

RECEIVED  
DIVISION OF FINANCIAL  
INSTITUTIONS  
07 JAN 19 PM 2:27

STATE OF OHIO  
DEPARTMENT OF COMMERCE  
DIVISION OF FINANCIAL INSTITUTIONS

IN RE: : CASE NO. M2006- 9992851  
: :  
GARY L. BRAUN : JANE S. ARATA, HEARING OFFICER

---

ADMINISTRATIVE HEARING OFFICER'S  
REPORT AND RECOMMENDATION  
Issued January 19, 2007

---

I. FINDINGS OF FACT

A. Background.

This matter came before Jane S. Arata, an attorney licensed to practice law in Ohio, who was duly appointed by the Ohio Division of Financial Institutions ("Division") to serve as Hearing Officer for this hearing in accordance with the Ohio Administrative Procedure Act, Ohio Revised Code ("R.C.") Chapter 119. Gary Braun requested the hearing on the Division's Notice of Intent to Deny Loan Officer License Application and Notice of Opportunity for a Hearing ("NOH"). The hearing was held November 21, 2006, at 77 South High Street in Columbus, Ohio.

Mr. Braun's Ohio law license was suspended for one year with six months stayed commencing September 19, 2000. Therefore, the Division alleges that he is not eligible for a loan officer license pursuant to the Ohio Mortgage Broker Act, R.C. Chapter 1322, because his character and general fitness do not command the confidence of the public and warrant the belief that his business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act as required by R.C. 1322.041(A)(5). All citations to the Ohio Mortgage Broker Act in this Report and Recommendation are to the Ohio Mortgage Broker Act effective prior to January 1, 2007, unless otherwise noted.

Laura Meechan, an Assistant Attorney General with the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division at the hearing. Mr. Braun represented himself and testified at the hearing. During the hearing, State's Exhibits A through G and Respondent's Exhibit 1 were admitted into the record.

**B. Jurisdiction and Procedural Matters.**

The Division issued the NOH to Mr. Braun on June 29, 2006. Mr. Braun's hearing request arrived at the Division on July 10, 2006. The Division scheduled the hearing for July 20, 2006, and continued it until November 21, 2006. Mr. Braun received the NOH by certified mail and received written notice of the date, time, and location for all hearings scheduled in this matter.

**C. Mr. Braun's Loan Officer Application and Disciplinary Violations.**

1. Mr. Braun is an individual who wants to conduct business in Ohio as a mortgage loan officer. (State's Exhibit A.)
2. On May 2, 2002, amendments to Ohio's Mortgage Broker Act became effective that required mortgage loan officers to be licensed by the Division. R.C. 1322.02(B).
3. The Division received Mr. Braun's Loan Officer Application ("Application") in April of 2006. (State's Exhibit A.)
4. Mr. Braun disclosed his six-month suspension on his Application and provided copies of the decision and the order suspending him from practicing law. (State's Exhibits A, C, and D.)
5. Mr. Braun violated several Disciplinary Rules while representing three clients during 1996 through 1998. Specifically, he "violated DR 6-101(A)(2) (handling a legal matter without proper preparation), 6-101(A)(3) (neglecting an entrusted legal matter), 7-101(A)(1) (failing to seek the lawful objectives of a client), 7-101(A)(2) (failing to carry out a contract of employment for professional services), and 7-101(A)(3) (prejudicing or damaging a client during the course of professional representation)." *Disciplinary Counsel v. Braun* (2000), 90 Ohio St.3d 138, 139.
6. Mr. Braun was undergoing severe marital stress and suffering from clinical depression when the violations occurred. He quite candidly testified about the underlying events at the hearing. He has complied with all of the terms set forth in the Supreme Court of Ohio's Order of September 20, 2000 in his case, Case No. 00-760. (State's Exhibits C and D; TR at 14-16.)
7. On June 15, 2006, Mr. Braun was reinstated to the practice of law in Ohio. 6/15/2006 Case Announcements, 2006-Ohio-2997. (Copy attached.)

8. Mr. Braun's marriage of 34 years is intact and depression has not been an issue for him for four years. He is realistic about the nature of depression and will get help and handle it better if it becomes an issue again. (TR at 18-22.)
9. All of the issues Mr. Braun dealt with were matters of neglect that were greatly impacted by, if not the direct result of, his depression. None of the violations involved theft or fraud. (State's Exhibit C; TR at 24.)

**D. Mr. Braun's Reputation and Character.**

10. Mr. Braun was a very credible and compelling witness. He did not minimize his past problems. His testimony confirmed his successful rehabilitation.
11. Mr. Braun submitted reference letters from six individuals. Collectively, they know him as an individual, are familiar with his work including his work in the mortgage industry, and are familiar with how he treats clients. The letters speak favorably of Mr. Braun's honesty, financial knowledge, concern for his clients, ability to complete work, and overall character. They also describe his extensive efforts assisting those with credit issues and helping people obtain loans with fair terms. (Respondent's Exhibit 1.)
12. Mr. Braun identified the reference letters but the authors of those letters were not available for cross-examination by the Division at the hearing. Therefore, the reference letters were admitted into the record but were given less weight than they might have been given if the authors had testified regarding the bases for their opinions as well as been available for cross-examination. Thus, even in this proceeding to which the Rules of Evidence do not strictly apply, the letters contained in Respondent's Exhibit 1 were reviewed and given some weight but not the weight they might have been given if their authors had testified at the hearing. (TR at 25-27.)
13. The Hearing Officer found Mr. Braun to be honest and truthful at the hearing. He has learned from his mistakes and improved his life greatly since 1998. He candidly discussed the issues he dealt with in his past and readily provided information about them to the Division during all parts of this licensing process. The past violations reflect the low point in his life and not the person he is today.
14. Mr. Braun established that his character and general fitness command the confidence of the public and warrant the belief that his business will be operated honestly and fairly in compliance with the purposes of Ohio's Mortgage Broker Act.

