

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

In the matter of:)	Case No. 05-0057-LOD
)	
JEANNINE BREEDEN)	<u>DIVISION ORDER</u>
657 Field Harbor Place)	Denial of Loan Officer License Application
Powell, Ohio 43065)	&
)	Notice of Appellate Rights

Respondent, Jeannine Breeden, submitted a loan officer license application ("Application") to the Division of Financial Institutions ("Division") on July 29, 2004. On February 10, 2005, the Division notified Respondent that it intended to deny her Application because: (1) she violated R.C. 1322.07(A) by failing to disclose her conviction in response to a question on the Application regarding prior criminal convictions; (2) she violated R.C. 1322.07(B) by making a false statement of a material fact or by omitting a statement required on the licensing application; and (3) she violated R.C. 1322.07(C), which prohibits an applicant from engaging in improper or dishonest conduct; and (4) because her character and general fitness did 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 March 22, 2005. A Report and Recommendation ("Report") was filed with the Division on May 11, 2005, recommending that the Division approve 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 5 on page 5 of the Report and Recommendation.

The hearing officer found that Respondent's failure to disclose her conviction in response to Question 5 of the Application qualified as a violation of R.C. 1322.07(A) and (B), but not R.C. 1322.07(C). In order to reach this conclusion, the hearing officer impliedly ruled that R.C. 1322.07(C) requires proof of knowledge or intent to deceive the Division in order to find

Respondent in violation of that section. The Division rejects this proposition of law. In paragraph 5, the hearing officer stated that

[t]he prohibitions of R.C. 1322.07(A) and (B) do not require that the misrepresentations or omissions be made knowingly or intentionally. However, for the reasons set forth in paragraph 3 above, the record does not support a finding that the Respondent engaged in improper, fraudulent or dishonest dealings with the Superintendent in violation of R.C. 1322.07(C)...

R.C. 1322.07(C) should have been included in the recitation of sections in the Ohio Mortgage Broker Act which do not require proof of a knowing violation. It is clear from a reading of R.C. 1322.07 in its entirety. R.C. 1322.07(E) and (F) both contain language of intent by using the term “knowingly,” whereas R.C. 1322.07(A), (B), and (C) do not. As a result, the Division disapproves the hearing officer’s finding, and finds Respondent in violation of R.C. 1322.07(A), (B), and (C).

The Division rejects the hearing officer’s recommendation in paragraph 6 on page 5 of the Report and Recommendation.

The hearing officer recommended that the Division approve Respondent's application. In making the recommendation, the hearing officer cites R.C. 1322.10(A), which provides discretion to the Division in determining the appropriate penalty after notice and opportunity for a hearing conducted in accordance with R.C. 119. However, upon consideration of the record, the Division finds the hearing officer’s recommendation not well-taken. Discretion in this case requires denial of the Application due to Respondent’s violations of R.C. 1322.07(A), (B) and (C).

For all the foregoing reasons, the Division hereby rejects the hearing officer’s recommendation and denies the loan officer license application of Jeannine Breeden.

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 28th day of September 2006.

ROBERT M. GRIESER

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