

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

DIVISION OF FINANCIAL
INSTITUTIONS

IN RE: : CASE #: M2006-9992685
: :
KEVIN M. CHILDERS : ADMINISTRATIVE HEARING
(the "Applicant") : OFFICER
: MARK J. BALLENGER, ESQ.
(Application for Loan Officer :
License) :

ADMINISTRATIVE HEARING OFFICER'S
REPORT & RECOMMENDATION
Issued October 18, 2006

BACKGROUND

On or about July 13, 2006, the Ohio Division of Financial Institutions ("the State") served the Applicant with notice that it intended to deny a loan officer license to the Applicant. The Applicant then requested a hearing about the matter. In turn, the request was honored.

This case was heard on September 21, 2006, beginning at approximately 10:30 a.m. at 77 S. High Street, Columbus, Ohio, Rm. 1910. A stenographic record was made of the proceeding. The transcript was received on October 11, 2006.

The Applicant did not attend the hearing. Assistant Attorney General Laura A. Meehan presented the case on behalf of the State.

This report is hereby filed with the Superintendent of the Division of Financial Institutions and the Applicant.

INDEX OF EXHIBITS ADMITTED TO RECORD

Exhibit #/Document I.D. Description of Exhibit

STATE'S EXHIBITS

- | | |
|-----------|---|
| 1. Exh. A | Copy of February 2006 Loan Officer Application ("Application") |
| 2. Exh. B | Copy of March 8, 2006, State's letter seeking more information from the Applicant about his 2002 domestic violence charge in Englewood, Ohio |
| 3. Exh. C | Copy of information provided by the Applicant about the charge of domestic violence with copies of court documents |
| 4. Exh. D | Copy of Loan Officer License Application Denial letter with notice of reason for denial and an opportunity for hearing and confirmation of their delivery by certified mail |
| 5. Exh. E | Copy of Hearing Request Form |
| 6. Exh. F | Copy of Notice of Hearing |

TESTIMONY GIVEN BY

- The State's witness, Carrie V. Moore, Staff Attorney, Consumer Finance Section

FINANCIAL INSTITUTIONS	INDUSTRIAL COMPLIANCE	LABOR & WORKER SAFETY	LIQUOR CONTROL
REAL ESTATE & PROFESSIONAL LICENSING	SECURITIES	STATE FIRE MARSHAL	UNCLAIMED FUNDS

"An Equal Opportunity Employer and Service Provider"

FINDINGS OF FACT

1. The State advised the Applicant of the reasons for its intent to deny him a loan officer license. (See the attached two pages, marked "Copy.")
2. The Applicant, in answering a question in a list of questions, checked the "no" box in the Application, thereby indicating that he had never been convicted of any criminal offense. (Exh. #1 – Question #5, and Tr.¹ p. 7.) The Applicant's signature appears in the "Attestation" section at the end of the Application, where directly above the Applicant's signature, it states: "Being first duly cautioned, I hereby swear or affirm that I have completed the foregoing Loan Officer Application fully and frankly," and "[t]he answers are complete and true of my own knowledge." (Exh. #1.)
3. The evidence presented at hearing showed the Application contained false information. Despite what the Applicant attested to in it, the Applicant was convicted in 2002 of threatening domestic violence, i.e., R.C. 2919.25(C), in the Vandalia Municipal Court. (Exh. #3 and Tr. p. 8.)

CONCLUSIONS OF LAW

The Applicant knowingly attested to false information and submitted it as a part of his loan officer application. This shows he lacks the character to command the confidence of the public and warrant the belief that he would operate a loan officer business honestly – a requirement for licensure under R.C. 1322.041(A)(5). (Findings of Fact #2 and #3.)

Additionally, by his false attestations and submissions, the Applicant has arguably violated: R.C. 1322.07(A) (prohibition against making any substantial misrepresentation in a license application); R.C. 1322.07(B) (prohibition against making a false or misleading statement of a material fact), and R.C. 1322.07(C) (prohibition against engaging in conduct that constitutes improper, fraudulent, or dishonest dealings).

RECOMMENDATION OF ACTION

Therefore it is recommended that the Superintendent of the Division of Financial Institutions deny the Applicant's request for the issuance of a loan officer license.

Respectfully submitted,

Mark J. Ballenger
Administrative Hearing Officer

¹ "Tr." refers to the transcript of the subject hearing.

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

COPY

In the matter of:) Case No. M2006-9992685
)
KEVIN M. CHILDERS) Notice of Intent to Deny Loan Officer License Application
76 W. Mill Avenue) &
Clayton, OH 45315) 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

KEVIN M. CHILDERS ("Respondent") has applied to the Division for a loan officer license. His address of record is 76 W. Mill Avenue, Clayton, Ohio 45315, and his date of birth is February 6, 1972. Respondent's employer of record is First National Mortgage Banc, Inc., 6500 Poe Avenue, Suite #200, Dayton, Ohio 45414.

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. On or around February 21, 2006, Respondent attested in a sworn statement that information provided about Respondent's criminal background on Respondent's loan officer license application submitted to the Division was complete and truthful when it was not.
- B. On or around February 23, 2006, 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, 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. See R.C. 1322.041(A)(5).
- 2. Respondent's actions, as listed above, violated R.C. 1322.07(A), which prohibits a loan officer applicant from "mak[ing] any substantial misrepresentation in any registration or license application[.]"

COPY

3. Respondent's actions, as listed above, 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[.]"
4. Respondent's actions, as listed above, 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

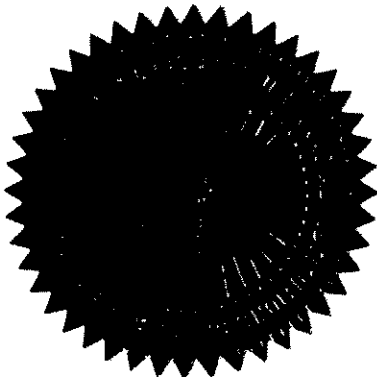
Therefore, pursuant to R.C. Chapters 1322 and 119, Respondent is hereby notified that thirty-one (31) days from the date of the mailing of this Notice, the Superintendent intends to issue an order denying Respondent a loan officer license under the Ohio Mortgage Broker Act.

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: Carrie V. Moore, Consumer Finance Associate 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 a loan officer license.

Signed and sealed this 13th day of July 2006.



ROBERT M. GRIESER

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