

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

In the matter of:	)	Case No. 2006-3066 LOR
	)	
<b>JAMIE L. BOYD</b>	)	<b><u>DIVISION ORDER</u></b>
1099 West River Road North	)	<b>Loan Officer License Revocation</b>
Elyria, OH 44035	)	<b>&amp;</b>
	)	<b>Notice of Appellate Rights</b>

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On September 21, 2006, the Division notified Jamie L. Boyd ("Respondent") that it intended to revoke her loan officer license because:

Pursuant to Ohio Revised Code ("R.C.") 1322.10(A)(1)(a), the Superintendent of Financial Institutions may revoke a loan officer license if the superintendent finds a violation of or failure to comply with any provision of R.C. 1322.01 to R.C. 1322.12. Under R.C. 1322.07(E), loan officers are prohibited from knowingly making fraudulent, false or misleading statements on any mortgage document or any document related to a mortgage. Section 1322.07(C) prohibits loan officers from engaging in improper, fraudulent or dishonest dealings.

On February 3, 2006 Respondent was terminated by First Ohio Banc & Lending, Inc. ("First Ohio") after management determined that she altered bank statements to increase the amount of money in her client's bank account.

Respondent requested an administrative hearing regarding the intent to revoke her loan officer license. The hearing was held on December 5, 2006. A Report and Recommendation ("Report") was issued by the Hearing Examiner on August 31, 2007. The Report recommended that the Division not revoke the loan officer license issued to Jamie L. Boyd. Respondent filed no objections to the Report with the Division.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, the transcript of testimony, the exhibits introduced into evidence and all applicable laws. As a result, the Division disapproves the attached Report issued by the Hearing Examiner.

The Division disapproves the Hearing Examiner's Report because it is not supported by the transcript of testimony, the exhibits introduced into evidence and all applicable laws. For example, in Paragraph 10 of the Report, the Hearing Examiner states "the core of the Division's case was hearsay founded on the testimony of doug [sic] Matthews, the loan company branch manager [,]" because the Division did not interview the witness who pulled falsified documents from the trash can, did not interview the bank representative and did not interview the Respondent. Further, the Hearing Examiner failed to acknowledge the testimony contained within the transcript. Specifically, the following exchanges:

BY THE HEARING OFFICER [of witness Doug Matthews]:

Q. So what is the document - - This is the document that you say was falsified (indicating)?

A. Obviously, there were - - we had found several pages in there that were cut and pasted.

Q. Okay. You say we found them. Who's the "we"?

A. Well, myself. Amy Krupa was the head processor. We had gone through the trash can in Jamie's office. I had just gone into Jamie's office, taken the whole trash bag out, taken it into Amy's office and gone through it in there.

Q. So you physically went through the trash can?

A. Yes.

(Tr. at. 65-66).

Q. So who pulled the documents out of the trash can? You actually pulled them out?

A. Correct.

(Tr. at 69).

The above excerpt of testimony elicited from the Hearing Examiner's own examination of witness Doug Matthews demonstrates that Mr. Matthews was an active participant in uncovering the altered documents, and thus, testified from his personal knowledge. Testimony from a witness's personal knowledge is not hearsay. Nevertheless, the Hearing Examiner concluded that the Division's core case was hearsay.

The Hearing Examiner's Report is based upon an erroneous conclusion that is not supported by the record. As such, the Division is not confident that the Hearing Examiner conducted a thorough review of the record.

### **FINDINGS OF FACT**

1. This matter came before William E. Leber, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions ("Division") to serve as Hearing Officer for the above captioned matter in accordance with the Administrative Procedures Act, Chapter 119, of the Ohio Revised Code ("R.C.").

2. A hearing was scheduled by the Division at the request of Jamie L. Boyd of Elyria, Ohio ("Respondent" or "Ms. Boyd") to consider the Division's Notice of Intent to Revoke Loan Officer License, Notice of Opportunity for a Hearing ("NOH"), that was issued to Respondent on or about September 21, 2006. The Division issued the NOH to Respondent on the basis that Respondent

falsified bank statements of a borrower to increase the amount of cash reserves so that the borrower would qualify for a mortgage loan. The Division alleges that Respondent violated R.C. 1322.07(C) and (E).

