

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

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| In the matter of: |) | Case No. M2006-999755 |
| |) | |
| RODNEY L. EVELAND |) | <u>DIVISION ORDER</u> |
| 208 South Ewing Street |) | Denial of Loan Officer License Application |
| Lancaster, Ohio 43130 |) | & |
| |) | Notice of Appellate Rights |
| |) | |

Respondent, Rodney L. Eveland (“Respondent”), submitted a loan officer license application to the Division of Financial Institutions (“Division”) on January 12, 2006. On May 24, 2006, the Division notified Respondent that it intended to deny his loan officer license application (“Application”) because: (1) in or around 1975, in the Toledo, Ohio, Municipal Court, Respondent was convicted of Petty Theft; (1) in or around 2000, in the Fairfield County, Ohio, Municipal Court, Respondent was convicted of Disorderly Conduct; (2) Respondent violated R.C. 1322.07(A) by substantially misrepresenting his prior criminal record in response to a question on the Application; (3) Respondent violated R.C. 1322.07(B) by making a false statement of a material fact and by omitting a statement required on the licensing application; (4) Respondent violated R.C. 1322.07(C), by engaging in improper or dishonest conduct; (5) pursuant to R.C. 1322.031(A)(2) and 1322.041(A)(3), Respondent has not proven that he is honest, truthful, and of good reputation, and there is no basis in fact for believing that he will not commit another criminal offense involving theft or any criminal offense involving money or securities; and (6) 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. 1322.01 to 1322.12 – the Ohio Mortgage Broker Act.

Respondent requested an administrative hearing, which was held on October 19, 2006. A Report and Recommendation (“Report”) was filed with the Division on November 27, 2006, 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. (A copy of the Report is attached hereto.)

The Division modifies paragraph 6 on page 2 of the Report.

The Report mis-quoted the wording of the question at issue in the present case. The exact wording of Question 5 is as follows:

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?

(*See*, Exhibit 1.) The error does not appear to have had any effect on the findings or conclusions contained in the Report, as it is not quoted elsewhere, and the wording of the question itself was never challenged by the Respondent at the hearing. (*See*, Transcript of Proceedings, Oct. 19, 2006, at pp. 18-19.)

The Division rejects paragraph “C” on page 3 of the Report.

The Report concludes in paragraph C that the Division failed to establish Respondent’s non-compliance with R.C. 1322.031(A)(2), due to the fact that Respondent supplied a statement as to whether or not the Respondent had been convicted of any of the offenses listed in that section. Although the statement itself was untruthful, the Report found that submitting any statement was enough to establish the Respondent’s compliance with R.C. 1322.031(A)(2). While this may be open to debate, the finding itself seems to evidence a misunderstanding of the

content of the Division's bases for denial of the Respondent's application. The Respondent was never alleged to have violated R.C. 1322.031(A)(2), only that he had been convicted of one of the offenses listed in that section: theft. (*See*, Exhibit 5.)

The Division rejects paragraph "D" on page 3 of the Report.

The Report concluded that the Division failed to establish that Respondent violated R.C. 1322.07(C). The Report incorrectly finds that R.C. 1322.07(C) "does not appear to refer to prior conduct: It appears to provide . . . a basis for taking action in response to conduct that occurs after an applicant has filed an application with the Division." The Report then goes on to conclude that the Division failed to prove that Respondent's "inaccurate application constituted 'improper, fraudulent, or dishonest dealings.'" R.C. 1322.07(C) proscribes that:

[n]o 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:

* * *

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

(Emphasis added.) Id. In order to follow the Report's logic, the Division would have to conclude that even though the statute expressly applies to applicants, the prohibited conduct itself should be allowed to take place on the application. This is not the Division's interpretation of R.C. 1322.07(C). Accordingly, the Division finds that Respondent violated R.C. 1322.07(C), by engaging in improper or dishonest conduct during the course of submitting his Application for a loan officer license.

Following its review of the record, the Division hereby adopts the hearing officer's recommendation and denies the loan officer license application of Rodney L. Eveland.

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, 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 25th day of April 2007.

RICHARD F. KECK

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