1, 2010, except as set forth below.

**I. Findings of Fact**

Based on a review of the transcript and the exhibits admitted into the record, the Division hereby disapproves Paragraph 54 and modifies Paragraphs 18, 23, 26, 30 and 51.

Paragraph 54 found that Respondent had a good reputation in his community and in his business. However, the evidence derived in this matter when taken as a whole does not support the finding of Paragraph 54. Therefore, the Division disapproves Paragraph 54.

The Division hereby modifies Paragraphs 18, 23, 26, 30 and 51 of the Findings of Fact which should read as follows:

18. On December 4, 2001, the Hamilton Municipal Court entered a decision related to the theft charge case against Respondent. Respondent was not represented by legal counsel at the court hearing. He claimed he did not understand the severity of the charge against him and the ultimate impact on his future employment. The Respondent entered a plea of no contest and the court found him guilty of R.C. §2913.02, theft, a misdemeanor offense instead of the fifth degree felony R.C. §2913.72 theft of rental property offense originally charged against Respondent. The court ordered Respondent to pay fines and court costs of \$308.00 and sentenced him to 6 months in jail but suspended the sentence ("2001 conviction").

The modification is necessary because Finding of Fact Paragraph 18 failed to acknowledge that Respondent entered a plea at the court hearing and that his charge was reduced from a fifth degree felony charge, as Finding of Fact Paragraph 14 states, to a misdemeanor charge. In addition the December 4, 2001 judgment entry only states Respondent was charged with and convicted of theft and not specifically "petty" theft.

23. On December 27, 2006, Respondent submitted a second loan officer license application to the Division ("*2006 application*"). Following a hearing on the 2006 application, the Division denied respondent's 2006 application on the basis that Respondent had not produced sufficient evidence to demonstrate that he possessed the character and fitness for licensure as a loan officer in Ohio. Because he was too busy closing loans in other states, Respondent did not attend that hearing. *State's Exhibit 7*.

The modification is necessary because it clarifies that Respondent was closing loans in other states that did not require licensing of loan officers. Because Respondent was too busy closing those loans, he did not attend a hearing that sought to determine if he had sufficient character and fitness to be issued a loan officer license in Ohio where he lived and worked.

26. From 2006 through 2008, Respondent was originating mortgage loans in New Hampshire and Indiana. At that time, New Hampshire and Indiana did not require a license to originate loans. From November 2006 through July 2008, Respondent was employed by Ace Mortgage Funding and closed approximately six to eight loans per month. During the entire time of his employment with Ace Mortgage Funding, Respondent worked out of its office located in Ohio. In July 2008, Respondent ended his employment with Ace Mortgage Funding because he thought the company would go out of business and because Indiana was going to require individual licensing of loan officers. *Testimony of Respondent, Tr. pgs 22, 25-29.*

The modification is necessary because Respondent testified that as an employee of Ace Mortgage Funding he originated mortgage loans in New Hampshire and Indiana from November 2006 through July 2008 without being a licensed loan officer in Ohio.

30. In the Notice, the Division alleged that Respondent's failure to disclose the denial of his 2006 application on this 2009 application constituted an omission of a material fact or a substantial misrepresentation in violation of R.C. §1322.07(A).

The modification is necessary because Paragraph 30 omits that Respondent's failure to disclose the denial of his 2006 application is alleged to be violation of R.C. §1322.07(A) in the Notice.

51. Respondent testified that he has never had any customer complaints filed against him. Because Respondent has never held a license issued by a regulatory agency to act as a loan officer, no disciplinary action has been taken against him.

The modification is necessary because Paragraph 51 makes a definitive finding that no consumer complaints had been filed against Respondent. However, Respondent's testimony that no consumer complaints had been filed against him was not corroborated by any other evidence or witness. In addition, the modification acknowledges the fact that Respondent was never licensed by any regulatory agency to act as a loan officer.

Except for the disapproval of Paragraph 54 and modifications noted above to Paragraphs 18, 23, 26, 30 and 51, the Division accepts and adopts the Findings of Fact as set forth in the Report and Recommendation. With respect to Respondent's activities, the Report and Recommendation found, in pertinent part, as follows (the paragraph numbers are as they appear in the Report and Recommendation):

23. On December 27, 2006, Respondent submitted a second loan officer license application to the Division ("2006 application"). Following a hearing on the 2006 application, the Division denied respondent's 2006 application on the basis that Respondent had not produced sufficient evidence to demonstrate that he possessed the character and fitness for licensure as a loan officer in Ohio. Because he was too busy closing loans in other states, Respondent did not attend that hearing.

