

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

IN THE MATTER OF:	:	CASE NO. M2009-49
	:	
GREGORY P. MULLIN,	:	
	:	LISA M. FINNEGAN
RESPONDENT.	:	HEARING OFFICER
	:	

ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
Issued August 4, 2009

I. FINDINGS OF FACT

A. Background

1. This matter came before Lisa M. Finnegan, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Department of Commerce, Division of Financial Institutions ("Division"), to serve as Hearing Officer for this hearing in accordance with the Ohio Administrative Procedure Act, Ohio Revised Code ("R.C.") Chapter 119. The Division held the hearing on June 5, 2009 at 77 South High Street, 19th Floor, Columbus, Ohio, 43215.

2. The Division held the hearing to consider the April 8, 2009 Notice of Intent to Deny Loan Officer License Application and Notice of Opportunity for a Hearing ("NOH"). The Division intends to deny Respondent Gregory P. Mullin's ("Respondent") loan officer license application because he failed to complete at least six hours of approved continuing education during the 2006 and 2007 calendar years in violation of R.C. § 1322.052.

3. Jennifer S.M. Croskey, Esq., an Assistant Attorney General with the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division at the hearing. Lori A. Massey, Esq., and Robert Dillon testified on behalf of the Division. Respondent appeared at the hearing *pro se*. The Hearing Officer advised Respondent of his right to counsel. Respondent elected to proceed without counsel. *Testimony of Respondent, Transcript ("Tr.") at 7-8.*

4. Respondent appeared at the hearing by telephone due to health problems that prevented travel to Columbus and was sworn in by a notary public. Respondent submitted

his exhibits to the Hearing Officer by facsimile prior to the hearing. The parties also exchanged exhibits by facsimile prior to the hearing. The Hearing Officer admitted State's Exhibits A through M into the record over Respondent's relevancy objection. Respondent objected to any of the State's Exhibits that referred to years prior to 2005, but did not object to specific exhibits. The Hearing Officer admitted Respondent's Exhibits 3, 4, 5, 7, and 13 into the record at the hearing without objection. The Hearing Officer admitted Respondent's Exhibits 2, 6, 8, 9, and 12 over the Division's relevancy objection.

B. Jurisdiction and Procedural Matters

5. On April 8, 2009, the Division issued the NOH to Respondent notifying him that the Division intended to deny his loan officer license application. The NOH also notified Respondent that he had an opportunity to request a hearing within thirty days of the time of the mailing of the NOH. *State's Exhibit B*.

6. The Division sent the NOH to Respondent by certified mail, return receipt requested. Respondent received the NOH on April 10, 2009. *State's Exhibit C; Testimony of Respondent, Tr. at 15-16*.

7. On May 7, 2009, Respondent timely requested a hearing. *State's Exhibit D; Testimony of Respondent, Tr. at 16*.

8. On May 8, 2009, Respondent mailed a notice to Respondent setting the matter for hearing on May 18, 2009. Within the same notice, the Division rescheduled the hearing for June 5, 2009. Respondent acknowledged that he received the notice. *State's Exhibit E; Testimony of Respondent, Tr. at 16-17*.

9. The Division held the hearing on the date, time, and location as specified in the May 8, 2009 hearing notice.

C. Respondent's Loan Officer License History

10. Lori A. Massey, an attorney examiner with the Division, testified at the hearing. Ms. Massey's job duties include reviewing licensing applications to determine compliance with R.C. Chapter 1322. *Testimony of Lori A. Massey, Tr. at 35*.

11. Ms. Massey explained that R.C. § 1322.052 requires loan officers to complete six hours of continuing education during each year they are licensed. *Testimony of Lori A. Massey, Tr. at 35-36*.

12. Robert Dillon, the continuing education coordinator for the Division, also testified at the hearing. Mr. Dillon explained that the continuing education requirement for loan officers covers the calendar year from January 1st to December 31st, whereas loan officer licenses expire on April 30th of each year. *Testimony of Robert Dillon, Tr. at 61-62*.

13. A loan officer license overlaps two calendar years. Loan officers must complete six hours of continuing education for each calendar year during which they hold a license. *Testimony of Lori A. Massey, Tr. at 36.*

14. Respondent first applied for a loan officer license in April 2002. *State's Exhibit F.* The Division issued to Respondent a loan officer license on October 25, 2002. The expiration date of the license was April 30, 2003. *State's Exhibit G; Testimony of Respondent, Tr. at 17-18.*

15. Respondent completed six hours of continuing education for calendar year 2002. *Testimony of Lori A. Massey, Tr. at 49-50.*

16. Respondent did not renew his loan officer license in 2003. *Testimony of Respondent, Tr. at 33.* He was unable to renew the license because his 2002 loan officer license was a provisional license that required Respondent to take and pass a licensing examination within 90 days. Respondent did not take or pass the examination; therefore, his license was cancelled by operation of law. *Testimony of Lori A. Massey, Tr. at 40-41.*

