

**STATE OF OHIO
DEPARTMENT OF COMMERCE**

IN THE MATTER OF: **GREGORY A. BLANKENSHIP**
CASE NUMBER: **M2005-999215**

**DIVISION OF FINANCIAL
INSTITUTIONS
CONSUMER FINANCE SECTION**

**William E. Leber, Esq.
Hearing Examiner**

**REPORT AND RECOMMENDATION
Issued November 15, 2006**

Findings of Fact.

This matter came before me, William E. Leber, an attorney licensed to practice law in Ohio, upon appointment by the Division of Financial Institutions, a Division of the Ohio Department of Commerce. Accordingly, a hearing was held on October 3, 2006, at the Vern Riffe Center for Government and the Arts in Columbus in accordance with the Ohio Administrative Procedure Act, Revised Code Chapter 119, and with the Ohio Mortgage Broker Act, Revised Code Chapter 1322.

At the hearing, a stenographic record of the hearing was made at the expense of the Ohio Department of Commerce. The respondent, Gregory A. Blankenship, represented himself *pro se*, and the Department of Commerce, Division of Financial Institutions (also referred to herein as the "State") was represented by Assistant Attorney General Laura A. Meehan.

1. On or about May 8, 2006, the Division of Financial Institutions, Consumer Finance Section transmitted a Notice of Intent to Deny Loan Officer License Application and Notice of Opportunity for Hearing ("NOH") to Gregory A. Blankenship. On or about May 17, 2006, the respondent received the NOH, which reported the intention of the Division of Financial Institutions to deny the respondent's license application because the State had determined that the respondent had not complied with the provisions of Revised Code sections 1322.031(A)(2), 1322.041(A)(3), 1322.041(A)(5), 1322.07(A), 1322.07(B) and 1322.07(C). (State's Exhibit C).
2. On or before June 2, 2006, the Division of Financial Institutions, Consumer Finance Section received a hearing request form from Gregory A. Blankenship with reference to case number M2005 - 999215 (State's Exhibit D).
3. On or about June 12, 2006 of the Division of Financial Institutions transmitted a letter to Gregory A. Blankenship, scheduling a hearing in case number M2005 - 999215

for Tuesday, October 3, 2006 at 2:00 p.m. in room 1910 at 77 S. High St, Columbus (State's Exhibit E).

4. On or about December 6, 2005, Gregory A. Blankenship filed a Loan Officer Application form with the Ohio Division of Financial Institutions. In response to question number six on the application, "Have you been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities? the respondent answered "No." The respondent provided no further information on the application form itself or on an attached criminal history attestation page which is attached to and made a part of the loan officer application form. Both the Loan Officer Application Form and the Criminal History Attestation Page provided for a notary statement in conjunction with the signature of the applicant, here, Gregory A. Blankenship (State's Exhibit A).
5. On or about December 14, 2005, the Division of Financial Institutions, Consumer Finance Section mailed a letter to Gregory A. Blankenship under the signature of Consumer Finance Staff Attorney Mark L. Rhea advising him that his application had been forwarded to the Consumer Finance Legal Section for investigation (State's Exhibit B). Attached to State's Exhibit B is an undated letter from the respondent explaining the circumstances of his 1997 conviction in Boone County, Kentucky for failure to pay child support.
6. On or about May 19, 1997, in the District Court of Boone County, Kentucky, the respondent was convicted on a first offense of nonsupport, a class A misdemeanor in Kentucky. (State's Exhibit B).
7. The respondent confirmed the report in the public records of the District Court of Boone County, Kentucky that he had pleaded guilty to a class A misdemeanor, violation of Kentucky Revised Statutes 530-050, by his admission (Transcript page 17).
8. The respondent did not report the criminal violation described in paragraphs 6 and 7, above, on the Loan Officer Application Form he filed with the Division of Financial Institutions as described in paragraph 4, above.
9. At the close of the hearing on October 3, 2006, the record of the hearing was allowed to remain open until the close of business on November 3, 2006 (Transcript page 32) for the respondent to provide recommendations and other documentation regarding his character and good business reputation.
10. On November 3, 2006, the Department of Commerce received a cover letter and 15 pages of correspondence from the respondent, Gregory A. Blankenship, which included "Certified True Cop(ies)" of certificates of training and commendation, and letters of recommendation from various parties (Post-Hearing Exhibit A). The "Certified True Cop(ies)" were copies of the certificates and letters introduced into evidence by the respondent at the hearing as Exhibit 3. All of the certificates and letters in Exhibit 3 and Post-Hearing Exhibit A were dated prior to the respondent's conviction for nonsupport in 1997.

11. On or about September 26, 2006, the respondent's conviction on a first offense of nonsupport, a class A misdemeanor, in violation of Kentucky Revised Statutes 530-050, was expunged in accordance with Kentucky Revised Statutes 431-078 in the District Court of Boone County, Kentucky.

