

STATE OF OHIO
DEPARTMENT OF COMMERCE 7:11 PM 11/21/09
DIVISION OF FINANCIAL INSTITUTIONS

IN RE:	:	CASE NO. M2009-097
	:	
JEREMY R. DOERING,	:	DELORES EVANS
RESPONDENT	:	HEARING OFFICER

**ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
Issued December 9, 2009**

I. FINDINGS OF FACT

A. Background

This matter came before Delores Evans, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions ("Division") to serve as the Hearing Officer for this hearing in accordance with the Ohio Administrative Code and Ohio Revised Code ("R.C.") Chapter 119. The hearing was held on November 17, 2009, at 77 South High Street, 23rd Floor, in Columbus, Ohio.

The Division held the hearing to consider the allegation that Jeremy R. Doering ("Respondent") failed to disclose to the Division in his 2004 loan officer license application that he had been convicted of Possession of Cannabis in 1995. The Division intends to deny Respondent's 2008 loan officer license application.

Jennifer Croskey, Esq., Assistant Attorney General with the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division at the hearing. Jacqueline Mallett, Esq, testified at the hearing. Neither Respondent nor any representative on his behalf appeared at the hearing. State's Exhibits 1 through 12 were introduced and admitted into the record. The record consists of the Exhibits, properly marked and admitted, and the transcript from the hearing. The Hearing Officer closed the record on November 17, 2009.

B. Jurisdiction and Procedural Matters

1. On October 6, 2009, the Division issued a Notice of Intent to Deny Loan Officer License Renewal & Notice of Opportunity for a Hearing ("NOH"). The Division intends to deny Respondent's 2008 Renewal Application pursuant to R.C. §1322.10(A)(1)(a). Respondent had 30 days to request a hearing. The Division sent the NOH to Respondent by certified mail, return receipt requested. Service

was perfected on October 13, 2009. *State's Exhibit 1; State's Exhibit 2; State's Exhibit 3*

2. On October 19, 2009, the Division received Respondent's hearing request. *State's Exhibit 4*
3. On October 20, 2009, the Division sent a hearing notice to Respondent by regular mail. The Division scheduled a hearing for November 17, 2009. *State's Exhibit 5*
4. On November 17, 2009, the hearing commenced with only the Division in attendance. Respondent did not contact the Hearing Officer, the Attorney General's Office, or the Division regarding the hearing.

C. Respondent's Activities

5. Jacqueline Mallett, an attorney examiner with the Division, reviews licensing applications of loan officers and mortgage brokers to verify their compliance with the Ohio Mortgage Broker Act. Ms. Mallett reviewed Respondent's loan officer file. *Testimony of Ms. Mallett*
6. On June 6, 1995, Respondent was convicted of Possession of Cannabis in the Circuit Court of Cook County, Illinois. *State's Exhibit 12*
7. On June 24, 2004, Respondent submitted a loan officer license application to the Division. In response to question # 5 on the 2004 loan officer application, Respondent answered "No." Question # 5 reads: "Have you or has any company for which you have been an officer, or more than 5% owner or director, ever been convicted of any criminal offense?" *State's Exhibit 6*
8. On July 22, 2004, the Division issued a loan officer license (#17608) to Respondent. *State's Exhibit 6*
9. The Division did not submit any evidence concerning whether Respondent was licensed in 2005, 2006, and 2007.
10. S.B. 185, effective January 1, 2007, requires loan officer applicants to submit a federal background check with their loan officer license applications. *Testimony of Ms. Mallett*
11. On or before April 30, 2008, Respondent submitted an on-line loan officer license renewal application to the Division. In response to question # 2 on the 2008 renewal application, Respondent answered "No." Question # 2 reads: "Have you been charged with, convicted of or pleaded guilty to any state or federal criminal offense including but not limited to theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug

trafficking, or any criminal offense involving money or securities (excluding minor traffic violations)?" *State's Exhibit 7*

12. Respondent failed to submit a federal background check with his 2008 loan officer license renewal application. *State's Exhibit 8; Testimony of Ms. Mallett*
13. On May 23, 2008, the Division sent a letter to Respondent indicating that the Division had received his 2008 loan officer license renewal application. The Division, however, had not received Respondent's FBI background check results. Respondent had 14 days to respond. *State's Exhibit 8*
14. On July 11, 2008, the Division sent a second letter to Respondent indicating that the Division had yet to receive his FBI background check results. Respondent had until August 23, 2008 to respond or the **"application may be withdrawn and the application fees forfeited."** *State's Exhibit 9*
15. On October 8, 2008, the Division sent a third letter to Respondent requesting that he ***** send a statement or receipt confirming the date of your [sic] background check was completed. If the Division does not receive your background check information by 11/03/08, your application to renew your loan officer license will be withdrawn and the application fees forfeited."** *State's Exhibit 10*
16. On March 11, 2009, the Division sent a fourth letter to Respondent regarding his 2008 loan officer license renewal application. The Division stated:

*** In compliance with the Division's investigation and in order to further review your application, you are required to submit the following with respect to your 1995 charges for Possession Cannabis in Chicago, IL, your 2003 charges for Disorderly Conduct in Milwaukee, WI, and your 2006 charges for Battery in Milwaukee, WI:

 1. A detailed explanation of the facts and circumstances which gave rise to the charges; and
 2. A certified copy of the judgment entries which evidences your plea and the court's finding. Your submission of the documentation is due on or before April 10, 2009 ***.

