

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

In the matter of:)	Case No. 05-0072-LOD
)	
KEITH K. KNIESLY, II)	<u>DIVISION ORDER</u>
7750 South Mote Road)	Denial of Loan Officer License Application
West Milton, OH 45383-7705)	&
)	Notice of Appellate Rights
)	

Respondent, Keith K. Kniesly, II (“Respondent”), submitted a loan officer license application to the Division of Financial Institutions (“Division”) on May 25, 2004. On March 3, 2005, the Division notified Respondent that it intended to deny his loan officer license application (“Application”) because: (1) Respondent attested in a sworn statement that information he provided in his Application was complete and truthful when it was not; (2) Respondent provided untruthful information to the State of Ohio, Department of Commerce, Division of Financial Institutions; (3) Respondent violated R.C. 1322.07(A), (B), and (C) by attesting to the accuracy of the Application and not disclosing his criminal history in his Application, which was filed with the Division; and (4) 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. sections 1322.01 to 1322.12, the Ohio Mortgage Broker Act.

Respondent requested an administrative hearing, which was held on April 19, 2005. A Report and Recommendation (“Report”) was filed with the Division on August 30, 2005, 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).

The Division disapproves of, in part, paragraph 7 on page 5 of the Report. While Respondent’s conduct may have been intentional, the hearing officer’s inference that intent is a necessary element is incorrect. R.C. 1322.07(A), (B), and (C) do not require a deliberative act

to establish a 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. An applicant who, regardless of intent, fails to carefully read and 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) if his answer is untrue.

Here, Respondent failed to disclose his criminal background on the Application. Respondent testified that he was instructed by a manager to not disclose his criminal background (Tr., p.14). Respondent also testified that he did not disclose the crime because it would be hard for him to explain because his “handwriting is atrocious”. (Tr., pp. 20 & 21). Yet, Respondent affirmed before a notary that his Application was “complete and true” and shortly thereafter filed the Application, containing a false answer as to his criminal history, with the Division. (State’s Ex. A). Respondent’s actions constitute a violation of 1322.07(A), (B), and (C).

With the exception stated above, the Division hereby adopts the hearing officer’s recommendation and denies the loan officer license application of Keith K. Kniesly, II.

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 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 25th day of October 2006.

ROBERT M. GRIESER
Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce