

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

In the matter of:)	Case No. M2007-219
)	
LINDA D. SPEAR)	Notice of Intent to Deny Loan Officer License Application
3612 Eaton Lane)	&
Cincinnati, Ohio 45229)	Notice of Opportunity for a Hearing
)	

JURISDICTION

The Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act ("OMBA"), codified in Ohio Revised Code ("R.C.") Chapter 1322. In accordance therewith, the Division is accountable for the licensing of individuals as residential mortgage loan officers.

RESPONDENT

LINDA D. SPEAR ("Respondent") has applied to the Division for a loan officer license. Respondent's address of record is 3612 Eaton Lane, Cincinnati, Ohio 45229, and her date of birth is March 17, 1960. Respondent has no current employer of record.

NOTICE OF PROPOSED ACTION

In accordance with R.C. sections 1322.041 and 1322.10 and R.C. Chapter 119, the Division intends to DENY Respondent's loan officer license application.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.10(B), and has found the following:

- A. On or about March 26, 2002, Respondent first applied for a loan officer license pursuant to the Ohio Mortgage Broker Act. Respondent's employer was registered mortgage broker John R. Levy dba Motion Financial. Respondent's 2002 application was denied by Division Order on January 25, 2006 on grounds that Respondent violated R.C. 1322.07(A), (B), and (C) by failing to disclose a passing bad checks conviction in her application; did not satisfy the burden of proof for licensure set forth in R.C. 1322.041(A)(2); and because Respondent did not meet the character and fitness requirement for licensure set forth in R.C. 1322.041(A)(5). Respondent filed an appeal pursuant to R.C. 119.12 with the Hamilton County Court of Common Pleas. Respondent did not request a stay of the Division Order; therefore, Respondent was not permitted to work as a loan officer upon the issuance of the Division Order. On November 29, 2006, the Division Order

denying the 2002 loan officer license application was upheld by the Hamilton County Court of Common Pleas.

- B. On February 21, 2006, while the appeal was pending, Respondent filed a second loan officer license application with the Division that is the subject of this Notice. According to the application, Respondent's employer was registered mortgage broker John R. Levy dba Motion Financial.
- C. In or around 1985, in the Hamilton County Municipal Court, Hamilton County, Ohio, Respondent was convicted of Passing Bad Checks.
- D. In or around 1989, in the Springdale Mayor's Court, Hamilton County Ohio, Respondent was convicted of Passing Bad Checks, a first-degree misdemeanor.
- E. John R. Levy dba Motion Financial has a registered main office at 4866 Cooper Road, Cincinnati, Ohio 45242 and had a registered branch office at 7030 Reading Road, Suite 250, Cincinnati, Ohio 45237.
- F. On or about June 1, 2004, Respondent filed articles of organization with the Ohio Secretary of State for Motion Financial II, LLC. According to the articles of organization, Respondent was Motion Financial II, LLC's designated statutory agent and authorized representative. Respondent listed the address upon which Motion Financial II, LLC may be served as 7030 Reading Road, Suite 250, Cincinnati, Ohio 45237-3888. Respondent was president and member of Motion Financial II, LLC.
- G. R.C. 1322.02(A)(1) provides in part: "No person, on the person's own behalf or on behalf of any other person, shall act as a mortgage broker without first having obtained a certificate of registration from the superintendent of financial institutions for every office to be maintained by the person for the transaction of business as a mortgage broker in this state."
- H. R.C. 1322.02(A)(2) provides in part: "No person shall act or hold that person's self out as a mortgage broker under the authority or name of a registrant or person exempt from sections 1322.01 to 1322.12 of the Revised Code without first having obtained a certificate of registration from the superintendent[.]"
- I. R.C. 1322.07(C) prohibits an applicant for a loan officer license from engaging in conduct that constitutes improper, fraudulent, or dishonest dealings.
- J. Neither Respondent nor Motion Financial II, LLC have ever been issued or applied for a mortgage broker certificate of registration under the Ohio Mortgage Broker Act.
- K. As its member and president, Respondent, through an advertisement in the 2007 Enlace Spanish Yellow Pages, held Motion Financial II, LLC out as "a real estate firm located in Jordan Crossings at 7030 Reading Road, Suite 250. The company

offers personalized loans that can fill in the financial gaps of either potential or present home and property owners. Loan programs consist of: first-time home buyers, refinancing, debt consolidation, new construction, commercial loans and home improvement. For more information visit our web page motionfinancial.fuse.net.” (Translated from Spanish)

- L. As its member and president, Respondent held Motion Financial II out as providing “Home Loans on the Move” through business cards that listed the company’s location as 7030 Reading Road, Suite 250, Cincinnati, Ohio 45237, the same address where the cards were available.

As a result of the findings listed above, the Division has determined that:

1. Respondent has not proven that she is honest, truthful, and of good reputation, and that there is no basis in fact for believing that she will not commit another criminal offense involving passing bad checks or any criminal offense involving money or securities. See R.C. 1322.031(A)(2) and 1322.041(A)(3) as in effect February 21, 2006.
2. Respondent’s actions, as described above in paragraphs K and L, violated R.C. 1322.02(A)(1), R.C. 1322.02(A)(2), and R.C. 1322.07(C).
3. Respondent’s actions, as described above, show 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 the Ohio Mortgage Broker Act. Accordingly, Respondent does not meet requirement found in R.C. 1322.041(A)(5), as in effect on February 21, 2006, for issuance of a loan officer license.

NOTICE OF OPPORTUNITY FOR A HEARING ON PROPOSED ACTION

Therefore, pursuant to R.C. Chapters 1322 and 119, Respondent is hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to issue an order denying Respondent’s loan officer license application under the Ohio Mortgage Broker Act.

Respondent is further notified, pursuant to R.C. Chapter 119, that Respondent is entitled to a hearing on this matter. If Respondent desires to request a hearing, the request must be made in writing, and must be received in the offices of the Ohio Division of Financial Institutions within thirty (30) days of the time of the mailing of this Notice. Hearing requests should be addressed: Ohio Division of Financial Institutions, Attn: Anthony D. Siciliano, Consumer Finance General Counsel, 77 South High Street, 21st Floor, Columbus, Ohio 43215-6120.

At the hearing, Respondent may appear in person, by Respondent’s attorney, or by such other representative as is permitted to practice before the Agency, or Respondent may present its position, arguments, or contentions in writing, and, at the hearing, may present evidence and examine witnesses appearing for and against Respondent.

If the Ohio Division of Financial Institutions does not receive a written request for a hearing in its offices within thirty (30) days of the time of the mailing of this Notice, the Superintendent will issue an order denying Respondent's loan officer license application.

Signed and sealed this 8th day of April 2009.

LEIGH A. WILLIS

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