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STATE OF OHIO  
DEPARTMENT OF COMMERCE

IN THE MATTER OF:

GEORGE W. KEATON, II

DIVISION OF FINANCIAL  
INSTITUTIONS

CASE NO. M2006-9992928

LANDI JACKSON-FORBES  
HEARING OFFICER

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REPORT AND RECOMMENDATION

Issued March 12, 2007

I. FINDINGS OF FACT

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the Hearing Officer finds the following to be fact:

A. Jurisdiction and Procedural History

This matter came before Landi Jackson-Forbes, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions (hereinafter the "Division") to serve as Hearing Officer for the above captioned matter in accordance with the Administrative Procedures Act, Chapter 119, Ohio Revised Code (hereinafter "Revised Code").

The hearing was scheduled by the Division at the request of Respondent George W. Keaton II of Elyria, Ohio (hereinafter "Respondent") to consider the Division's Notice of Intent to Deny Loan Officer License Application, Notice of Opportunity for a Hearing (hereinafter "NOH"), that was issued to Respondent on or about July 24, 2006.

The Division issued the NOH to Respondent on the basis that Respondent has a 2001 Aggravated Vehicular Homicide conviction and a Driving While Under the Influence conviction. The Division alleges that Respondent's convictions show that 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.

The hearing was held on November 21, 2006 at 9:30 a.m. in Room 1936 at 77 South High Street, Room 1936, Columbus, Ohio. The Division, represented by Deputy Attorney General Matthew J. Lampke, appeared at the hearing. Respondent appeared *pro se* and testified at the hearing. At the hearing, State's Exhibits A through D and Respondent's Exhibit 1 and 2 were admitted into the record as discussed in the transcript (hereinafter "Tr.").

**B. Loan Officer License Application**

1. The Division is the state agency responsible for the licensing and regulation of Mortgage Loan Officers pursuant to R.C. Chapter 1322. (State Ex. C & A)
2. Respondent signed under oath and afterwards filed with the Division on February 27, 2006 a Loan Officer License Application ("Application") for licensure as a loan officer pursuant to Revised Code Chapter 1322. First Ohio Banc and Lending is listed as the sponsoring/employing mortgage broker. (State Ex. C)
3. Within the Application Respondent checked "yes" to Question 5 and disclosed two convictions in the Franklin County, Ohio Court of Commons Pleas in 2001; Aggravated Vehicular Homicide, a third degree felony, and Driving Under the Influence, a first degree misdemeanor. (State Ex. C)
4. Pursuant to Revised Code §1322.03(B), the Division conducted a criminal records background check based on Respondent's fingerprints as part of the application process. The criminal background check confirmed Respondent's disclosed convictions and the Division requested an explanation and journal entries evidencing the convictions. (State Ex. D)
5. The Division received a letter on April 7, 2006 wherein Respondent discussed the circumstances that lead to his convictions, and his life since the convictions occurred. On April 15, 2001, Respondent, while intoxicated, lost control of the vehicle he was operating which lead to the death of the passenger, who also his best friend. Respondent was 22 years old at the time of the accident. He plead guilty to the charges of Aggravated Vehicular homicide and Driving Under the Influence and was found guilty. Respondent was sentenced to a total of one year and six months in prison and fined \$1,000 plus court costs. Respondent's driver's license was also suspended for three years. (State Ex. D)
6. Respondent served over seven months in prison and was released early for good behavior. Upon release, Respondent was placed on probation for five years, which was terminated after a two and a half years, also for good behavior. Respondent has paid all fines and court costs in full, and has had his driver's license reinstated. He has since married and has two children. Respondent also testified that he no longer over indulges in alcohol. (State Ex. D, Respondent Ex. 1; Tr. at 18-19)
7. Based on Respondent's criminal convictions, the Division determined that his Application should be denied because they demonstrate that 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. (State Ex. A)

8. Respondent wrote that he daily regrets what happened and the loss of his friend's life. He has worked different jobs since his release from prison, including as an assistant manager at a local bar that permitted him to handle cash and managed staff. He has been working as a loan officer at First Ohio Banc and Lending since March 2006. Respondent currently writes loans in Tennessee, where he has an individual loan officer license and in the states where his employer is licensed. In this capacity, Respondent handles sensitive personal and financial information. (Tr. at 25-30 & 45)
9. Seven letters of recommendation were offered in support of Respondent's licensure as a loan officer from the manager and six colleagues at First Ohio Banc and Lending. These persons spoke highly of Respondent and believe that he is honest, trustworthy, hardworking and professional. These letters, while hearsay, provided specifics why the individual authors wrote the letter and the activities of Respondent that caused a favorable impression. (Respondent Ex. 2)
10. Respondent did not have a record of criminal offenses or convictions prior to his 2001 convictions. Respondent has not had any other criminal convictions since 2001. (Tr. at 31)

## **II. CONCLUSIONS OF LAW**

### **A. Jurisdiction**

The Division procedurally complied with Revised Code Chapter 119 in mailing the NOH, in demonstrating delivery of the NOH, and in scheduling the hearing that had been requested by Respondent within the time parameters established in Revised Code §119.07, §119.08 and §119.09. The Division has jurisdiction in this matter.

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

1. In order to issue a license Revised Code §1322.041(A) requires the Division must make a finding that inter alia
  - (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 the sections 1322.01 to 1322.12 of the Revised Code.
2. The Division charged, and must prove, that 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.

3. The Division called Respondent's character and general fitness into question because of the fact that he was convicted of Aggravated Vehicular Homicide and Driving Under the Influence in 2001, and relies on the convictions as sole proof that 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.
4. Respondent answered Question 5 honestly and fully disclosed his convictions. Filing an accurate Application is positively demonstrative of Respondent's character and general fitness and of whether the business will be operated honestly and fairly in compliance with law.
5. Respondent convictions occurred in the recent past. However, neither of his crimes is one of the statutorily listed crimes in Revised Code 1322.031, and does not involve money or securities. Respondent gave clear, direct, and consistent testimony to demonstrate that he is fit to hold a mortgage loan officer license. His testimony finds support in the character reference letters. The Division did not present any impeaching or contradictory evidence with regard to Respondent's present character and general fitness to hold a loan officer license.
6. Respondent provided sufficient evidence to overcome the Division's sole evidence questioning his character and general fitness to command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act.

### **III. RECOMMENDATION**

In careful consideration of the record made in this matter, it is recommended that George W. Keaton, II be found to have presented sufficient evidence to overcome the Division's evidence questioning his character and general fitness to command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act, and that consequently he be granted an Ohio Loan Officer License.

Respectfully submitted,

Landi Jackson-Forbes  
Hearing Officer  
March 12, 2007  
Docket No. 06-DFI-160