

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

In the matter of:)	Case No. 05-0012-LOD
)	
MICHAEL D. GOODY)	<u>DIVISION ORDER</u>
7155 Hart Street, D-25)	Denial of Loan Officer License Application
Mentor, Ohio 44060)	&
)	Notice of Appellate Rights
)	

Respondent, Michael D. Goody ("Respondent"), submitted a loan officer license application to the Division of Financial Institutions ("Division") on November 15, 2004. On February 18, 2005, the Division notified Respondent that it intended to deny his loan officer license application ("Application") because: (1) Respondent violated R.C. 1322.07(A), by failing to disclose his prior convictions for driving while intoxicated and disorderly conduct; (2) Respondent violated R.C. 1322.07(B), by making a false statement of a material fact or omitting a statement required on the licensing application; (3) Respondent violated R.C. 1322.07(C), by engaging in conduct which constitutes improper, fraudulent or dishonest dealings; and (4) because Respondent's character and general fitness did not command the confidence of the public and warrant the belief that the business would 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 April 18, 2005. Respondent failed to appear. A Report and Recommendation ("Report") was filed with the Division on August 17, 2005, 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 Hearing Examiner's Report and Recommendation is attached hereto.)

The Division disapproves paragraph 8 on page 4 of the Report and Recommendation.

The hearing officer found in paragraph 8 that the burden of proof had shifted to the Respondent. This paragraph does not refer to any particular section, however, since the hearing officer concluded in paragraph 7 that none of the offenses were of the type specifically identified in R.C. 1322.031(A)(3), the "burden" at issue must involve the issue of Respondent's character and fitness under R.C. 1322.041(A)(5). The Division disapproves paragraph 8 because R.C. 1322.041(A)(5) does not provide for any shifting burden of proof.

The Division disapproves paragraph 10 on pages 4 and 5 of the Report and Recommendation.

As stated above, 1322.041(A)(5) does not provide for any shifting burden of proof. Therefore, the hearing officer erred by including a discussion of the sufficiency of the evidence introduced by the Respondent. The Division finds that, due to Respondent's omissions from the Application, Respondent's character and general fitness do not command the confidence of the public and warrant the belief that the business would be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act.

For all the foregoing reasons, the Division hereby adopts the hearing officer's recommendation and denies the loan officer license application of Michael D. Goody.

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 August 2006.

ROBERT M. GRIESER

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