

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

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IN THE MATTER OF: :
: CASE NO. M2008-251
DAROLD L. GEORGE, :
Respondent. : DANIEL M. MASSEY
: Administrative Hearing Officer

REPORT AND RECOMMENDATION
ISSUED JULY 9, 2008

I. FINDINGS OF FACT

A. Introduction.

1. This matter came before Daniel M. Massey, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions ("Division") to serve as an Administrative Hearing Officer for this hearing in accordance with the Ohio Administrative Procedure Act, Ohio Revised Code ("R.C.") Chapter 119. The hearing was conducted May 22, 2008, in Room 1910 on the 19th floor of the Verne Riffe Center for Government and the Arts, at 77 South High Street, Columbus, Ohio. The hearing was to consider the allegations in the Division's Order of Summary Suspension, Notice of Intent to Revoke, and Notice of Hearing ("Suspension Order").

2. The Division alleged that Darold L. George ("Respondent") did not complete the six hours of approved continuing education required by R.C. § 1322.052 for the calendar year 2007. On April 28, 2008, the Division issued the Suspension Order, which suspended Respondent's loan officer license pursuant to R.C. § 1322.10(F)(2). The Division now seeks to have that suspension remain in effect.

3. Dennis Smith, an Assistant Attorney General with the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division. Jacqueline Mallett attended the hearing as the Division's representative and testified for the Division. At the hearing, Division's Exhibits A through C were admitted into evidence.

4. Respondent did not appear and no counsel attended on his behalf.

B. Jurisdiction and Procedural Posture.

5. On April 28, 2008, the Division sent the Suspension Order to Respondent at his home address, 88500 Overseas Highway 322, Tavenier, Florida, 33070. This address matched the address provided to the Division by Respondent. *Division's Exhibit A and C.*

6. The Suspension Order was served upon Respondent by certified mail and included the date, time, and place for the May 22, 2008 hearing. Mandy George signed the certified mail return receipt on May 12, 2008. The Division received the return receipt on May 15, 2008. *Division's Exhibit A.*

7. Respondent did not contact anyone at the Division, the Division's counsel, or the Hearing Officer to indicate that he could not be present at the May 22, 2008 hearing or to make a continuance request. *Hearing Transcript "Tr." at 5.*

8. The hearing commenced on the date and in the location set forth in the Suspension Order. *Tr. at 4.*

C. Respondent's Loan Officer License and Continuing Education.

9. Respondent is, and was during 2007, an Ohio mortgage loan officer licensed by the Division. Respondent's loan officer license number is 8627. *Division's Exhibit A.*

10. Ms. Mallett is an attorney examiner for the Division of Financial Institutions. Ms. Mallett's duties within the Division include monitoring the continuing education credits of loan officers. *Tr. at 6.*

11. On May 2, 2002, amendments to Ohio's Mortgage Broker Act became effective that required mortgage loan officers to be licensed by the Division and to complete at least six hours of continuing education each calendar year. The continuing education courses that fulfill this requirement must be state-approved courses from approved providers. *R.C. §§ 1322.02(B) and 1322.052.*

12. The Division maintains records of licensees' courses taken in compliance with applicable continuing education requirements. The Division receives records from approved providers and loan officers regarding continuing education taken each calendar year, and then inputs the information from those records into the Division's e-License Management System ("eLMS"), a computer database. The Division has no records indicating that Respondent completed six hours of state-approved continuing education during the 2007 calendar year. *Division's Exhibit B.*

II. CONCLUSIONS OF LAW

A. Jurisdiction and Procedural Matters.

13. The Division procedurally complied with the requirements of R.C. § 119.07, and jurisdiction over this matter is established.

14. Respondent received proper notice of the hearing, and failed, without excuse, to attend. Therefore, it was appropriate for the hearing to proceed in his absence. *Reed v. State Med. Bd.*, 40 Ohio App.3d 124,125-26 (1988).

B. Proposed Continuation of License Suspension.

15. The Division is the state agency responsible for the licensing and regulation of mortgage loan officers pursuant to the Ohio Mortgage Broker Act, Ohio Revised Code Chapter 1322.

16. Pursuant to R.C. § 1322.052, mortgage loan officers licensed by the Division must complete at least six hours of continuing education each calendar year. The continuing education courses that fulfill this requirement must be state-approved courses from approved providers.

17. Ohio Revised Code § 1322.10(F)(2) requires the Division to suspend a loan officer license for lack of compliance with R.C. § 1322.052.

18. During 2007, Respondent was an Ohio loan officer licensed by the Division and was required to complete at least six hours of continuing education.

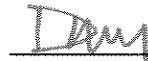
19. Respondent failed to complete the mandatory six hours of state-approved continuing education required by R.C. § 1322.052 for the 2007 calendar year.

20. Accordingly, the Division has established that Respondent violated § 1322.052. Therefore, there is a sufficient evidentiary basis for continuing the suspension of Respondent's loan officer license "until such time as the required continuing education is completed[.]"

III. RECOMMENDATION

The Division has established a sufficient evidentiary basis for continuing the suspension of Respondent's loan officer license pursuant to R.C. § 1322.10(F)(2) for lack of compliance with R.C. § 1322.052 during the 2007 calendar year. I respectfully recommend that Respondent's loan officer license remain suspended until the required continuing education is completed and until he meets other statutory requirements under R.C. § 1322.10(F)(2) for reinstatement.

Respectfully submitted,



Daniel M. Massey
Administrative Hearing Officer