



Ohio Department of Commerce

Division of Financial Institutions
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Ted Strickland
Governor

Kimberly A. Zurz
Director

April 7, 2008

Jimmie F. Hoffman
4905 Kleeman Green Drive
Cincinnati, OH 45211

Re: Loan Officer License Suspended
Case No. M2007-623

Dear Mr. Hoffman:

The Division has issued a final order continuing the suspension of your loan officer license; you will find a copy enclosed.

Because your loan officer license has been suspended, you are not authorized to originate mortgage loans governed by the Ohio Mortgage Broker Act in consideration of direct or indirect gain, profit, fees, or charges. This means that you are not permitted to do any of the following:

- (1) Negotiate or arrange, or offer to negotiate or arrange, a mortgage loan between a person that makes or funds mortgage loans and a buyer;
- (2) Issue a commitment for a mortgage loan to a buyer; or to
- (3) Place, assist in placement, or find a mortgage loan for a buyer.

If you engage in any of the above activities criminal charges may be brought against you, as operating as a loan officer without a license is a criminal offense that carries a penalty of up to six (6) months in jail.

Respectfully,

A handwritten signature in cursive script that reads "Jacqueline S. Mallett / ile".

Jacqueline S. Mallett
Consumer Finance Attorney Examiner
Division of Financial Institutions

ILE

Enclosure

cc: Robert M. Uebel, APR Mortgage Corporation dba The Professional Mortgage Group
Dennis P. Smith, Jr., Assistant Attorney General
Daniel M. Massey, Esq.

Certified Mail No. 7005 1820 0003 2179 3022

Ted Strickland
Governor

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

Kimberly A. Zurz
Director

| | | |
|--------------------------|---|--|
| In the matter of: |) | Case No. M2007-623 |
| |) | |
| JIMMIE F. HOFFMAN |) | <u>DIVISION ORDER</u> |
| 4905 Kleeman Green Drive |) | Loan Officer License Suspension |
| Cincinnati, Ohio 45211 |) | & |
| |) | Notice of Appellate Rights |
| |) | |

Respondent, **JIMMIE F. HOFFMAN** ("Respondent"), held a Loan Officer License ("License") issued by the Division of Financial Institutions ("Division") during calendar year 2006. On October 26, 2007, the Division notified Respondent that it issued an Order of License Suspension ("Order") because: (1) Respondent failed to comply with the 2006 continuing education requirement set forth in R.C. 1322.052; and (2) because Respondent failed to comply with R.C. 1322.052, the Division is required under R.C. 1322.10(F)(2) to suspend Respondent's License.

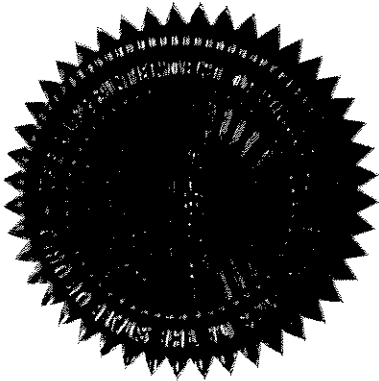
An administrative hearing was held on January 3, 2008. Respondent failed to appear. A Report and Recommendation ("Report") was filed with the Division on January 25, 2008, recommending that the Division continue the suspension of Respondent's License. No objections were filed.

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. (The Report is attached). Following its review of the record, the Division hereby adopts the hearing officer's recommendation and continues the License suspension of Jimmie F. Hoffman.


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 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 7th day of April 2008.


LEIGH A. WILLIS

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

 State of Ohio
Department of Commerce
Division of Financial Institutions

I hereby certify this to be an accurate
and true copy of the original on file in
the Division of Financial Institutions.
Witness my hand and Division Seal this
7th day of April, 2008.

By: 
Division Representative

**STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS**

RECEIVED
DIVISION OF FINANCIAL
INSTITUTIONS

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IN RE:

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: **CASE NO. 2007-623**

**JIMMIE HOFFMAN,
Respondent.**

:

: **DANIEL M. MASSEY**

: **Administrative Hearing Officer**

**REPORT AND RECOMMENDATION
ISSUED JANUARY 25, 2008**

I. FINDINGS OF FACT

A. Introduction.

1. This matter came before Daniel M. Massey, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions ("Division") to serve as an Administrative Hearing Officer for this hearing in accordance with the Ohio Administrative Procedure Act, Ohio Revised Code ("R.C.") Chapter 119. The hearing was January 3, 2008, at 77 South High Street, Columbus, Ohio. The hearing was conducted to consider the allegations in the Division's Order of License Suspension and Notice of Hearing ("Suspension Notice") against Jimmie Hoffman ("Respondent").

2. The Division alleged that Respondent did not complete six hours of approved continuing education required by § 1322.052 within the deadline for the calendar year 2006. On October 26, 2007, the Division issued the NOH, which suspended Respondent's loan officer license pursuant to § 1322.10(F)(2). It now seeks to have that suspension remain in effect.

3. Dennis Smith, an Assistant Attorney General with the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division at the hearing. Anthony D. Siciliano, Chief Counsel for Consumer Affairs for the Division, represented the Division. Respondent did not appear and was not represented by counsel. At the hearing, Division's Exhibits A through C were admitted into the record.

B. Jurisdiction and Procedural Posture.

4. On October 26, 2007, the Division sent the Suspension Notice to Respondent at Respondent's address, 4905 Kleeman Green Drive, Cincinnati, Ohio 45211. The Suspension Order was mailed Respondent by certified mail. The certified mail number of the letter was 7005 1820 2177 0276. *State's Exhibit A.*

5. The U.S. Postal Service's online "Track & Confirm" delivery system had "no record of this item." *State's Exhibit A*.

6. The Division deemed the Postal Service's information as a failure of delivery pursuant to Ohio Revised Code § 119.07. Accordingly, when certified mail is not delivered because of failure of delivery, the Division must serve the Respondent by personal service or publication. Personal service shall be made by an employee of the Division; publication shall be provided once per week for three consecutive weeks in a newspaper of general circulation in the county of Respondent's last known address. § 119.07.

7. After the failure of delivery, the Division caused a summary of the substantive provisions of the notice to be published in the *Cincinnati Court Index* for three consecutive weeks commencing on November 30, 2007, December 7, 2007, and December 14, 2007. *State's Exhibit B*.

8. The published notice included the date, time, and place for the January 3, 2008 hearing. *State's Exhibit B*.

9. Respondent did not contact anyone at the Division, the Division's counsel, or the Hearing Officer to indicate that he could not be present at the January 3, 2008 hearing or to make a request for a continuance. *Hearing Transcript ("Tr.") at 5*.

10. The hearing commenced on the date and in the location set forth in the Suspension Order. *Tr. at 4*.

C. Respondent's Loan Officer License and Continuing Education.

11. During 2006, Respondent was an Ohio mortgage loan officer licensed by the Division. Respondent's loan officer license number is 13466. *State's Exhibit C*.

12. On May 2, 2002, amendments to Ohio's Mortgage Broker Act became effective that required mortgage loan officers be licensed by the Division and complete at least six hours of continuing education each calendar year. § 1322.02(B) and § 1322.052. The continuing education courses that fulfill this requirement must be state approved courses from approved providers. § 1322 *et seq.*

13. Mr. Siciliano is the Consumer Finance General Counsel for the Division. The Division maintains records of licensees' continuing education for compliance with applicable continuing education requirements. The Division receives records from approved continuing education providers and loan officers regarding continuing education taken each calendar year. The Division inputs the information from those records into the Division's e License Management System ("eLMS"), a computer database that reflects continuing education taken by each loan officer by name. Mr. Siciliano testified that the Division has no records indicating that Respondent completed six hours of state-approved continuing education during the 2006 calendar year. *Tr. at 12-13*.

II. CONCLUSIONS OF LAW

A. Jurisdiction and Procedural Matters.

14. The Suspension Order was mailed Respondent by certified mail, which was considered lost by the U.S. Postal Service because of the system designation "no record of this item." The Division considered the Suspension Notice to have been undeliverable and made no attempt at another certified mailing to Respondent.

15. Whenever certified mail is returned for reasons other than being unclaimed, the Division must notice of a proceeding in a newspaper of general circulation as defined by R.C. § 7.12. The Division published such notice, pursuant to the requirements of R.C. § 119.07, in the *Cincinnati Court Index* once per week for three consecutive weeks. *Tr. at 10.*

16. "It is undisputed that the [*Cincinnati Court Index*] is a 'daily law journal' which has been designated as the official publisher of the Hamilton County Common Pleas and Municipal Courts pursuant to § 2701.09." *State, ex rel. Court Index Press, Inc. v. Deters*, 56 Ohio St.3d 140, 143 (1990).

17. The Supreme Court of Ohio held, "[t]hose newspapers which are designated as official publishers of court calendars, pursuant to R.C. 2701.09, are, by virtue of this designation, automatically qualified as newspapers of general circulation, without having to meet the tests contained in the second paragraph of R.C. 7.12." *Id. at 142-143.*

18. Therefore, the *Cincinnati Court Index's* designation by the Hamilton County Common Pleas and Municipal Courts allows it to be used by the Division for service by publication.

19. Accordingly, the Division has perfected service against Respondent via publication in the *Cincinnati Court Index*.

B. Proposed Continuation of License Suspension.

20. The Division is the state agency responsible for the licensing and regulation of mortgage loan officers pursuant to the Ohio Mortgage Broker Act, Ohio Revised Code Chapter 1322.

21. Mortgage loan officers licensed by the Division must complete at least six hours of continuing education each calendar year. The continuing education courses that fulfill this requirement must be state-approved courses from approved providers. § 1322.052.

22. Ohio Revised Code § 1322.10(F)(2) requires the Division to suspend a loan officer license for lack of compliance with § 1322.052.

23. During 2006, Respondent was an Ohio loan officer licensed by the Division.

24. Respondent failed to complete the mandatory six hours of state-approved continuing education required by § 1322.052 within the deadline for the year 2006.

25. The Division seeks, under R.C. § 1322.10(F), to continue the October 26, 2007 suspension of Respondent's loan officer license because he has not completed the six hours of state-approved continuing education, required under R.C. § 1322.052.


26. The Division has established that no records exist to indicate that Respondent has completed the required six hours of state-approved continuing education for 2006.

27. The Division has established that Respondent violated § 1322.052. Therefore, there is a sufficient evidentiary basis for continuing the suspension of Respondent's loan officer license "until such time as the required continuing education is completed[.]" § 1322.10(F)(2).

III. RECOMMENDATION

The Division has established a sufficient evidentiary basis for continuing the suspension of Respondent's loan officer license pursuant to § 1322.10(F)(2) for lack of compliance with § 1322.052 during the 2006 calendar year. Therefore, I respectfully recommend that Respondent's loan officer license remain suspended until the required continuing education is completed and until he meets other statutory requirements under 1322.10(F)(2) for reinstatement.

Respectfully submitted,



Daniel M. Massey, Esq.
Administrative Hearing Officer