

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

In the matter of:)	Case No. 04-0406-LOD
)	
DANTE L. WILLIAMS)	<u>DIVISION ORDER</u>
2068 Higby Drive)	Denial of loan officer license application
Stow, OH 44224)	&
<hr style="width: 40%; margin-left: 0;"/>)	Notice of Appellate Rights

Respondent, Dante L. Williams, submitted a loan officer license application to the Division of Financial Institutions ("Division") on March 5, 2004. On April 27, 2004, the Division notified Williams that it intended to deny his loan officer license application because: (1) in 1997 he was convicted of theft and did not prove that he was honest, truthful, and of good reputation, and that there was no basis in fact to believe that he would not commit such an offense again; (2) he violated R.C. § 1322.07(A) by failing to disclose his theft conviction on his loan officer license application; (3) he violated R.C. § 1322.07(B) by making a false statement of a material fact or by omitting a statement required on the licensing application and to the Division; (4) he violated R.C. § 1322.07(C) by engaging in conduct that constitutes improper, fraudulent, or dishonest dealings; and (5) because of his theft conviction, his non-disclosure of that theft conviction, and his violations of the Ohio Mortgage Broker Act, his character and general fitness do not command the confidence of the public and warrant the belief that his 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.

Williams requested a hearing and an administrative hearing was held on July 12, 2004. A Report and Recommendation was filed with the Division on September 13, 2004, recommending that the Division deny Williams' application and not grant him a loan officer license. 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 modifies and/or disapproves the findings and/or conclusions listed below. Any finding and/or conclusion not specifically addressed below is approved, adopted and incorporated herein. (The Hearing Officer's Report and Recommendation is attached.)

The Report and Recommendation is modified or disapproved as follows: On page one of the Report and Recommendation, under “Background,” the hearing officer omitted the fact that the Division also based its decision to deny Williams’ license application on his failure to disclose his theft conviction. (Exhibit D.) Also, there is no indication that the theft conviction was a fourth degree misdemeanor. (Exhibit C.) On page two of the Report and Recommendation, under “Jurisdiction,” the report erroneously states that the notice was issued on April 27, 2004. The notice was issued on April 23, 2004. The Report and Recommendation is hereby amended to reflect these changes.

The Division modifies paragraph 7 on page 2 of the Report and Recommendation to reflect that there is no indication that Williams theft conviction was a fourth degree misdemeanor. Further, the theft conviction is evidenced by Exhibit C, not Exhibits B and D. The Report and Recommendation is hereby amended to reflect these changes.

The Division disapproves and modifies paragraph 5 on page 4 under “Conclusions of Law” of the Report and Recommendation and paragraph 5 on page 4 under “Discussion” of the Report and Recommendation. Since Williams was convicted of a theft offense, the burden was on him to show that since his conviction for theft that his employment record and activities show that he is honest, truthful, and of good reputation, and there is no basis in fact for believing that he would commit a theft offense again. (See R.C. § 1322.031(A)(2) and R.C. § 1322.041(A)(3).) The burden was on the state to show that Williams’ character and general fitness do not command the confidence of the public and warrant the belief that his business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act. Accordingly, both paragraphs are disapproved and modified to reflect the accurate legal burdens.

The second sentence of Paragraph 8 on page 4 of the Report and Recommendation states that “[t]he information provided by Respondent, did not overcome Respondent’s burden to prove by a preponderance of the evidence that he has the character and honesty to command the trust of the public.” This statement is incorrect for two reasons. The first is Respondent did not provide information to the hearing officer as he did not appear to testify and introduce evidence at the hearing, nor did he present arguments in writing as permitted by R.C. § 119.07. The second, is Respondent’s burden, which he did not meet, was to prove by a preponderance of the evidence that his employment record and activities since his theft conviction show that he is honest, truthful, and of good reputation and that there is no basis in fact for believing that he would commit a theft offense again. (See R.C. § 1322.031(A)(2) and R.C. § 1322.041(A)(3).) As

nothing was presented by Williams, he did not meet his burden. The second sentence of Paragraph 8 on page 4 is disapproved and modified accordingly.

In accordance with the foregoing, the Division otherwise adopts the recommendation of the hearing officer and denies Williams' loan officer license application.

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 3rd day of November 2005

ROBERT M. GRIESER

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