## **II. CONCLUSIONS OF LAW**

### **A. Jurisdiction and Procedural Matters.**

The Division procedurally complied with R.C. Chapter 119 and jurisdiction over this matter has been established.

### **B. Loan Officer License Application.**

1. The Division is the state agency responsible for the licensing and regulation of mortgage loan officers pursuant to the Ohio Mortgage Broker Act, R.C. Chapter 1322.
2. Ohio Revised Code Section 1322.041(A) provides that a loan officer license shall be issued if the Superintendent of Financial Institutions finds that certain conditions are met, including:

(5) The applicant's character and general fitness 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 sections 1322.01 to 1322.12 of the Revised Code.

R.C. 1322.041(A)(5).

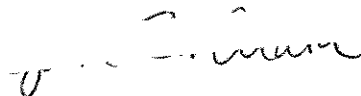
3. Mr. Braun violated several Disciplinary Rules while representing three clients during 1996 through 1998. Mr. Braun's Ohio law license was suspended for one year with six months stayed commencing September 19, 2000.
4. Mr. Braun was undergoing severe marital stress and suffering from clinical depression when the violations occurred. He quite candidly testified about the underlying events at the hearing. He has complied with all of the terms set forth in the Supreme Court of Ohio's Order of September 20, 2000, and his law license was reinstated on June 15, 2006. *6/15/2006 Case Announcements, 2006-Ohio-2997.*
5. Mr. Braun's testimony, the reinstatement of his law license, and the letters submitted establish that he is now a different person and not likely to repeat his past mistakes. His marital problems and depression severely affected his work during 1996 through 1998. Eight years without incident support the conclusion that he is not likely to repeat his past mistakes.

6. Mr. Braun has established that his character and general fitness command the confidence of the public and warrant the belief that his business will be operated honestly and fairly in compliance with the purposes of Ohio's Mortgage Broker Act as required by R.C. 1322.041(A)(5).

### III. RECOMMENDATION

Mr. Braun established that he meets the licensing prerequisites set forth in Ohio Revised Code Section 1322.041(A)(5). Therefore, I respectfully recommend that the Superintendent of the Division of Financial Institutions issue Mr. Braun a loan officer license pursuant to R.C. 1322.041.

Respectfully submitted,



Jane Stempel Arata  
Administrative Hearing Officer  
January 19, 2007

# The Supreme Court of Ohio

---

## CASE ANNOUNCEMENTS AND ADMINISTRATIVE ACTIONS

June 15, 2006

[Cite as *06/15/2006 Case Announcements, 2006-Ohio-2997.*]

---

## MOTION AND PROCEDURAL RULINGS

### **2005-0150. Lewis v. J. E. Wiggins & Co.**

Franklin App. No. 04AP-469, 04AP-544, and 04AP-668, 2004-Ohio-6724. This cause came on for further consideration of appellant's motion for leave to file a motion to vacate judgment for attorney fees and the motion to vacate judgment for attorney fees. Upon consideration thereof,

IT IS ORDERED by the court that that the motions are denied.

## DISCIPLINARY CASES

### **2000-0760. Disciplinary Counsel v. Braun.**

On application for reinstatement of Gary L. Braun, Attorney Registration No. 0021431. Application granted and respondent reinstated to the practice of law in Ohio.

## MISCELLANEOUS DISMISSALS

### **2006-0109. State ex rel. Glasgow v. Columbus Pub. Schools.**

In Mandamus. This cause originated in this court on the filing of a complaint for a writ of mandamus. Upon consideration of relator's application for dismissal,

IT IS ORDERED by the court that the application for dismissal is granted. Accordingly, this cause is dismissed.

### **2006-0311. State ex rel. Bailey v. Indus. Comm.**

Franklin App. No. 05AP-316. This cause is pending before the court as an appeal from the Court of Appeals for Franklin County. Upon consideration of appellant's application for dismissal,

IT IS ORDERED by the court that the application for dismissal is granted. Accordingly, this cause is dismissed.

**2006-0589. State v. Trouten.**

Jefferson App. No. 04JE18, 2005-Ohio-6592. This cause is pending before the court as a discretionary appeal and claimed appeal of right. It appears from the records of the court that the appellant has not filed a memorandum in support of jurisdiction, due June 9, 2006 in compliance with the Rules of Practice of the Supreme Court and therefore has failed to prosecute this cause with the requisite diligence. Upon consideration thereof,

IT IS ORDERED by the court that this cause is dismissed sua sponte.

**MEDIATION REFERRALS**

The following case has been referred to mediation pursuant to S.Ct.Prac.R. XIV(6):

**2006-0910. State ex rel. PFC Lamont Hill Memorial v. Petro.**  
In Mandamus.