25. Respondent confirmed that the Division's November 27, 2007 letter had been sent to his correct address and that the return receipt card had been signed by his wife. He could not recall receiving the letter.
26. From 2006 through 2008, Respondent was originating mortgage loans in New Hampshire and Indiana. At that time, New Hampshire and Indiana did not require a license to originate loans. From November 2006 through July 2008, Respondent was employed by Ace Mortgage Funding and closed approximately six to eight loans per month. During the entire time of his employment with Ace Mortgage Funding, Respondent worked out of its office located in Ohio. In July 2008, Respondent ended his employment with Ace Mortgage Funding because he thought the company would go out of business and because Indiana was going to require individual licensing of loan officers.
28. Question number 8 on the 2009 application asked: "Have you ever had any type of approval or application to conduct business (such as license or certificate or authority) denied, revoked, suspended, or refused to be renewed; or have you ever been fined by any state or federal regulatory authority or court in relation to any claim of misconduct in the business transaction?" Respondent answered, "Yes" and stated, "State of Ohio denied my loan officer application in 2002."
29. Respondent did not disclose on his 2009 application that the Division had also denied his 2006 application.
30. In the Notice, the Division alleged that Respondent's failure to disclose the denial of his 2006 application on this 2009 application constituted an omission of a material fact or a substantial misrepresentation in violation of R.C. §1322.07(A).
31. At the June 8, 2010 hearing, Respondent acknowledged that he had failed to disclose on his 2009 application that the Division had previously twice denied his applications. He maintained that he intended to answer all questions in his 2009 application truthfully.
32. Respondent truthfully answered the question on his 2009 application that asked, "Have you ever been arrested for, convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities?"
63. However, this Hearing Officer is required to consider Respondent's application under the controlling law at the time Respondent filed his 2009 application.

## **II. Conclusions of Law**

Based on a review of the transcript and the exhibits admitted into the record in this case and the Findings of Fact set forth herein and in the Report and Recommendation, the Division hereby modifies the Conclusions of Law by making the following modification to Paragraphs 64, 66 and 67 of the Report and Recommendation, which should read as follows:

64. Because of his 2001 theft conviction, Respondent has failed to establish the licensing conditions as set forth in R.C. §1322.041(A)(3) in effect at the time Respondent filed his 2009 application with the Division.

The modification is necessary because Conclusion of Law Paragraph 64 stated that Respondent was convicted of “petty” theft, however, the December 4, 2001 judgment entry only states Respondent was charged with and convicted of theft and not specifically “petty” theft.

66. Ohio Adm. Code 1301: 8-7-09(I) provides:

(I) Withdrawal of application. An applicant may request the withdrawal of an application prior to a determination of the application being made by the superintendent of the division of financial institutions by submitting a written request that the application be withdrawn. A request to withdraw a loan officer license application can only be submitted by the applicant. The application may only be withdrawn with the permission of the superintendent.

The modification is necessary because Conclusion of Law Paragraph 66 incorrectly cited to the rule regarding the withdrawal of mortgage broker certificate of registration applications. The Respondent submitted a loan officer license application.

67. Pursuant to Ohio Adm. Code 1301: 8-7-09(I), the Division has the authority to permit Respondent to withdraw his 2009 application and to submit a new application for the Division’s consideration under R.C. §§1322.031 and 1322.041, as amended.

The modification is necessary because Conclusion of Law Paragraph 67 incorrectly cited to the rule regarding the withdrawal of mortgage broker certificate of registration applications. The Respondent submitted a loan officer license application.

Based on a review of the transcript and the exhibits admitted into the record in this case and the Findings of Fact set forth herein and in the Report and Recommendation, the Division hereby modifies the Conclusions of Law by making the following modification to add paragraphs 68 and 69 to the Report and Recommendation, which should read as follows:

68. R.C. §1322.07(A) provides in part:

No . . . person required to be . . . licensed under sections 1322.01 to 1322.12 of the Revised Code, . . . shall do any of the following: (A) Obtain . . . a loan officer [now originator] 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.

The modification is necessary because an alleged violation of R.C. §1322.07(A) also served a basis for refusal to issue Respondent a loan officer license.

69. R.C. 1322.041(A)(6) required the superintendent to issue a loan officer license to the applicant if it is found 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 the purposes of sections 1322.01 to 1322.12 of the Revised Code.”

The modification is necessary because the Division determination that Respondent lacked the requisite character and fitness to become a loan officer is cited as an additional basis for refusal to issue a loan officer license. The Report and Recommendation fails to include a citation to R.C. §1322.041(A)(6).

### **III. Recommendation**

The Report and Recommendation recommends no action related to the Division’s allegation that Respondent violated R.C. §1322.07(A). Because Respondent did not disclose the denial of his 2006 application on his 2009 application and admitted that he failed to disclose that denial, Respondent violated R.C. §1322.07(A). Therefore, the refusal to issue Respondent a loan officer license is justified and supported by the evidence.

The Report and Recommendation makes no conclusion related to the Division’s determination that Respondent lacked R.C. 1322.014(A)(6) character and fitness. Ohio law requires the licensing of all loan officers who work for Ohio mortgage broker registrants. The evidence presented at the hearing established that from November of 2006 through July of 2008, Respondent worked for a mortgage broker registered in Ohio from an office located in Ohio without a loan officer license and continued to work after he was denied an Ohio loan officer license in December of 2007. Evidence of Respondent’s pattern and practice of disregarding the requirement to be licensed under Ohio law justifies and supports the Division’s refusal to issue a license based upon lack of character and fitness.

Based on the Findings of Fact and Conclusions of Law, as set forth above, the Division hereby modifies the Report and Recommendation. The Division has weighed the evidence and hereby refuses to issue Respondent Jeremiah A. Denton a loan officer license.

Signed and sealed this 22<sup>nd</sup> day of September, 2010.

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**LEIGH A. WILLIS**

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