

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

In the matter of:	)	Case No. 05-0051-LOD
	)	
<b>DUSTIN A. SWIGART</b>	)	<b>Notice of Intent to Deny Loan Officer License Application</b>
1450 NW Washington Boulevard	)	&
Hamilton, Ohio 45013	)	<b>Notice of Opportunity for a Hearing</b>
	)	

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**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, 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**

**DUSTIN A. SWIGART** ("Respondent") has applied to the Division for a loan officer license. His address of record is 1450 NW Washington Boulevard, Hamilton, Ohio 45013, and his date of birth is August 11, 1980. Respondent's employer of record is American Century Mortgage, 4770 Duke Drive, Suite 100, Mason, Ohio 45040.

**NOTICE OF PROPOSED ACTION**

In accordance with sections 1322.041 and 1322.10 of the R.C., 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. 1322.031(B), and has found the following:

- A. In or around 1999, in the District Court of Kenton County, Kentucky, Respondent was convicted of DRIVING UNDER THE INFLUENCE.
- B. On or around September 14, 2004, Respondent attested in a sworn statement that information he provided about his criminal background on his loan officer license application he submitted to the Division was complete and truthful when it was not.
- C. On or around September 17, 2004, in an attempt to obtain a loan officer license, Respondent provided untruthful information about his criminal background to the Division.

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

- 1. Respondent's action, as listed above in Paragraph A, shows his 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. See R.C. 1322.041(A)(5).
- 2. Respondent's action, as listed above in Paragraph B, shows his 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. See R.C. 1322.041(A)(5).

3. Respondent's action, as listed above in Paragraph C, shows his 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. See R.C. 1322.041(A)(5).
4. Respondent's action listed in Paragraph B violated R.C. 1322.07(A), which prohibits a loan officer applicant from "[mak[ing] any substantial misrepresentation in any registration or license application[.]"
5. Respondent's action listed in Paragraph C violated R.C. 1322.07(A), which prohibits a loan officer applicant from "[mak[ing] any substantial misrepresentation in any registration or license application[.]"
6. Respondent's action listed in Paragraph B violated R.C. 1322.07(B), which prohibits a loan officer applicant from "[mak[ing] false or misleading statements of a material fact, [or] omissions of statement required by state law[.]"
7. Respondent's action listed in Paragraph C violated R.C. 1322.07(B), which prohibits a loan officer applicant from "[mak[ing] false or misleading statements of a material fact, [or] omissions of statement required by state law[.]"
8. Respondent's action listed in Paragraph B violated R.C. 1322.07(C), which prohibits a loan officer applicant from "[engage[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings."
9. Respondent's action listed in Paragraph C violated R.C. 1322.07(C), which prohibits a loan officer applicant from "[engage[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings."

#### **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 a loan officer license 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: Mark L. Rhea, Consumer Finance Staff Attorney, 77 South High Street, 21<sup>st</sup> 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 a loan officer license.

Signed and sealed this 31<sup>st</sup> day of January 2005.

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**ROBERT M. GRIESER**

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

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