17. Respondent was not required to complete continuing education in 2003 because he did not hold a loan officer license. *Testimony of Lori A. Massey, Tr. at 50.*

18. Respondent again applied for a loan officer license in 2005. *State's Exhibit H; Testimony of Respondent, Tr. at 18.* The Division issued to Respondent a loan officer license on November 4, 2005. The expiration date of the license was April 30, 2006. *State's Exhibit I.* Respondent maintained that this license also was a provisional license that the Division issued to him to take the licensing test in accordance with the Division's procedures at that time. Respondent passed the licensing test in 2006. *Testimony of Respondent, Tr. at 21-23; Respondent's Exhibit 7.*

19. On March 15, 2006, Respondent submitted a 2006 Loan Officer Renewal Application to the Division to renew the provisional license the Division issued to him on November 4, 2005. *Respondent's Exhibit J; Testimony of Respondent, Tr. at 22.* The Division issued to Respondent a loan officer license dated with the original provisional license date of November 4, 2005. The expiration date of the license was April 30, 2007. *State's Exhibit K; Testimony of Respondent, Tr. at 22-23.*

20. Respondent held a loan officer license in 2005. Respondent completed his required continuing education requirements for 2005. *Testimony of Lori A. Massey, Tr. at 50-51; State's Exhibit K; Respondent's Exhibits 3, 4, & 5.*

21. Respondent held a loan officer license in 2006. *Testimony of Lori A. Massey, Tr. at 50-51; State's Exhibits J and K.* Respondent did not complete his continuing education

for 2006. *Testimony of Lori A. Massey, Tr. at 52; Testimony of Robert Dillon, Tr. at 62; State's Exhibit M.*

22. Respondent held a loan officer license in 2007. *Testimony of Lori A. Massey, Tr. at 51; State's Exhibit K.* Respondent did not complete his continuing education for 2007. *Testimony of Lori A. Massey, Tr. at 52; Testimony of Robert Dillon, Tr. at 62-63; State's Exhibit M.*

23. Respondent did not renew his loan officer license before it expired on April 30, 2007. *Testimony of Lori A. Massey, Tr. at 54-55.*

24. Respondent again applied for a loan officer license on or about October 2, 2008. *State's Exhibit L; Testimony of Respondent, Tr. at 24.* Respondent introduced Respondent's Exhibit 9 to show that he had taken courses in 2008 to meet loan officer pre-licensing requirements. *Testimony of Respondent, Tr. at 74; Respondent's Exhibit 9.*

25. Respondent introduced certificates to show his continuing education in the states of Maryland, Tennessee, and Florida, but agreed that continuing education classes for other states do not count towards the State of Ohio's continuing education requirement. *Respondent's Exhibits 2, 6, 12; Testimony of Respondent, Tr. at 68-70, 77-78.*

26. Because he did not meet his continuing education requirements for his loan officer license in 2006 and 2007, Respondent does not meet the requirements to obtain a loan officer license in 2009. *Testimony of Robert Dillon, Tr. at 62-63.*

II. CONCLUSIONS OF LAW

27. The Division has procedurally complied with R.C. Chapter 119 and has established jurisdiction over this matter.

28. 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.

29. R.C. § 1322.10(A)(1)(a) authorizes the Superintendent of the Division to refuse to issue a license if the Superintendent finds a failure to comply with any provisions of R.C. §§ 1322.01 through 1322.12.

30. R.C. § 1322.052 and Ohio Adm.Code 1301:8-7-18(B) require that mortgage loan officers licensed by the Division complete six hours of continuing education courses during each calendar year.

31. Ohio Adm.Code 1301:8-7-09 (F) states that an applicant who previously held a loan officer license and failed to complete the continuing education requirement of R.C. §

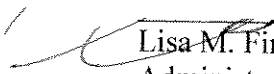
1322.052 must complete those requirements before the Division will issue the applicant a new license.

32. Respondent's failure to complete six hours of continuing education for calendar years 2006 and 2007 constitutes two violations of R.C. § 1322.052. Accordingly, the Division is authorized to deny Respondent's loan officer license application pursuant to R.C. § 1322.10(A)(1)(a) and Ohio Adm.Code 1301:8-7-09(F) for his non-compliance with R.C. § 1322.052. Also, pursuant to Ohio Adm.Code 1301:8-7-09(F), the Division may impose a fine for Respondent's prior non-compliance with R.C. § 1322.052.

III. RECOMMENDATION

Based upon the evidence submitted into the record for this case, the Division has established a sufficient evidentiary basis for denying Respondent's loan officer license application pursuant to R.C. § 1322.10(A)(1)(a) and Ohio Adm.Code 1301:8-7-09(F) because Respondent failed to comply with R.C. § 1322.052 for calendar years 2006 and 2007. Therefore, the Hearing Officer respectfully recommends that the Superintendent of the Division deny Respondent's loan officer license application until Respondent completes all continuing education requirements, pays any required fees and charges, and fulfills all other requirements for a loan officer license.

Respectfully submitted,



Lisa M. Finnegan
Administrative Hearing Officer
August 4, 2009