State's Exhibit 11
17. On May 7, 2009, the Division received an 8-page facsimile response from Respondent, which included:
 - a) a signed letter from Respondent wishing to surrender his loan officer license;
 - b) an April 27, 2009 letter from Sheila Stanelle, Senior Executive Assistant in the Milwaukee County District Attorney's Office;
 - c) a copy of section 165.84(1) of the Wisconsin statutes;
 - d) General Instructions from the Crime Information Bureau;

- e) a Certified Statement of Conviction/Disposition from the Cook County, Illinois Circuit Court; and
- f) a signed statement from Respondent. *State's Exhibit 12*

- 18. The Division did not accept the surrender of Respondent's loan officer license due to its ongoing investigation. *Testimony of Ms. Mallett*
- 19. Respondent included with his May 7, 2009 submission an April 27, 2009 letter from, Sheila Stanelle, Senior Executive Assistant to District Attorney John Chisholm, which stated:

*** I write to confirm disposition information for an arrest of Jeremy R. Doering (d.o.b. 09/21/1976) in Milwaukee County, Wisconsin. Doering was arrested on July 4, 2006, alleged to have committed the misdemeanor (non-domestic violence) offenses of Battery and Disorderly Conduct. The matter was reviewed by the Milwaukee County District Attorney's Office and a determination made to "no process" both charges on July 5, 2006. Thus, Doering was never charged with, nor convicted of, any crime(s) as a result of his July 4, 2007 arrest ***. *State's Exhibit 12*

- 20. Respondent did not disclose his 1995 conviction to the Division on his 2004 or 2008 loan officer license applications.
- 21. There was no evidence presented that Respondent had any prior violations on his record.

II. CONCLUSIONS OF LAW

- 22. The Division has procedurally complied with R.C. Chapter 119 and jurisdiction over this matter has been established.
- 23. The Division is responsible for the licensing, regulation, and enforcement of the Ohio Mortgage Broker Act, R.C. Chapter 1322.
- 24. Respondent is an Ohio licensed loan officer and is subject to the laws in R.C. Chapter 1322 and the rules promulgated pursuant to that Chapter.
- 25. R.C. §1322.07(A), (B), and (C) state:

No mortgage broker, registrant, licensee, or applicant for a certificate of or license under sections 1322.01 to 1322.12 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 false or misleading statements of a material fact, omissions of 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;

(C) Engage in conduct that constitutes improper, fraudulent, or dishonest dealings.

26. According to Ohio Administrative Code 1301:8-7-10(G), each question on the license application is material to the licensing process. If an applicant submits false, incomplete information, or omits information in connection with a license application, such is grounds for denying or revoking the license.
27. Respondent's failure to disclose on his 2004 loan officer license application that he had been convicted of Possession of Cannabis in 1995 constitutes an omission of a material fact required by state law in violation of R.C. §1322.07(A).
28. Respondent's failure to disclose on his 2004 loan officer license application that he had been convicted of Possession of Cannabis in 1995 constitutes a false statement on a loan officer license application in violation of R.C. §1322.07(B).
29. Respondent's failure to disclose on his 2004 loan officer license application that he had been convicted of Possession of Cannabis in 1995 constitutes improper and dishonest conduct in violation of R.C. §1322.07(C).
30. Therefore, Respondent's character and general fitness does not command the confidence of the public to warrant the belief that the business will be conducted honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act. *R.C. §1322.041(A)(6)*
31. R.C. §1322.10(A)(1)(a) authorizes the Division to refuse to renew an applicant's mortgage loan officer license if the Division finds that the applicant has violated or failed to comply with any provision of R.C. §§1322.01 through 1322.12.
32. The Division has met its burden of proof for denying Respondent's 2008 loan officer license renewal application.

III. RECOMMENDATION

Based upon the evidence submitted into the record for this case, the Division has established a sufficient evidentiary basis for denying Respondent's 2008 loan officer license renewal application pursuant to R.C. §1322.10(A)(1)(a). Consequently, the Hearing Officer respectfully recommends that the Superintendent of the Division deny Respondent's 2008 loan officer license renewal application.

Respectfully submitted,

Delores Evans
Hearing Officer
December 9, 2009