

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

In the matter of:)	Case No. M2007-127
)	
CORINNA L. WEBB)	<u>DIVISION ORDER</u>
4711 Dixie Highway)	Denial of Loan Officer License Application
Lima, OH 45806)	&
)	Notice of Appellate Rights

Respondent, Corinna L. Webb (“Respondent”), submitted a loan officer license application (“Application”) to the Division of Financial Institutions (“Division”) on December 29, 2006. On April 12, 2007, the Division notified Respondent that it intended to deny her Application because: (1) in or around 1992, in the State Court of Cobb County, Georgia, Respondent was convicted of theft by conversion; (2) Respondent had not proven that she is honest, truthful, and of good reputation, and that 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; (3) in 2002, Respondent attested in a sworn statement that information she provided about her criminal background in a loan officer license application she submitted that year to the Division was complete and truthful when it was not; (4) in 2002, in an attempt to obtain a loan officer license, Respondent provided untruthful information about her criminal background to the Division; (5) in 2006, Respondent attested in a sworn statement that information she provided about her criminal background in the Application she submitted to the Division was complete and truthful when it was not; (6) in 2006, in an attempt to obtain a loan officer license, Respondent provided untruthful information about her criminal background to the Division; (7) she violated R.C. 1322.07(A) by making a material misrepresentation in the 2002 Application and the 2006 Application (“Applications”); (8) she violated R.C. 1322.07(B) by making a false statement of a material fact or by omitting a statement required by state law in the Applications; (9) she violated R.C. 1322.07(C), which prohibits an applicant from engaging in improper or dishonest conduct; and (10) 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 June 26, 2007. Respondent appeared without counsel. A Report and Recommendation (“Report”) was filed with the

Division on September 10, 2007, 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. (A copy of the Report is attached).

The Division disapproves paragraphs 3 and 4 on page 5; and paragraphs 5, 7 and 10 on pages 5 and 6 of the Report.

Respondent was convicted of theft by conversion in 1992 in the State Court of Cobb County, Georgia and did not disclose the conviction in the Applications. (State's Exs. C, E and F; Tr., pp. 18 and 20). Respondent testified that because the conviction did not appear in previous criminal background checks she had taken, she figured "it had dropped off and gone away." (Tr., p. 18).

Thus, twice, Respondent failed to disclose her theft conviction to the Division when asked to do so in the Applications. In the 2002 Application, Question 5 asked Respondent:

Have you or has any company for which you have been an officer, or more than 5% owner or director, ever been convicted of or pleaded guilty to any criminal offense including, but not limited to, theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities?

(State's Ex. F). Respondent answered "No." (State's Ex. F). In the 2006 Application, Question 6 asked Respondent:

Have you 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?

(State's Ex. C). Again, Respondent answered "No." (State's Ex. C). Neither question instructed Respondent not to disclose convictions that had "dropped off and gone away," or to disclose only felonies, or to disclose only those convictions that had appeared in her previous criminal background checks. Respondent was explicitly asked to disclose whether or not she had been convicted of or pleaded guilty to theft. She failed to do so.

Information concerning an applicant's criminal history is a material fact for licensing purposes, regardless of how long ago the conviction occurred. With this in mind, the Division finds that Respondent's untruthful answer to Question 5 of the 2002 Application and Question 6 of the 2006 Application violated R.C. 1322.07(A) which prohibits an applicant from "mak[ing] any

substantial misrepresentation in any *** license application.” R.C. 1322.07(B) prohibits an applicant from “[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statements required by state law[.]” Given its ordinary meaning, “false” is defined as “untrue , a false statement.” (*Blacks Law Dictionary, Seventh Edition*, 1990, p. 618). The term “omission” is defined as “the act of leaving something out.” (*Black’s Law Dictionary, Seventh Edition*, 1999, p. 1116.) And, “omit” means “to leave out or leave unmentioned.” (*Merriam-Webster Online Dictionary*, www.m-w.com/dictionary/omit). Accordingly, by answering “No” to Questions 5 and 6 of the respective Applications, Respondent violated R.C. 1322.07(B). The Division also finds that Respondent’s repeated failures to disclose her criminal conviction to the Division constituted improper dealings in violation of R.C. 1322.07(C).

Unlike the Medical Board statute addressed in *Webb v. State Med. Bd.*, 146 Ohio App.3d 621, 628 (Ohio Ct. App.10th Dist., 2001), R.C. 1322.07(A), (B), and (C) do not require a deliberative act for their violation. In contrast to 1322.07(E) and (F), which contain language of intent by use of the term “knowingly,” R.C. 1322.07(A), (B), and (C) do not employ such language. (See *Shehabi v. Ohio Dept. of Comm.* (Feb. 26, 2007), Trumbull C.P. No 2006 CV 1930, unreported). Accordingly, an applicant that fails to carefully answer each question in a loan officer application, swears to its veracity, and then files such application with the Division is in violation of R.C. 1322.07(A), (B), and (C) when such answer is patently untrue. Respondent swore that her criminal background answers were correct despite her knowledge that she had been convicted of theft.

In total, Respondent’s activities do not show that she is honest, truthful, and of good reputation and that there is no basis in fact for believing that she will commit another criminal offense again involving theft. Respondent provided only her own self-serving testimony, stating that she has worked in the mortgage loan industry without actions taken or complaints filed against her since 1997. (Tr., p. 21). However, the record is void as to evidence regarding Respondent’s honesty, truthfulness, or reputation. The record does show that Respondent was asked if she had been convicted of theft, and she failed to disclose her conviction on two separate occasions. Because of these recent acts of dishonesty, the Division cannot find that Respondent is honest, truthful, and of good reputation pursuant to R.C. 1322.041(A)(3).

Additionally, Respondent’s inability to candidly respond to a direct question evidences a lack of the requisite fitness needed 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, evaluate and explain complicated mortgage documents is a vital part of the job. By not accurately and candidly answering the criminal background question on the Applications, Respondent has demonstrated to the Division that she does

not hold the requisite fitness required of a loan officer. For this reason and Respondent's violation of R.C. 1322.07(A), (B), and (C), the Division finds 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. R.C. 1322.041(A)(5).

Lastly, the Division disapproves the Recommendation on page 6 of the Report.

As the Division has established the basis for and proven the violations of R.C. 1322.07(A), (B), and (C), the Division has established a lack of compliance with the Ohio Mortgage Broker Act. Additionally, the record, as discussed above, does not support the conclusion that Respondent meets the conditions for licensure set forth in 1322.041(A)(2), (3), and (5).

For the reasons stated above, the Division hereby denies the loan officer license application of Corinna L. Webb.

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 must, 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 4th day of October 2007.

LEIGH A. WILLIS

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