

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

In the matter of:)	Case No. 05-0071-LOD
)	
KEVIN K. KROSKEY)	<u>DIVISION ORDER</u>
14809 Thornton Drive)	Denial of Loan Officer License Application
North Royalton, Ohio 44133)	&
)	Notice of Appellate Rights

Respondent, Kevin K. Kroskey (“Respondent”), submitted a loan officer license application to the Division of Financial Institutions (“Division”) on July 7, 2004. On February 24, 2005, the Division notified Respondent that it intended to deny his loan officer license application because: (1) in or around 2003, in the United States District Court, Western District of Pennsylvania, Respondent was convicted of Conspiracy to Possess with Intent to Distribute and to Distribute Quantities of Methylenedioxymethamphetamine, also commonly known as Ecstasy; (2) Respondent failed to comply with the continuing education requirements for the 2002 calendar year as mandated by R.C. 1322.052; (3) Respondent has not proven that he is honest, truthful, and of good reputation and that there is no basis in fact for believing that he will not commit another criminal offense involving drug trafficking or any criminal offense involving money or securities; and (4) because his character and general fitness did 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 August 16, 2005. A Report and Recommendation was filed with the Division on December 14, 2005, recommending that the Division grant Respondent’s application. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report and Recommendation, 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 Hearing Examiner’s Report and Recommendation is attached).

The Division disapproves paragraph 22 on page 4 of the Report and Recommendation.

R.C. 1322.052 requires both licensees and operations managers to complete “at least six hours of continuing education every calendar year.”

The Division disapproves paragraphs 25-28 on page 5 and paragraphs 7 and 8 on page 6 of the Report and Recommendation.

While Respondent produced a transcript from the University of Akron, evidence of successful completion of a drug abuse education program, and letters of recommendation, such evidence is not enough to satisfy the burden of proof required by R.C. 1322.041(A)(3). (Respondent’s Exhs. 3-7). The letters themselves were hearsay evidence as their authors were unavailable for cross-examination to confirm the statements made therein. (Respondent’s Exhs. 4-7). Accordingly, little evidentiary weight can be afforded to the letters. In terms of live witnesses, Respondent offered only his own self-serving testimony. Of particular importance is the fact that Respondent’s federal conviction for a drug trafficking offense is extremely recent. Respondent committed the criminal acts in the year 2000, was convicted in February 2003, and completed serving his sentence on May 17, 2005. (State’s Exhs. A and E; Respondent’s Exh. 7). Enough time has not elapsed since the conviction for Respondent to establish that he is honest, truthful, and of good reputation and that there are no grounds to believe that he will commit another criminal offense involving drug trafficking or any criminal offense involving money or securities. R.C. 1322.041(A)(3). Accordingly, the Division finds that Respondent has not met his burden of proof under R.C. 1322.041(A)(3).

The Division modifies paragraph 5 on page 6 and paragraphs 11 and 12 on page 7 of the Report and Recommendation to reflect that the continuing education requirements of R.C. 1322.052 apply to both licensees and operations managers.

The Division disapproves paragraph 15 on page 7 and the Discussion on page 8 of the Report and Recommendation.

As noted, the continuing education requirements set forth in R.C. 1322.052 apply to operations managers as well as licensees. Respondent held a loan officer license in calendar year 2002 and, accordingly, was required to complete six hours of continuing education for that year. However, the Division takes into consideration Respondent’s assertion that he did not receive notice that he had received a loan officer license. Such consideration, however, fails to erase the fact that Respondent has a very recent drug trafficking conviction. Despite Respondent’s candid disclosure of the conviction, the Division cannot find, in light of the recentness of Respondent’s acts and the conviction, that Respondent’s character and general fitness commands the public’s confidence.

The Division disapproves the Recommendation on page 8 of the Report and Recommendation.

Upon reviewing the evidence presented, the Division finds 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 Ohio Mortgage Broker Act. Furthermore, the Division finds that Respondent has not sustained the burden of proof set forth in R.C. 1322.041(A)(3).

For the reasons stated above, the Division hereby denies the loan officer license application of Kevin K. Kroskey.

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, 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 day 7th of September 2006.

ROBERT M. GRIESER

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