

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

In the matter of:)	Case No. M2006-9991193
)	
CARYN C. JENKINS)	<u>DIVISION ORDER</u>
1601 Seymour Avenue, Apt. A)	Denial of Loan Officer License Application
Cincinnati, Ohio 45237)	&
)	Notice of Appellate Rights
)	

Respondent, Caryn C. Jenkins ("Respondent"), submitted a loan officer license application ("Application") to the Division of Financial Institutions ("Division") on January 20, 2006. On May 24, 2006, the Division notified Respondent that it intended to deny her Application because: (1) in or around 1987, Respondent was convicted of Passing Bad Checks; (2) Respondent violated R.C. 1322.07(A) by substantially misrepresenting her prior criminal record in response to a question on the Application; (3) Respondent violated R.C. 1322.07(B) by making a false statement of a material fact and by omitting a statement required on the Application; (4) Respondent violated R.C. 1322.07(C), by engaging in improper or dishonest conduct; (5) pursuant to R.C. 1322.031(A)(2) and 1322.041(A)(3), Respondent has not proven that she is honest, truthful, and of good reputation, and there is no basis in fact for believing that she will not commit another criminal offense involving theft or any criminal offense involving money or securities; and (6) because 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 R.C. 1322.01 to 1322.12 – the Ohio Mortgage Broker Act.

Respondent requested an administrative hearing, which was held on August 22, 2006. Respondent failed to appear. A Report and Recommendation ("Report") was filed with the Division on December 28, 2006, recommending that the Division deny 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 Report is attached hereto.)

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

The Report states that a showing of intent is required to establish a violation of R.C. 1322.07. This is an incorrect statement of law. In support of this proposition, the Report cites a case from the Court of Appeals interpreting the Ohio Medical Board's authorizing statute. *See*, R.C. 4731.22. In the present case, Respondent's intent when falsely filling out his loan officer license application is irrelevant to the Division's determination. R.C. 1322.07 (E) and (F) both contain language of intent by using the term "knowingly." R.C. 1322.07 (A), (B), and (C) do not. This can only lead to the conclusion that the drafters of the Revised Code chose not to include such a restriction, for purposes of either paragraphs (A), (B) or (C).

Upon consideration of the Report, the Division confirms and adopts the recommendation. Accordingly, Respondent's Application is hereby 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, 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 21st day of February 2007.

RICHARD F. KECK

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