

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

DIVISION OF FINANCIAL
INSTITUTIONS
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In the Matter of:

Melissa S. Bodnar
7578 State Road
Cincinnati, OH 45255

:
: Case No. 04-0436-LOD
:
: Terrence O'Donnell, Hearing Examiner
:

HEARING EXAMINER'S
REPORT AND RECOMMENDATION

A. REPORT

I. Introduction

This case came to be heard on February 24, 2005. Respondent is Ms. Melissa S. Bodnar. Despite having requested this hearing, Ms. Bodnar was not present, so the hearing proceeded in her absence. Assistant Attorney General Timothy Loughry represented the Department of Commerce's Division of Financial Institutions ("the Division"). He called two witnesses, Mr. Mark Rhea, staff attorney for the Division, and Ms. Riene Roszak, who serves as the Division's coordinator for continuing education ("CE").

After due consideration of the evidence, the Hearing Examiner makes the following findings of fact, conclusions of law, and recommendation of the action to be taken.

II. Findings of Fact

a. Background

1. Pursuant to the Ohio Mortgage Broker Act, the Division is charged with approving the CE coursework for licensees and verifying that licensees complete their requirements. See O.R.C. 1322.052.
2. On April 9, 2004, Ms. Bodnar filed a 2004 Loan Officer Renewal Application with the

Division. See Application, State's Exhibit A.

3. On June 1, 2004, the Division sent Ms. Bodnar a letter indicating that her license would not be renewed because she failed to complete her 2003 CE requirements. The Division also enclosed a Settlement Agreement indicating that her license could be renewed if she belatedly completed the CE requirements and paid a \$500.00 fine. See Letter and Settlement Agreement, State's Exhibit B.
4. On December 3, 2004, the Division informed Ms. Bodnar that because she had failed to meet her requirement of six hours of CE for 2003, or execute and meet the terms of the Settlement Agreement, her license would not be renewed. See Letter and Notice of Intent to Deny Loan Officer License Renewal, State's Exhibit C.
5. The Division also stated in the Notice that Ms. Bodnar's character and general fitness do not command the confidence of the public and warrant the belief that her business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act. See Notice, State's Exhibit C.
6. On December 14, 2004, the Division received Ms. Bodnar's request to appeal the Division's determination. See Hearing Request Form, State's Exhibit D (date-stamped on reverse).
7. On January 26, 2005, the Division sent Ms. Bodnar a letter indicating the time and place of the hearing. See Letter, State's Exhibit F.

b. Failure to Complete CE Requirements

8. Ms. Roszak testified that Ms. Bodnar did not complete her CE for 2003 or return an executed Settlement Agreement. See Transcript, pp. 15-16.
9. As Ms. Bodnar was not present at the hearing, this testimony was undisputed. Therefore, the hearing Examiner finds that indeed, she did not complete her 2003 CE requirements.

III. Conclusions of Law

10. The Ohio Revised Code requires that each mortgage broker receive six hours of continuing education per year. It states:

On and after January 1, 2002, each licensee and each person designated under division (A)(3) of section 1322.03 of the Revised Code to act as operations manager for a mortgage broker business shall complete at least six hours of continuing education every calendar year. To fulfill this requirement, the six hours of continuing education must be offered in a course or program of study approved by the superintendent of financial institutions. O.R.C. 1322.052.

11. The undisputed documentary and testimonial evidence demonstrates that Ms. Bodnar did not complete the six hours of required CE.
12. The Division is empowered to decline to renew Ms. Bodnar's license if she does not complete her CE. The law states:

After notice and opportunity for a hearing conducted in accordance with Chapter 119 of the Revised Code, the superintendent of financial institutions may do the following:

Suspend, revoke, or refuse to issue or renew a certificate of registration or license if the superintendent finds either of the following:

A violation of or failure to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration. O.R.C. 1322.10(A)(1)(a).

13. In failing to complete her CE, Ms. Bodnar has violated O.R.C. 1322.052, requiring licensees to complete six hours of CE. This statute falls into the category of statutes for which the Division is empowered to fail to renew his license.
14. It is undisputed that Ms. Bodnar did not complete her CE, did not meet the terms of the Settlement Agreement offered by the Division, and did not appear at the hearing to offer any explanation for his failure to do so.

15. Therefore, the Hearing Examiner sees no reason why her mortgage broker license should be renewed.

B. RECOMMENDATION

16. Therefore, in accordance with the above Findings of Fact and Conclusions of Law, the Hearing Examiner recommends that pursuant to O.R.C. 1322.10(A)(1)(a), the Superintendent of the Division of Financial Institutions not renew Ms. Bodnar's license.

6/3/05
Date

Terrence O'Donnell
Hearing Examiner