

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

In the matter of:)	Case No. 05-0110-LOD
)	
SAMANTHA J. LESTOCK)	<u>DIVISION ORDER</u>
1480 Warren Road, Apt. #408)	Denial of Loan Officer License Application
Lakewood, Ohio 44107)	&
)	Notice of Appellate Rights
)	

Respondent, Samantha J. Lestock (“Respondent”), submitted a loan officer license application to the Division of Financial Institutions (“Division”) on March 3, 2005. On June 9, 2005, the Division notified Respondent that it intended to deny her loan officer license application (“Application”) because: (1) Respondent violated R.C. 1322.07(A) by failing to disclose a prior conviction on her Application; (2) Respondent violated R.C. 1322.07(B) by making a false statement of a material fact and by omitting a statement required on the licensing application; (3) Respondent violated R.C. 1322.07(C), by engaging in improper or dishonest conduct; and (4) because 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 R.C. 1322.01 to 1322.12 – the Ohio Mortgage Broker Act.

Respondent requested an administrative hearing, which was held on September 15, 2005. Respondent failed to appear. A Report and Recommendation (“Report”) was filed with the Division on February 27, 2006, recommending that the Division deny Respondent's Application. No 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 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 Report is attached hereto.)

The Division rejects paragraph 8 on page 5 of the Report.

The Report incorrectly concluded that Respondent's conviction for Obstructing Official Business was a burden shifting offense, requiring Respondent to show that "she is honest, truthful, and of good reputation, and that her actions since her conviction demonstrate that she is not likely to commit another criminal offense." This is a misapplication of an incorrect statement of law. Pursuant to R.C. 1322.041(A)(3), the Division "shall issue a loan officer license to the applicant if the superintendent finds that:

[t]he applicant has not been convicted of or pleaded guilty to *any criminal offense described in division (A)(2) of section 1322.031 of the Revised Code*, or, if the applicant has been convicted of or pleaded guilty to such an offense, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment record *since the conviction* show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.

(Emphasis added.) Id. The offenses listed in R.C. 1322.031(A)(2) include theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities. In the present case, Respondent's conviction for Obstructing Official Business does not require Respondent to show that she is "honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again." Rather, the present case centers on Respondent's incorrect response to the question concerning her criminal record on the Application, and by extension, her overall character and general fitness to become a loan officer.

Upon consideration of the record, the Division hereby adopts the hearing officer's recommendation and denies the loan officer license application of Samantha J. Lestock.

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, 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 17th day of January 2007.

ROBERT M. GRIESER

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