12. At the hearing, the respondent testified that he did not report the 1997 conviction on his application to the State because the 1997 violation of the Kentucky nonsupport statute did not register with him as a criminal act. He believed that the process leading to his criminal conviction was more in the nature of an element of the renegotiation of his child support responsibilities (Transcript Page 29).

Conclusions of Law

A. In accordance with the provisions of the Ohio Mortgage Broker Act, Chapter 1322. of the Revised Code, the Ohio Division of Financial Institutions is responsible for the administration of the act. Accordingly, the Division of the Financial Institutions has the authority to accept or deny applications for licensing as a mortgage loan officer.

B. In the matter of Gregory A. Blankenship, the Division of Financial Institutions provided sufficient and proper written notice to respondent Gregory A. Blankenship of the denial of his application for a license as a loan officer, and provided him with an appropriate hearing in accordance with the provisions of the Ohio Administrative Procedure Act, Revised Code Chapter 119 ., and the Ohio Mortgage Broker Act, Revised Code Chapter 1322 .

C. The Division of Financial Institutions did not establish that the respondent had not complied with the provisions of Revised Code section 1322.031(A)(2). That paragraph requires that an applicant for licensing as a loan officer provide a complete application, including a statement as to whether or not the applicant has been convicted of or pleaded guilty to any of a series of enumerated criminal violations, including "any criminal offense involving money or securities." Here, the respondent did not report on his license application that he had pleaded guilty to a charge of nonsupport, but he did submit a complete application.

D. The Division of Financial Institutions did not establish that the respondent had not complied with the provisions of Revised Code section 1322.07(C). That paragraph requires that no applicant for licensing as a loan officer shall "Engage in conduct that constitutes improper, fraudulent, or dishonest dealings." That provision does not refer to prior conduct. The Division of Financial Institutions did not establish that the respondent had engaged in improper, fraudulent, or dishonest conduct in his actions as an applicant for licensing. The State established that the respondent had been convicted of a misdemeanor almost ten years before the date he filed his application for licensing, but the state did not establish that the respondent's inaccurate application constituted "improper, fraudulent, or dishonest dealings," or that he had engaged in criminal conduct during the pendency of his application.

E. The Division of Financial Institutions did establish that the respondent did not comply with the provisions of Revised Code section 1322.041(A)(3). The State established in paragraph 7, above, that the respondent had been convicted of a criminal offense listed in that section which had not been reported in his application. Further, the aged recommendations and other documentation submitted by the respondent were not timely in terms of rehabilitating the respondent's honesty, truthfulness or good reputation.

F. The Division of Financial Institutions did establish that the respondent did not comply with the provisions of Revised Code section 1322 .041(A)(5). The State established that the respondent had been convicted of an enumerated criminal offense, which had not been reported in his application, and the respondent did not provide adequate support for a determination by the Superintendent of Financial Institutions that the applicant's character and general fitness command the confidence of the public and warrant a belief that the business will be operated honestly and fairly. In response to the omission of a criminal offense in the application, the respondent provided no current expressions of support from professional colleagues, employers, or friends and family in support of his business reputation and fitness to serve as a loan officer.

G. The Division of Financial Institutions did establish that the respondent did not comply with the provisions of Revised Code section 1322 .07(A). The State established that the respondent had made a "substantial misrepresentation" in his application for licensing as a loan officer. That is, the respondent made an untrue statement of fact when he reported that he had no criminal convictions despite the fact that he had been convicted of a Class A Misdemeanor in 1997 in Boone County, Kentucky. It is noted that the conviction was almost ten years old at the time of his application, but the respondent nonetheless failed to report the conviction in his application.

H. The Division of Financial Institutions did establish that the respondent did not comply with the provisions of Revised Code section 1322 .07(B). The State established that the respondent made a false statement regarding his prior conduct in his application for licensing as a loan officer.

I. The subsequent expungement of the respondent's 1997 conviction for nonsupport does not preclude the state from acting on the respondent's failure to report that conviction, as required, in an application for licensing filed prior to the date of the September 26, 2006 expungement of that conviction.

Recommendation of Action.

Based on the foregoing, I recommend that the Division of Financial Institutions deny the Loan Officer License Application of Gregory A. Blankenship. The Division of Financial Institutions has established that it has the authority to deny the respondent's application based on the circumstances of the respondent's application. As a result of the expungement of his 1997 conviction, the respondent may present a future application that will be acceptable to the State. However, based on the facts in this case, the respondent did not overcome the burden he placed on himself by failing to report the conviction he was obliged to report at the time of his application.

Respectfully submitted,

William E. Leber, Esq.
Hearing Examiner
December 15, 2006