3. The hearing was held at 2:30 p.m. on December 5, 2006, in Room 1932 at 77 South High Street, Columbus, Ohio. The Division was represented by Assistant Attorney General Laura A. Meechan. The Respondent appeared and was represented by her attorney, David M. Leneghan. Aprelle Bonds and Elizabeth Spradling attended the hearing.

4. At the hearing, Division Exhibits A through E and Respondent's Exhibits 1 through 6 were admitted into evidence and discussed within the hearing Transcript. (Hereinafter "Tr."). The NOH was sent to Respondent by certified mail on September 21, 2006. (Ex. A). Respondent signed but did not date the return receipt card. (Ex. A). The return receipt card was cancelled by the post office on September 23, 2006 and returned to the Division on September 25, 2006. (Ex. A).

5. The Division alleged that Respondent made false statements upon documents related to a mortgage loan for borrower Bertie Gribble ("Gribble") by altering the amounts listed upon bank statements. (Ex. A).

6. The evidence presented by the Division in its case in chief consisted of business records obtained from FirstMerit Bank, the actual documents witness Doug Matthews retrieved from Respondent's trash can and the testimony of Mr. Matthews. (Ex. E and F; Tr. at 43-50).

7. The FirstMerit business records obtained by the Division pursuant to subpoena indicated the ending balances of the Gribble account upon the dates in question. (Tr. 20-21; Ex. E).

8. Doug Matthews testified that he removed documents from Respondent's trash can that demonstrated an alteration of copies of Gribble's bank statements which increased the account's ending balance. (Tr. at 48-49; 62-69). The documents retrieved from Respondent's trash can consisted of crumpled whole and ripped pages of paper. (Tr. at 48-49; 62-69). When the ripped scraps of paper were re-organized into pages at the Hearing Examiner's request, the resulting pages demonstrated that the torn pieces of paper were copies of the Gribble bank statements at issue. (Tr. 62-69, 74-75; Ex. F). Taped to re-organized pages F5 and F9/F11 with cellophane tape were cut-outs of amounts equal to \$654.47 and \$383.80. (Tr. 62-69, 74-75; Ex. F). The cellophane tape was visible to the eye and noticeable to the touch. (Ex. F). Due to the manner in which the \$383.80 dollar amount was taped to page F9/F11, the \$71.44 ending account balance amount underneath could still be seen. (Ex. F).

9. Division Exhibit F established that copies of the bank statements had been altered to show higher account balance amounts for borrower Gribble.

10. The Gribble loan was a stated income loan. (Tr. at 47-48). A stated income loan is one wherein the borrower verifies assets or states what their income is instead of proving their actual income. (Tr. at 48, 95). It is typical to omit information from documents related to stated income loans that the lender does not want to see. (Tr. at 48, 95).

11. Respondent testified that for stated income loans “[a]s long as the money’s in the account, that’s all that makes a difference.” (Tr. at 95).
12. Loan officers compile documents in mortgage loan packages. (Tr. at 68-69, 99-100). Loan processors organize the files and send them to the lenders. (Tr. at 68-69, 99-100). If the lender returns the file, the processor presents the documents to the loan officer and informs the loan officer of what additional information or document the lender requires. (Tr. at 68-69, 99-100).
13. Respondent admitted that she was the only loan officer who worked on the Gribble loan and handled the documents. (Tr. at 99).
14. Respondent testified that she submitted the Gribble loan to the loan processor in mid January and it was returned to her. (Tr. at 99-100). Respondent testified that she ordered a bank statement for Gribble on February 3, 2006. (Tr. at 94).
15. Respondent testified that the majority of her loan officer business was generated by repeat business and referrals. (Tr. at 81). Respondent testified that when she closed a loan she obtained “three or four referrals from” the customer. (Tr. at 81). Respondent further testified that the Gribble loan was the result of a referral. (Tr. at 87).
16. Respondent testified that her yearly income as a loan officer was “way above” \$100,000.00 a year and that she had received numerous recognitions for being the top monthly fee earner at her office. (Tr. at 88-90).
17. Respondent could potentially earn at least 50% of the fees she earned per month. (Tr. at 88). Mr. Matthews could receive 15% of what Respondent earned in fees. (Tr. at 90).
18. Added together, the amount of fees earned by and testified to by Respondent equaled \$257,360.00. (Tr. at 88-90). Based upon Respondent’s testimony, she received \$128,000.00 and Mr. Matthews received \$38,000.00 leaving the remaining \$90,000.00 to the mortgage company.
19. At the time of Respondent’s termination, Mr. Matthews managed two First Ohio branch offices. (Tr. at 85).
20. Mr. Matthews testified that he was paid according to the profitability of his office. (Tr. at 58). If only one loan officer in the office was profitable, he would receive no pay. (Tr. at 58, 69).
21. Evidence presented and the testimony given by Respondent and Mr. Matthews confirmed that she was a top earner and a valued employee. (Ex. 3 at page 1-2, 5; Tr. at 45, 72, 83 and 86).
22. Mr. Matthews candidly and openly discussed the “strained” relationship he had with Respondent. (Tr. at 55-57, 71-73). Respondent testified that she and Mr. Matthews disagreed concerning how he managed the office. (Tr. at 80-83).
23. Respondent’s relationship with company president, Kirk Daskocil, was friendly, respectful and trusting. (Tr. at 83-85, 98; Ex. 3 at pages 1-2, 5, 6 and Ex. 6).

