

**STATE OF OHIO
DEPARTMENT OF COMMERCE**

IN THE MATTER OF: : DIVISION OF FINANCIAL
: INSITUTIONS
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:
Sarah L. Olwine : Case No. 04-0350-LOD
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**ADDENDUM TO
REPORT AND RECOMMENDATION
ADMINISTRATIVE HEARING OFFICER JULIE M. LYNCH**

Issued December 18, 2004

I. CONCLUSIONS OF LAW

A. JURISDICTONAL ISSUE

1. The Division procedurally complied with O.R. C. Chapter 119.

B. LICENSE APPLICATION

2. Ohio Revised Code Section 1322.031(A)(2) requires that in an application for a license as a loan officer, an applicant must submit a statement as to whether the applicant has 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.
3. Ohio Revised Section 1322.041 provides the Superintendent of the Division shall issue a Loan Officer License if the Superintendent finds that certain conditions are met including:
 - (5) The applicant's character and general fitness 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 sections 1322.01 to 1322.12 of the Revised Code.
4. Ohio Revised Code Section 1322.07(A) and (B) provide:

NO mortgage broker, registrant, licensee, or applicant for certificate of registration or license under Sections 1322.01 to 1322.07 of the Revised Code shall do any of the following:

(A) Obtain a certificate of registration or license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application;

(B) Make any false or misleading statements of a material fact or any omission or statements required by state law, or false promises regarding a material fact through advertising or other means, or engage in a continued course of misrepresentations;

5. Because the Respondent answered yes to Question 5 of the Application, the burden of proof shifted to the Respondent to show by a preponderance of the evidence that her character and fitness command the confidence of the public to warrant the belief that the business will be operated honestly and fairly in compliance with the purpose of the Mortgage Broker act.
6. Respondent had no witnesses nor did she provide any letters of reference.

DISCUSSION

1. The Respondent stated that she was charged with shoplifting for walking out of a store with kids, an infant and a toddler and was distracted pushing the cart and had purchased \$100.00 worth of groceries but two candy bars were in the cart when she walked out of the store. The store would not let her pay for the candy bars and pressed charges. (Tr. p. 11).
2. The Respondent testified that she chose not to go to court and pled to a reduced charge of Unauthorized Use of Property and was fined \$250.00 with \$150.00 suspended. (Ex.2,4;Tr.p.11).
3. The Respondent stated that when she was filling out her loan mortgage license application a woman from her office helped her fill it out and she was embarrassed to tell her about the shoplifting charge even though she admitted to a 2002 DUI charge. Respondent felt the woman would understand the DUI charge more than she would a shoplifting charge. (Tr.p.12).

4. Respondent stated that she really didn't realize the consequence of not putting the shoplifting charge on her application. (Tr.p.12).
5. Respondent testified that she raises her children to be honest and that she has never cheated in class nor is she a dishonest person. (Tr.p.13).
6. Assistant Attorney General Dan Jones in closing arguments stated that in all of his vast experience he believes that this is not a person who should be denied a license and truly believes that it was an honest mistake and that Respondent has proven that her character and honesty and truthfulness and reputation and her general fitness meet the requirements set for in Chapter 1322 of the Ohio Revised Code.
7. Based upon Respondent's testimony, plus the recommendation of Attorney General Dan Jones this Hearing Officer finds that Respondent has proven by a preponderance of the evidence , that her activities and employment record since her conviction in 2001, show she is honest, truthful, and of good reputation and there is no basis in fact to believe applicant will commit such an offense again and that her character and general fitness do command the confidence of the public to warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act, as set forth in section 1322.041(A)(5).

RECOMMENDATION

Based on the above-findings of fact, conclusion of law and discussion thereof, it is the recommendation of the Hearing Officer that the Superintendent of the Division grant a Loan Officer License to the Respondent.

Respectfully submitted,

Julie M. Lynch
Hearing Officer
December 18, 2004