

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

In the matter of:

JOHNNIE M. PINKNEY
13970 Superior Road, #201
Cleveland, OH 44118

) Case No. M2006-9991910
)
) **DIVISION ORDER**
) **Denial of Loan Officer License Application**
) **&**
) **Notice of Appellate Rights**

Johnnie M. Pinkney, (“Respondent”), submitted a loan officer license application (“Application”) to the Division of Financial Institutions (“Division”) on January 9, 2006. On May 17, 2006, the Division notified Respondent that it intended to deny her Application because: (1) Respondent had 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 an enumerated offense or any criminal offense involving money or securities; (2) on or around December 10, 2005, Respondent attested in a sworn statement that information she provided about his criminal background in the Application she submitted to the Division was complete and truthful when it was not; (3) on or around January 6, 2006, in an attempt to obtain a loan officer license, Respondent provided untruthful information about her criminal background to the Division; (4) she violated R.C. 1322.07(A) by failing to disclose her conviction in the Application; (5) she violated R.C. 1322.07(B) by making a false statement of a material fact or by omitting a statement required by state law in the Application; (6) she violated R.C. 1322.07(C), which prohibits an applicant from engaging in improper or dishonest conduct; and (7) because her 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 October 25, 2006. Respondent presented her case through writing but did not attend. A Report and Recommendation (“Report”) was filed with the Division on January 4, 2007, recommending that the Division deny Respondent’s application. 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, Respondent’s objections, 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 14, 15 and 16 on page 7 of the Report

R.C. 1322.07(A), (B), and (C) do not require a deliberative act for their violation. In contrast to 1322.07(E) and (F), which contain language of intent by use of the term "knowingly," R.C. 1322.07(A), (B), and (C) do not employ such language. Accordingly, an applicant that fails to carefully read and answer each question in a loan officer application, swears to its veracity, and then files such application with the Division is in violation of R.C. 1322.07(A), (B) and (C) when such answer is patently untrue. Respondent failed to disclose her criminal history in the Application which she filed with the Division thereby violating R.C. 1322.07(A), (B) and (C).

The Division approves the Recommendation on page 9 of the Report and hereby denies the application of Johnnie M. Pinkney.

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 9th day of February 2007.

RICHARD F. KECK

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