24. Respondent and Mr. Daskocil discussed employment matters and her differences with Mr. Matthews. (Tr. at 83-85, 98; Ex. 3 at page 1-2 and Ex. 6).
25. On January 25, 2006, Mr. Daskocil sent an e-mail to other First Ohio branch managers praising Respondent and indicating that she was interested in a transfer. (Tr. at 86; Ex. 3 at page. 5).
26. On January 31, 2006, Mr. Daskocil sent an e-mail to Respondent demonstrating that he still intended to transfer her and inquired about her interest in managing a branch office in Florida. (Tr. at 83-86; Ex. 3 at page 6).
27. From the testimony and exhibits, in addition to operating its corporate office, First Ohio operated at least five branch offices (Westlake, Middleburg, Avon Lake, North Ridgeville and Florida). (Tr. at 46, 61 85-86; Ex. 3 pages 1-2, 5 and 6).
28. Respondent testified that at the time of her termination from First Ohio, her transfer to another branch was going to occur the next week. (Tr. at 84 and 86).
29. Respondent denied leaving a voicemail message for Mr. Daskocil admitting to altering the bank statements, however, she testified that she talked to Mr. Daskocil by telephone. (Tr. at 100-101).
30. Mr. Daskocil examined the actual altered documents and ultimately made the decisions to terminate Respondent, not to compensate her and report her actions to the Division. (Tr. at 46, 59-62, 76, 95 and 101; Ex. 5).
31. Respondent was terminated by First Ohio late in the day on Friday, February 3, 2006. (Tr. at 46-47, 94). Respondent hired an attorney by Monday, February 6, 2006. (Tr. at 52-53 and 93).

### **CONCLUSIONS OF LAW**

1. The Division procedurally complied with R.C. Chapter 119 in mailing the NOH, in demonstrating delivery of the NOH, and in scheduling the hearing that had been request by Respondent within the time parameters established in R.C. 119.07, 119.08 and 119.09. The Division has jurisdiction over this matter.
2. The version of R.C. Chapter 1322 and the applicable administrative rules in effect prior to the September 1, 2006 amendments imposed a duty upon registrants to give notice to the Division of any action brought by a buyer against the registrant or its loan officers that alleged injury by violations of Chapter 1322 and of any judgments entered against the registrant or its loan officers related to buyers injured by violations of Chapter 1322. (R.C. 1322.05(B)(1)). Section 1322.05(B)(1) further required registrants to give notice to the Division of actions or judgments within ten days after the action was commenced or notice of entry of a judgment. No testimony or evidence presented at the hearing expressed or implied that a buyer had filed an action or had obtained a judgment for injury against the Respondent which First Ohio was obligated by law to report to the Division.

