

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

In the matter of:)	Case No. 05-0085-LOD
)	
JOHN R. DOMANICK, JR.)	<u>DIVISION ORDER</u>
9241 Cherrystone Drive)	<u>Vacating Action</u>
Mentor, OH 44060)	&
)	Notice of Appellate Rights

Respondent, John R. Domanick, Jr. (“Respondent”), submitted a loan officer license application (“Application”) to the Division of Financial Institutions (“Division”) on February 3, 2005. On April 5, 2005 the Division notified Respondent that it intended to deny his Application because: (1) in or around 2002, in the Mentor Municipal Court, Lake County, Ohio, Respondent was convicted of assault; (2) in or around 2002, in the Mentor Municipal Court, Lake County, Ohio, Respondent was convicted of criminal damaging; (3) in or around 2004, in the Mentor Municipal Court, Lake County, Ohio, Respondent was convicted of petty theft; (4) Respondent had 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 theft or any criminal offense involving money or securities; (5) 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 September 22, 2005. A Report and Recommendation (“Report”) was filed with the Division on April 26, 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. (The Hearing Examiner’s Report is attached).

The Division disapproves paragraphs 2 and 3 on page 4 and paragraph 12 on page 6 of the Report.

The cases cited are not relevant to the issues at hand. The burdens of proof are determined by the Ohio Mortgage Broker Act. Due to Respondent's conviction of theft, the burden is shifted to him to prove that he is honest, truthful and of good reputation and that there is no basis in fact for believing that he will commit another criminal offense involving theft, or any offense involving money or securities. R.C. 1322.041(A)(3).

The Division disapproves paragraph 10 on page 5 of the Report.

Respondent was convicted of a theft offense in 2004 and submitted his application and had his hearing in 2005. This is not enough time to meet the burden of proof set forth in R.C. 1322.041(A)(3). Additionally, Respondent offered no evidence besides his own self-serving testimony to meet his burden.

The Division disapproves the recommendation found on page 6 of the Report.

During the course of testimony it was revealed that Respondent did not sign his Application in front of a notary. (Transcript pgs. 45-53). Swearing under oath to the truthfulness of all answers in front of a notary is a requirement of a valid loan officer license application. (See R.C. 1322.031(A)). Therefore, the evidence has established that Respondent did not submit a valid loan officer license application. Because the Division finds that Respondent does not have a valid pending application and for the reasons stated above, Respondent's request for licensure is denied.

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 30th day of March 2007.

RICHARD F. KECK

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