

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

IN THE MATTER OF:                                 :       CASE NO. 04-0456-LOD  
  :  
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  :  
James R. Hall                                     :       James J. Lawrence, Hearing Officer

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**ADMINISTRATIVE HEARING OFFICER'S  
REPORT AND RECOMMENDATION  
April 8, 2005**

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**I. FINDINGS OF FACT**

**A. Background**

This matter came before James J. Lawrence, an attorney licensed to practice law in the state of Ohio and duly appointed by the Ohio Division of Financial Institutions (Division) to serve as Hearing Officer for this hearing in accordance with Ohio Revised Code (R.C.) Chapter 119, the Administrative Procedure Act. The hearing was held at 3:00 p.m. on February 14, 2005, at 77 South High Street, Columbus, Ohio. The hearing was held at the request of Respondent James R. Hall (Respondent) to consider the allegations in the Division's Notice of Intent to Deny Loan Officer License Renewal and Notice of Opportunity for Hearing (NOH).

The Division alleges that Respondent failed to comply with R.C. 1322.01 to 1322.12 by failing to complete at least six hours of approved continuing education in calendar year 2003 as required by R.C. 1322.052. Therefore, the Division asserts that the Respondent is not eligible for a loan officer license renewal pursuant to the Ohio Mortgage Broker Act, R.C. Chapter 1322, for the following reasons:

1. The Respondent failed to comply with the continuing education requirement set forth in R.C. 1322.052.

2. Respondent's failure to comply with the continuing education requirement set forth in R.C. 1322.052 shows that 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.

Timothy C. Loughry, Assistant Attorney General, from the Executive Agencies Section of the Office of the Attorney General, represented the Division at the hearing. The Respondent appeared without counsel. At the hearing, State's Exhibits A through F and Respondent's Exhibits 1 and 2 were admitted into the record.

**B. Jurisdiction and Procedural Matters.**

The Division issued the NOH to Respondent on December 3, 2004 by certified mail, return receipt requested. (Exhibit C.) Respondent's hearing request was received by the Division on January 14, 2005. (Exhibit E.) The Division scheduled the hearing for January 27, 2005, but, on its own motion, continued the hearing to February 14, 2005. Notice of the date, time and location of the hearing was sent by ordinary mail to the Respondent at the same address at which the Respondent received the NOH. (Exhibit F.)

**C. Respondent's Loan Officer License Renewal Application.**

1. In 2001, the 124<sup>th</sup> Ohio General Assembly modified the Ohio Mortgage Broker Act to, among other things, add a requirement that each loan officer complete six hours of continuing education every calendar year beginning with calendar year 2002. To fulfill this requirement, the six hours of continuing education must be offered in a course or program of study approved by the Superintendent of Financial Institutions (Superintendent.) Am. Sub. S.B. No. 76.
2. By letter dated November 14, 2003, the Division attempted to notify the Respondent that its records disclosed that he had completed zero hours of continuing education for 2003. The letter further stated that if the Respondent failed to complete all six hours of continuing education by December 31, 2003, his license could be revoked. (Exhibit D.) Unfortunately, the letter was returned because the Respondent had moved in June of 2003 and the letter was addressed to his former address. (Exhibit D; TR at 32.)

3. The Respondent did not complete any hours of continuing education in calendar year 2003. (TR at 28.)
4. The Respondent filed a loan officer renewal application on April 15, 2004. (Exhibit A.)
5. By letter dated July 1, 2004, the Division notified the Respondent that it was unable to renew his loan officer license because he failed to fulfill his 2003 continuing education requirement. (Exhibit B.) The Division offered in the form of a Settlement Agreement to renew his license if he completed six hours of approved continuing education, paid a \$500.00 fine and otherwise agreed to the terms of the Settlement Agreement by August 2, 2004. (Exhibit B; TR at 11.) The letter and the agreement were mailed to the Respondent's attention at the Sarasota, Florida address of his employer. The Respondent testified that he did not receive the letter until after the August 2d deadline and when he did receive the letter the five page settlement agreement was not attached. (TR at 11 – 12.)
6. In October of 2004, the Respondent completed six hours of approved continuing education conducted by Sally K. Hill titled FHA and Rural Development. (Exhibit 1.) He repeated this course in December of 2004. (Exhibit 2.)
7. The Respondent stated that he is an upstanding citizen and as a loan originator he would not do anything outside of the law. (TR at 37 – 38.)

## **II. CONCLUSIONS OF LAW**

### **A. Jurisdictional and Procedural Matters.**

The Division procedurally complied with R.C. Chapter 119 and jurisdiction over this matter has been established.

At the hearing, the Respondent objected to the admission of Exhibit B because he had not received five pages attached to the letter, the Settlement Agreement. However, the Exhibit, having been properly authenticated, was admitted into the record.

**B. Loan Officer License Renewal Application.**


1. R.C. 1322.041 (B) provides that the Superintendent may renew a loan officer license if the Superintendent finds that certain conditions are met, including the loan officer has completed, during the immediately preceding calendar year, at least six hours of continuing education as required under R.C. 1322.052. R.C. 1322.041 (B) (2). R.C. 1322.052 further requires that, to fulfill this requirement, the six hours of continuing education must be offered in a course or program of study approved by the Superintendent.
2. The Respondent failed to complete any hours of continuing education in calendar year 2003. It is unfortunate that the Respondent did not timely receive the Division's warning letter in November of 2003 and did not receive its offer of a Settlement Agreement in time to accept the offer. However, the Division had no obligation under the law to warn the Respondent that he was not in compliance with the continuing education requirement or to offer the Respondent an alternative to complying with the law. It was the Respondent's obligation under the law to timely complete the continuing education required of every licensed loan officer. The Respondent failed to meet this obligation.
3. R.C. 1322.041 (B) also provides that the Superintendent may renew 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 the purposes of R.C. 1322.01 to 1322.12. R.C. 1322.041 (B) (2) and R.C. 1322.041 (A) (5).
4. The Division alleges that the Respondent's failure to timely complete his 2003 continuing education requirement shows that 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. The Respondent stated that he is an upstanding citizen and that he would not do anything outside of the law as a loan originator. However, the purpose of the continuing education requirement is to enable loan officers to stay current with the professional requirements of the loan industry and assure the public that the loan officers that they are trusting are maintaining professional competency in the loan industry. By failing to complete his continuing education requirement the Respondent failed to maintain the confidence of the public in his general fitness to be a loan officer.

5. R.C. 1322.10 provides that after notice and opportunity for a hearing conducted in accordance with R.C. Chapter 119, the Superintendent may, among other things, refuse to renew a loan officer license if he finds a violation of or failure to comply with any provision of R.C. 1322.01 to 1322.12.

### **III. RECOMMENDATION**

The Respondent's failure to complete his continuing education requirement in 2003 violated R.C. 1322.052 and caused the public to lose confidence in his general fitness to be a loan officer in violation of R.C. 1322.041 (B) (3) and R.C. 1322.041 (A) (5). Accordingly, I respectfully recommend that the Superintendent of Financial Institutions deny the Respondent's loan officer renewal application pursuant to R.C. 1322.041(B) and R.C. 1322.10(A) (1) (a).

Respectfully Submitted,

  
James J. Lawrence  
Hearing Officer  
April 8, 2005