

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

In the matter of:

PRESTON U. IRBY
3362 East 132nd Street
Cleveland, Ohio 44120

) Case No. 05-0109-LOD
)
) **DIVISION ORDER**
) **Denial of Loan Officer License Application**
) **&**
) **Notice of Appellate Rights**

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions (“Division”), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act, as amended by Ohio Senate Bill 76 and codified in Ohio Revised Code (“R.C.”) Chapter 1322, the Division finds that this order is necessary and appropriate, in the interest of the public, and is consistent with the purposes of the Ohio Mortgage Broker Act; and

WHEREAS, on February 7, 2005, PRESTON U. IRBY (“Respondent”) applied to the Division for a loan officer license pursuant to R.C. Chapter 1322; and

WHEREAS, on June 9, 2005, the Division issued Respondent a Notice which informed him that the Division had conducted an investigation of Respondent and, as a result thereof, alleged that:

1. In or around 1975, in the Municipal Court of Bedford in Cleveland, Ohio, Respondent was convicted of PETTY THEFT, a misdemeanor of the first degree.
2. On or around November 30, 2004, Respondent attested in a sworn statement that information he provided about his criminal background on his loan officer license application he submitted to the Division was complete and truthful when it was not.
3. On or around February 7, 2005, in an attempt to obtain a loan officer license, Respondent provided incomplete information about his criminal background to the Division.
4. Respondent had not proven that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he would not commit another criminal offense involving theft or any criminal offense involving money or securities; and
5. Because he violated R.C. §§ 1322.07(A), (B), and (C), by his failure to disclose the conviction, Respondent’s 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 the Ohio Mortgage Broker Act.

WHEREAS, the Notice informed Respondent of the Division’s intent to deny his loan officer license application and of the opportunity for a hearing regarding the denial if requested within thirty days from the mailing of the Notice. The Notice further cautioned Respondent that “[i]f the Ohio Division of Financial Institutions d[id] not receive a written request for a hearing in its offices within thirty (30) days of the time of the mailing of th[e] Notice, the Superintendent w[ould] issue an order denying Respondent a loan officer license[;]”

WHEREAS, the Division obtained service on Respondent and Respondent failed to request a hearing by the statutory deadline and thereby failed to defend against the Division's allegations;

WHEREAS, the Division finds that the allegations contained in the Notice are true and that Respondent should be denied a license to act as a loan officer;

The February 7, 2005 loan officer license application of Respondent, Preston U. Irby, is hereby denied.

NOTICE OF APPELLATE RIGHTS

Respondent is hereby notified that this Order may be appealed, pursuant to R.C. 119.12, 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 10th day of February 2006.

ROBERT M. GRIESER

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