

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

In the matter of:) Case No. M2009-946
)
 WILLIAM M. JAMES) **Notice of Intent to Refuse to Issue Loan Officer License**
 4975 Timber Creek Drive) **&**
 Medina, OH 44256) **Notice of Opportunity for a Hearing**
)

JURISDICTION

The Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions (“Division”), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act, as codified in Ohio Revised Code (“R.C.”) Chapter 1322. In accordance therewith, the Division is accountable for the licensing of individuals as residential mortgage loan officers.

RESPONDENT

WILLIAM M. JAMES (“Respondent”) applied to the Division for a loan officer license in August 2009. His address of record is 4975 Timber Creek Drive, Medina, OH 44256, and his date of birth is March 22, 1962. Respondent currently has no employer of record.

NOTICE OF PROPOSED ACTION

In accordance with sections 1322.041 and 1322.10 of the Revised Code., and R.C. Chapter 119, the Division intends to REFUSE to issue Respondent a loan officer license.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent pursuant to R.C. 1322.031(B) and 1322.10(B) and has found the following:

- A. Pursuant to R.C. 1322.041(A)(6), as in effect prior to January 1, 2010, the Division is to issue a license to a loan officer applicant if the Division finds, among other things, that 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.
- B. R.C. 1322.041(A)(3), as in effect prior to January 1, 2010, states that “the superintendent of financial institutions shall issue a loan officer license to the applicant if the superintendent finds that...the applicant has not been convicted of or pleaded guilty to any criminal offense described in division (A)(2) of section 1322.031 of the Revised Code.” The version of R.C. 1322.031(A)(2) in effect prior to January 1, 2010 requires applicants to state whether they have been convicted or pleaded guilty to any criminal offense involving theft.

- C. In 1981 in the Lakewood Municipal Court, Cuyahoga County, Ohio, Respondent pleaded guilty to one count of Petty Theft in violation of city ordinance 545.05 and was sentenced to ten days suspended jail time, as well as a one-hundred dollar fine and one year probation.
- D. R.C. 1322.07(A) prohibits a loan officer applicant from making a substantial misrepresentation in any registration or license application; R.C. 1322.07(B) prohibits a loan officer applicant from making false or misleading statements of material fact or “omissions of statement required by law.”
- E. In his loan officer license application, Respondent failed to disclose the theft conviction discussed in Paragraph (C) when he answered question four, which asks if the applicant has ever “been arrested for, convicted of or pleaded guilty to any criminal offense involving theft...” Respondent attested in a sworn statement that the application was complete and truthful when it was not.

As a result of the findings listed above, the Division has determined that:

- 1. Respondent’s actions as outlined in Paragraphs (C) and (E) above demonstrate 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. See R.C. 1322.041(A)(6).
- 2. Respondent’s actions as outlined in Paragraph (E) violated R.C. 1322.07(A) and (B), as well as R.C. 1322.031(A)(2).
- 3. R.C. 1322.041(A)(3) and R.C. 1322.031(A)(2) bar the superintendent from approving Respondent’s license application because of the Petty Theft conviction discussed in Paragraph (C) above.

NOTICE OF OPPORTUNITY FOR A HEARING ON PROPOSED ACTION

Therefore, pursuant to R.C. Chapters 1322 and 119, Respondent is hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to issue an order refusing Respondent a loan officer license under the Ohio Mortgage Broker Act.

Respondent is further notified, pursuant to R.C. Chapter 119, that Respondent is entitled to a hearing on this matter. If Respondent desires to request a hearing, the request must be made in writing, and must be received in the offices of the Ohio Division of Financial Institutions within thirty (30) days of the time of the mailing of this Notice. Hearing requests should be addressed: Ohio Division of Financial Institutions, Attn: Desiree T. Shannon, Consumer Finance Attorney, 77 South High Street, 21st Floor, Columbus, Ohio 43215-6120.

At the hearing, Respondent may appear in person, by Respondent’s attorney, or by such other representative as is permitted to practice before the Agency, or Respondent may present his position, arguments, or contentions in writing, and, at the hearing, may present evidence and examine witnesses appearing for and against Respondent.

If the Ohio Division of Financial Institutions does not receive a written request for a hearing in its offices within thirty (30) days of the time of the mailing of this Notice, the Superintendent will issue an order refusing to issue Respondent a loan officer license.

Signed and sealed this 6th day of July, 2010.

LEIGH A. WILLIS
Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce