

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

In the matter of:)	Case No. 04-0266-LOD
)	
EVE L. MAJSTRUK)	<u>DIVISION ORDER</u>
6894 Day Drive)	Denial of Loan Officer License Application
Parma, OH 44129)	&
)	Notice of Appellate Rights
)	

Respondent, Eve L. Majstruk ("Respondent"), submitted a loan officer license application to the Division of Financial Institutions ("Division") on December 18, 2003. On February 12, 2004, the Division notified Respondent that it intended to deny her loan officer license application ("Application") because: (1) In or around 2003, in the Parma Municipal Court of Cuyahoga County, Ohio, Respondent was convicted of theft; (2) per R.C. sections 1322.031(A)(2) and 1322.041(A)(3), Respondent has not proven that she is honest, truthful, and of good reputation, and that there is no basis in fact for believing that she will not commit another criminal offense involving theft or any criminal offense involving money or securities; and (3) because her 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. sections 1322.01 to 1322.12, the Ohio Mortgage Broker Act.

Respondent requested an administrative hearing, which was held on April 28, 2004. Respondent appeared without counsel. A Report and Recommendation ("Report") was filed with the Division on June 16, 2005, recommending that the Division approve 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 modifies the second paragraph under the heading "A. Background" on page one of the Report. The Report here references "passing bad checks" while the Notice of Intent to Deny references Respondent's conviction for theft. (State's Exh. 3).

With the exception of the first sentence, the Division rejects paragraph six on page five, paragraph eight on page five, and the Recommendation on page six of the Report.

Upon the Division proving that Respondent was convicted of theft in 2003, the burden of proof shifted to Respondent to establish by a preponderance of the evidence that she is honest, truthful, and of good reputation, and that there is no basis in fact for believing that she will commit another criminal offense involving theft or any criminal offense involving money or securities. See R.C. sections 1322.031(A)(2) and 1322.041(A)(3). In her favor, Respondent testified that she disclosed her theft conviction to her employer and she disclosed the conviction in her loan officer license application. (Tr., pp. 21-24; State's Exh. 1). Respondent also testified as to the circumstances surrounding the conviction including spending 24 hours in jail. (Tr., pp. 16-22). On the other hand, in attempting to meet her burden of proof Respondent provided only her own self-serving testimony. Without providing additional evidence through other witnesses' testimony or through letters of recommendation, as to her honesty, truthfulness, and reputation, the Division cannot find that Respondent met her burden of proof. Furthermore, Respondent was convicted of theft in 2003 and applied for her license that same year, while she was on probation for the conviction. (State's Exhs. 1 and 2). The Division cannot find that enough time elapsed since the conviction during which Respondent could establish her reputation or prove her unlikelihood to commit theft or another similar offense.

Accordingly, the Division denies the loan officer application of Eve L. Majstruk.

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 29th day of September 2006.

ROBERT M. GRIESER
Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce