

STATE OF OHIO  
DEPARTMENT OF COMMERCE  
DIVISION OF FINANCIAL INSTITUTIONS

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**REPORT AND RECOMMENDATION OF HEARING OFFICER**

**IN THE MATTER OF David J. Gourley**

**Ohio Department of Commerce, Division of Financial Institutions  
Case Number: 04-0008-LOR**

**FINDINGS OF FACT**

1. On or about April 18, 2003, David J. Gourley ("Respondent" herein) submitted an application to the Ohio Department of Commerce, Division of Financial Institutions (the "Division"), for renewal licensing as a loan officer pursuant to Chapter 1322 of the Ohio Revised Code (the "Application"). A copy of the Application is attached and incorporated as Exhibit A herein.
2. On or about April 1, 2004, the Division notified Respondent that it intended to revoke Respondent's loan officer license, and, by Division Order, provided Respondent with timely notice of opportunity for a hearing in accordance with the Ohio Administrative Procedure Act, Chapter 119, Ohio Revised Code (the "Notice"). On or about July 7, 2004, the Division attempted to provide Respondent with an Amended Notice of Intent to Revoke Loan Officer License and Notice of Opportunity for a Hearing in accordance with the Ohio Administrative Procedures Act, Chapter 119, Ohio Revised Code (the "Amended Notice"). The Amended Notice was terminated by the Division effective January 25, 2005 (the "Termination"). Copies of the Notice, Amended Notice, and Termination are attached and incorporated as Exhibits B, C and D, respectively, herein. The Division Order charged that Respondent failed to meet the certain designated continuing education requirements for licensing contained in Chapter 1322 of the Ohio Revised Code, and cited the circumstances as described in the Notice.
3. In response to the Notice, Respondent requested a hearing and, in response to that request, a hearing was held (the "Hearing" herein) at the Vern Riffe Center for Government and the Arts on March 8, 2005. At the Hearing, the Division was represented by Assistant Attorney General James M. Evans, Esq.. Mark Rhea, Division Consumer Finance Staff Attorney, was also present on behalf of the Division. Respondent failed to appear at the Hearing.

**CONCLUSIONS OF LAW**

1. That the conduct of the Respondent established a statutory rationale for denying the Application of the Respondent and revoking Respondent's loan officer license based on the provisions of Chapter 1322 of the Ohio Revised Code.

2. That the documentation presented by the Division established a sufficient and reasonable basis for the Division to deny Respondent's Application to serve as a loan officer and to revoke Respondent's existing license as a loan officer.

3. That the information and documentation available to the Division prior to the hearing established a statutory rationale under Chapter 1322 of the Ohio Revised Code for the denial of Respondent's Application and revocation of Respondent's loan officer license, and the record of the Hearing supports that denial.

### **DISCUSSION**

According to testimony provided by the Division, Respondent failed to secure appropriate continuing education for the years 2002 and 2003 as required by law (Tr. Pages 6, 18, 19)

Section 1322.10(A)(1)(a) of the Ohio Revised Code states that the Superintendent of the Division (the "Superintendent") may revoke a loan officer license if the Superintendent finds that there have been violations of Ohio Revised Code sections 1322.01 to 1322.12, or relevant rules adopted under those sections, or violations of any other law applicable to the business conducted under a certificate of registration, by the licensee.

At the Hearing, the Division presented its evidence, including copies of the Application, the Notice, the Request for Hearing, the Amended Notice, the Termination, and notice of the time and date of the Hearing. The Division also provided the testimony of Mr. Mark Rhea and Ms. Riene Roszak regarding the Application, the Notice, the Amended Notice, the Termination, and the files of the Division.

The evidence presented at the Hearing by the Division reflected a failure to comply with the requirements of Ohio Revised Code sections 1322.10(A)(1) and 1322.052 by Respondent.

No evidence was presented by Respondent to explain or to contradict the allegations of the Division as set forth in the Notice.


Respondent failed to appear at the Hearing. Nothing in the record indicated that Respondent sought or received an extension or continuance of the Hearing, or notified the Division that Respondent would not be present. Respondent therefore presented no evidence or testimony at the Hearing to contradict or to refute the Superintendent's findings under Ohio Revised Code Chapter 1322.

In light of the failure of Respondent to appear at the Hearing, Respondent has failed to provide evidence sufficient to overcome the Superintendent's determinations under the referenced sections of Chapter 1322 of the Ohio Revised Code.

### RECOMMENDATIONS

For the reasons set forth herein, it is hereby recommended that the Application of the Respondent be denied, and that the license of the Respondent be revoked.

Respectfully submitted,

  
Jeffery E. Smith Hearing Examiner

28 June 05  
Date