

STATE OF OHIO  
DEPARTMENT OF COMMERCE  
DIVISION OF FINANCIAL INSTITUTIONS

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In the Matter of:

Ronald E. Fields, Jr.  
429 Fairwood Avenue  
Columbus, OH 43205

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: Case No. 040-0369-LOD  
:  
: Terrence O'Donnell, Hearing Examiner  
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HEARING EXAMINER'S  
REPORT AND RECOMMENDATION

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A. REPORT

I. Introduction

This case came to be heard on July 26, 2004. Appearing on behalf of the Department of Commerce's Division of Financial Institutions ("the Division") were Assistant Attorney General Emily Smith and Mr. Mark L. Rhea, staff attorney with the Division.

Despite having requested this hearing, Respondent Mr. Fields was not present, nor was any designated representative. After waiting approximately thirty minutes after the scheduled starting time for the hearing, the Hearing Examiner proceeded in his absence. See Transcript, p. 6.

After due consideration of all the evidence, the Hearing Examiner makes the following findings.

II. Findings of Fact

A. Background

1. Pursuant to the Ohio Mortgage Broker Act, O.R.C 1322.01 to O.R.C. 1322.12, the Division is charged with the responsibility to accept applications for loan officer licenses and determine whether applicants meet the statutory requirements.
2. On November 14, 2002, Respondent Mr. Fields, employee of Nova Star Home Mortgage,

5918 Sharon Wood Blvd., Suite 240, Columbus, OH, 43229, applied for a license to be a loan officer. On this application, Mr. Fields generically disclosed a “drug conviction” for the year 1987. See Application, State’s Exhibit A.

3. On January 27, 2003, the Division notified Mr. Fields that a background check revealed several criminal convictions, and requested he provide journal entries detailing each. See Letter, State’s Exhibit B.
4. Mr. Fields did not initially respond.
5. Instead, on June 24, 2003, Mr. Fields submitted a second application for a license to be a loan officer. On this application, Mr. Fields did not disclose any criminal convictions. See Application, State’s Exhibit C.
6. On April 15, 2004, the Division issued a Notice of Intent to Deny a Loan Officer License to Mr. Fields. See Notice, State’s Exhibit H.
7. The Division stated in its Notice of Intent to Deny Loan Officer’s License as its basis for the intent to deny the license that Mr. Fields was convicted of operating a motor vehicle while intoxicated in 1991, trafficking in cocaine in 2000, and possessing cocaine in 2002. See Notice, State’s Exhibit H.
8. The Division further alleged in its Notice of Intent to Deny Loan Officer License that Mr. Fields has not proven he is honest, truthful and of good reputation, nor that there is no basis in fact to believe he would not commit similar crimes in the future. The Division also alleges that his character and general fitness do not command the confidence of the public, nor warrant the belief that his business will be operated honestly and fairly in compliance with the purpose of the Ohio Mortgage Broker Act. Finally, the Division alleged that Mr. Fields violated O.R.C. 1322.07 by making a false or misleading statement on his application

for licensure. See Notice, State's Exhibit 14.

9. On April 28, 2004, Mr. Fields requested a hearing to appeal the Division's proposed actions. See Hearing Request Form, State's Exhibit I.
10. The Division offered into evidence the Notice of Intent to Deny Mr. Fields a license, along with the returned signature card indicating he received it. See Notice, Exhibit H. The Division also offered into evidence correspondence informing Mr. Fields of the time and place of the hearing. See Letters, Exhibits J, K, L, and M.

#### B. Convictions

11. At the hearing, the Division admitted into evidence several journal entries documenting Mr. Fields' crimes. These include an OMVI conviction in 1997 (State's Exhibit E), a trafficking in cocaine conviction in 2000 (State's Exhibit F), and a possession of cocaine conviction in 2002 (State's Exhibit G).
12. The record does not indicate anywhere that Mr. Fields denies the fact of these convictions in correspondence with the Division.

