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STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

IN RE:	:	CASE NO.: M2009-405
	:	
	:	
JON A. PORRICELLI,	:	
	:	HEARING OFFICER
RESPONDENT	:	DELORES EVANS

ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
Issued October 14, 2009

I. FINDINGS OF FACT

A. Background

This matter came before Delores Evans, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions ("Division") to serve as the Hearing Officer for this hearing in accordance with the Ohio Administrative Code and the Ohio Revised Code ("R.C.") Chapter 119. The hearing was held on September 16, 2009 at 77 South High Street, in Columbus, Ohio.

The Division held the hearing to consider the August 19, 2009 Order of Summary Suspension, Notice of Intent to Deny Renewal, and Notice of Hearing ("NOH"). The Division alleged that Jon A. Porricelli ("Respondent") violated R.C. §1322.052 when he failed to complete at least six hours of approved continuing education ("CE") during the 2008 calendar year.

Janyce C. Katz, Esq., an Assistant Attorney General with the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division at the hearing. Lori Massey, Esq., testified on behalf of the Division. Neither Respondent nor a representative on his behalf appeared at the hearing. State's Exhibits A through E were introduced and admitted into the record at the hearing. The record consists of the Exhibits, properly marked and admitted, the NOH, and the transcript from the hearing. The record was closed at the end of the day on September 16, 2009.

B. Jurisdiction and Procedural Matters

1. On April 28, 2009, the Division received Respondent's 2009 Loan Officer Renewal Application ("Renewal Application"). *State's Exhibit D*

2. On August 19, 2009, the Division issued the NOH. The Division suspended Respondent's loan officer license pursuant to R.C. §1322.10(F)(2) because Respondent failed to fulfill the necessary CE requirement for calendar year 2008. In the NOH, the Division indicated that it also seeks to deny Respondent's 2009 Renewal Application. The Division set the matter for hearing on September 16, 2009. The Division sent the NOH to Respondent via certified mail, return receipt requested. Service was perfected on August 28, 2009. *State's Exhibit A; State's Exhibit B*
3. On September 16, 2009, the hearing commenced with only the Division in attendance. Respondent did not contact the Hearing Officer, the Attorney General's Office, or the Division concerning the hearing.

C. Respondent's Activities

4. Lori Massey, an attorney examiner with the Division, reviewed Respondent's loan officer file for compliance with R.C. §1322.052. *Testimony of Ms. Massey*
5. Respondent held a loan officer license (#024484) between May 26, 2005 and April 20, 2009. *State's Exhibit C*
6. At the hearing, the Division introduced a printout of Respondent's CE history maintained by the Division. The printout indicates that Respondent completed six hours of approved CE coursework entitled "Mortgage Practices and Ethical Processes" on February 28, 2008. However, Ms. Massey explained that Respondent's February 28, 2008 credit hours were applied to his 2007 CE requirement because Respondent failed to successfully complete six credit hours of approved CE coursework in 2007. *State's Exhibit E; Testimony of Ms. Massey*
7. On March 30, 2009, Respondent attended a six-hour CE course entitled "Building Mortgage Credibility for Lasting Success." *State's Exhibit E; Testimony of Ms. Massey*
8. Respondent requested that his March 30, 2009 CE coursework be applied to his 2008 CE requirement. *State's Exhibit E; Testimony of Ms. Massey*
9. Respondent did not complete the required six hours of approved CE during the 2008 calendar year. *Testimony of Ms. Massey*
10. Respondent did not remit the \$500.00 fine as required by R.C. §1322.10(F)(2). *Testimony of Ms. Massey*

II. CONCLUSIONS OF LAW


11. The Division has procedurally complied with R.C. Chapter 119 and has established jurisdiction over this matter.
12. The Division is responsible for the licensing and regulation of loan officers and mortgage brokers pursuant to the Ohio Mortgage Broker Act, R.C. Chapter 1322.
13. At all times relevant to this matter, Respondent held a loan officer license and was subject to the laws in R.C. Chapter 1322 and the rules promulgated pursuant to that Chapter.
14. R.C. §1322.052, effective May 2, 2002, provides that each mortgage loan officer licensee shall complete at least six hours of approved CE every calendar year.
15. Respondent was a licensed loan officer during 2008, but he failed to fulfill the required six hours of approved CE during the 2008 calendar year and therefore violated R.C. §1322.052.
16. R.C. §1322.10(F)(2) states:

(2) The superintendent shall, without a prior hearing, suspend the certificate of registration of a registrant whose operations manager has failed to fulfill the continuing education requirements of section 1322.052 of the Revised Code and suspend the license of a licensee who has failed to fulfill those continuing education requirements. The suspension shall continue until such time as the required continuing education is completed and a fine of five hundred dollars is paid to the treasurer of state to the credit of the consumer finance fund.
17. R.C. §1322.10(A)(1)(a) authorizes the Division to deny a loan officer license for lack of compliance with any provision of R.C. §§ 1322.01 through 1322.12.
18. The Division has established that Respondent is in violation of R.C. §1322.10(F)(2) and R.C. §1322.10(A)(1)(a) because Respondent did not complete six hours of approved CE coursework for the 2008 calendar year and remit the \$500.00 fine to the Division. Therefore, sufficient evidence exists to suspend Respondent's loan officer license and deny Respondent's 2009 Renewal Application.

III. RECOMMENDATION

Based upon the evidence submitted into the record for this case, the Division has established a sufficient evidentiary basis for suspending Respondent's 2008 loan officer license and denying Respondent's 2009 Renewal Application pursuant to R.C. § 1322.10(A)(1)(a) because Respondent failed to comply with R.C. § 1322.052. Therefore, the Hearing Officer respectfully recommends that the Division deny Respondent's 2009 Renewal Application.

Respectfully submitted,


Delores Evans
Hearing Officer
October 14, 2009