

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

In the matter of:)	Case No. 04-0348-LOD
)	
JOSEPH M. MIELCAREK)	Notice of Intent to Deny Loan Officer License Application
2625 Lima Avenue)	&
Toledo, Ohio 43613)	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, 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

JOSEPH M. MIELCAREK ("Respondent") has applied to the Division for a loan officer license. His address of record is 2625 Lima Avenue, Toledo, Ohio 43613, and his date of birth is July 24, 1961. Respondent's employer of record is Empire Equity Group, DBA – 1st Metropolitan Mortgage, 48 Scotland Hill Road, Chestnut Ridge, New York, 10977.

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 1983, in the Toledo Municipal Court, Lucas County, Ohio, Respondent was convicted of PETTY THEFT.
- B. On or around October 27, 2003, 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 December 2, 2003, 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 actions, as listed above in Paragraph A, show that he has not proven that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he will not commit another criminal offense involving theft or any criminal offense involving money or securities. See R.C. sections 1322.031(A)(2) and 1322.041(A)(3)
- 2. 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).

3. 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).
4. 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).
5. 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[.]"
6. 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[.]"
7. Respondent's action listed in Paragraph B violated R.C. 1322.07(B), which prohibits a loan officer applicant from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statement required by state law[.]"
8. Respondent's action listed in Paragraph C violated R.C. 1322.07(B), which prohibits a loan officer applicant from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statement required by state law[.]"
9. Respondent's action listed in Paragraph B violated R.C. 1322.07(C), which prohibits a loan officer applicant from "[e]ngage[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings."
10. Respondent's action listed in Paragraph C violated R.C. 1322.07(C), which prohibits a loan officer applicant from "[e]ngage[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: Diane Wagenbrenner, Consumer Finance Staff Attorney, 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 a loan officer license.

Signed and sealed this 19th day of April, 2004.

ROBERT M. GRIESER

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

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