#### C. Failure to Disclose Convictions to the Division

13. In response to Question 5 on his loan officer application, asking if he has ever been convicted of or plead 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," Mr. Fields disclosed a 1987 drug conviction on his original application, but indicated "no" on the subsequent application he filed. (Emphasis added). See Application, State's Exhibits A and C.

## II. Conclusions of Law

14. The Ohio Revised Code sets out the criteria by which the Superintendent of Financial

Institutions shall license loan officers. It states in part:

“...the superintendent of financial institutions shall issue a loan officer’s license to the applicant if the applicant has not been convicted of or plead guilty to any criminal offense described in Division (A)(2) of Section 1322.031 of the Revised Code.” O.R.C. 1322.041.

15. The criminal offenses incorporated by reference are:

“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.” O.R.C 1322.031 (A)(2). (Emphasis added).

16. The Journal Entry indicating the court convicted Mr. Fields of trafficking in cocaine in 2000 is undisputed, as neither Mr. Fields nor his representative appeared at the hearing to refute it, or provided a written refutation. Thus the Hearing Examiner finds that Mr. Fields was convicted of a criminal offense involving drug trafficking.

17. Once the fact of conviction is established, the statute allows for a burden-shift in which Mr. Fields then assumes the burden of proving that despite his conviction, he otherwise should receive a loan officer’s license. It states:

“The superintendent shall issue a loan officer license to the applicant if the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant’s activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again...” O.R.C. 1322.041 (A)(3).

18. As Mr. Fields presented no evidence whatsoever on his behalf, the Hearing Examiner finds that he did not meet this burden.

19. In addition, Mr. Fields asserted on his loan officer application that he had not been convicted of “any criminal offense,” when in fact he has been convicted of multiple charges, including two serious drug offenses. This severely undermines any effort he might have made to attempt to show he is “honest and truthful,” as is called for in the statute.
20. Mr. Fields has not proven by a preponderance of the evidence that his activities and employment record since his conviction show that he is honest, truthful, and of good reputation, and there is no basis in fact for believing that he will commit such an offense again.
21. Mr. Fields’ character and general fitness do not command the confidence of the public and do not warrant the belief that his business will be operated honestly and fairly in compliance with the intent of O.R.C. 1322.01 to 1322.12.

22. The statute also states:

The superintendent shall issue a loan officer license if the superintendent finds 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. O.R.C. 1322.041 (A)(5).

23. Mr. Fields has multiple, recent drug-related offenses which he failed to disclose to the Division in two separate applications. The underlying convictions, as well as his failure to disclose them, prevents any finding that his character and general fitness command the confidence of the public and warrant a belief he would operate a business honestly and fairly in compliance with the law.
24. In addition, his failure to appear at the hearing and offer testimony, or any case whatsoever, also prevents such finding.
25. Finally, O.R.C. 1322.07, also cited in the Division’s Notice of Intent to Deny Mr. Fields a

license, states that:

“No mortgage broker, registrant, licensee, or applicant for a certificate of registration or license under sections 1322.01 to 1322.12 of the Revised Code shall do any of the following:

(A) Obtain a certificate of registration or 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;

(B) Make false or misleading statements of a material fact, omissions of statements required by state law, or false promises regarding a material fact, through advertising or other means, or engage in a continued course of misrepresentations;

(C) Engage in conduct that constitutes improper, fraudulent, or dishonest dealings...”

26. The Hearing Examiner finds that Mr. Fields has violated this section in his failure to disclose his extensive criminal record, or offer any reasonable explanation for his failure to do so.

B. RECOMMENDATION

27. Therefore, in accordance with the above Findings of Fact and Conclusions of Law, it is recommended to the Superintendent that Mr. Fields be denied a loan officer's license pursuant to O.R.C. 1322.041.

1/3/05  
Date

Terrence O'Donnell  
Hearing Examiner