3. Revised Code 1322.10(A)(1) allows the Superintendent of Financial Institutions to revoke a loan officer license if the superintendent finds a violation of or failure to comply with any provision of R.C. 1322.01 to R.C. 1322.12.
4. Revised Code 1322.07 prohibits licensee from “[e]ngage in conduct that constitutes improper, fraudulent, or dishonest dealings” and from “[k]nowingly [making, proposing, or soliciting] fraudulent, false, or misleading statements on any mortgage document or on any document related to a mortgage, including a mortgage application, real estate appraisal, or real estate settlement or closing document.”
5. Revised Code 1322.072, *inter alia*, prohibits any person from making false statements and from tampering with, altering or manufacturing any evidence in connection with any investigation conducted by the Division pursuant to R.C. 1322.01 to 1322.12. Anyone who makes false reports or supplies manufactured evidence to the Division can be subject to an action under R.C. 1322.07.
6. Doug Matthews testified to facts and events that were part of his personal knowledge. According to Ohio Evidence Rule 801(C) Doug Matthews’ testimony was not hearsay.
7. The decision to interview any Respondent during any investigation is at the discretion of the Division.
8. By reporting Respondent to the Division, First Ohio exposed itself to being fined, revoked, suspended or denied a renewal certificate if the Division determined that First Ohio had manufactured the evidence it presented.
9. Given that First Ohio conducted mortgage broker business out of at least six offices, it is unlikely that Respondent was not compensated so that the company could keep an additional \$20,000.00.
10. The evidence produced at the hearing proved that copies of the bank statements were altered. First, at the hearing a witness testified that he personally retrieved the actual documents that had been altered. Second, the noticeably altered documents retrieved from Respondent’s trash can were presented and identified at the hearing. Third, the witness testified openly and honestly about his differences with the Respondent and stated that fees generated by Respondent were not the only factor in determination of his income. Fourth, the witness further testified that he presented the actual altered documents to company president Kirk Doscocil. Fifth, the witness testified that the final decisions regarding the Respondent were made by Kirk Doscocil. Finally, Respondent presented no testimony or evidence to refute that the documents presented at the hearing had been altered.
11. Since no one actually witnessed the act of alteration by Respondent, the evidence strongly implied that Respondent was responsible. First, Respondent was the only loan officer working on the Gribble loan and handled the documents. Second, when the loan processor returned the Gribble loan file to Respondent after the initial submission to the lender, Respondent ordered a bank statement. Third, since the Gribble loan was a stated income loan, ordering a bank statement would demonstrate sufficient cash reserves in the borrower’s bank account to qualify the borrower for a

loan. Fourth, Respondent's loan officer business consisted primarily of repeat business and referrals. Finally, closing the Gribble loan, which resulted from a referral, could possibly net Respondent three or four new referrals and repeat business from Gribble and the customer who referred Gribble to Respondent.

12. However, the most compelling evidence presented at the hearing related to the actions of Kirk Daskocil. Respondent's own testimony and exhibits established that she and Kirk Daskocil had a friendly, respectful and trusting relationship, wherein Respondent felt comfortable enough with him to discuss employment issues and her differences with Mr. Matthews. In fact, at the time the alteration of documents occurred Mr. Daskocil was actively working to transfer Respondent to another office and contemplated allowing her to manage one of his branch offices in another state. Mr. Daskocil examined the evidence of Respondent's alteration of the Gribble bank statements and talked with Respondent by telephone. Mr. Daskocil decided to terminate Respondent, not to compensate her, and reported her to the Division. Apparently, Mr. Daskocil lost all confidence in Respondent as a result of this alteration incident.

### **CONCLUSION OF THE DIVISION**

Respondent knowingly made false statement on a document related to a mortgage. Respondent's conduct was improper, fraudulent and dishonest. Therefore, for the reasons stated above, the Division has proven that Respondent violated R.C. 1322.07(C) and (E).

For the above stated reasons, the Division hereby REVOKES the loan officer license of Jamie L. Boyd.

IT IS SO ORDERED.

### **NOTICE OF RIGHT TO APPEAL**

Respondent is hereby notified that, pursuant to R.C. 119.12, this Order may be appealed by filing a notice of appeal with the Ohio Division of Financial Institutions, setting forth the order appealed from and the grounds for the appeal. A copy of such notice of appeal, pursuant to R.C. 119.12, must also be filed with the court of common pleas of the county in which the place of business of the Respondent is located, or the county in which the Respondent is a resident. A notice of appeal must be filed within fifteen (15) days after the date of mailing of this Order.

Signed and sealed this 2<sup>nd</sup> day of October, 2008.

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**LEIGH A. WILLIS**

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