

**STATE OF OHIO  
DEPARTMENT OF COMMERCE**

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DIVISION OF FINANCIAL  
INSTITUTIONS

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IN THE MATTER OF:

DIVISION OF FINANCIAL  
INSTITUTIONS

Debora L. Valentine

Case No. 04-0401-LOD

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**REPORT AND RECOMMENDATION  
ADMINISTRATIVE HEARING OFFICER JULIE M. LYNCH**

Issued August 25, 2004

**I. FINDINGS OF FACTS**

**A. BACKGROUND**

This matter came before this Hearing Officer, 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 an adjudicative hearing in accordance with the Administrative Procedures Act, Chapter 119, Ohio Revised Code ( hereinafter "O.R.C."). Said hearing was held at 3:00 P.M. on July 6, 2004 at 77 South High Street, 19<sup>th</sup> Floor, Columbus, Ohio.

The hearing was held at the request of Respondent Debora L. Valentine (hereinafter the "Respondent") to consider the Division's Notice of Intent to Deny Loan Officer License Application, Notice of Opportunity for a Hearing (hereinafter "NOH"). Said NOH was based upon an investigation conducted by the Division which found that in or around 2001, Respondent was convicted of Passing A Bad Check, a misdemeanor of the first degree and is thereby ineligible to hold a license as a Mortgage Loan Officer. The Division appeared and was represented by the Ohio Attorney General's Office, Assistant Attorney General Dan Jones. Respondent appeared and was represented by Attorney Jeffrey G. Edleman.

At the hearing, State's Exhibits 1 through 11 were admitted into the record as well as Respondent's Exhibits A through G.

**B. JURISDICTION**

The Division issued the NOH against Respondent on April 27, 2004. The Respondent requested a hearing, which was received by the Division on May 3, 2004. On May 3, 2004, the Division scheduled the hearing for May 14, 2004. The Division, upon its own motion continued the hearing to June 29, 2004. On June 24, 2004

Attorney Edleman requested a continuance in which the Hearing Officer granted and continued the hearing until July 6, 2004 at which date the hearing was held.

**C. PROPOSED ISSUANCE OF ORDER TO DENY LICENSE APPLICATION**

1. The Division is the state agency responsible for the licensing and regulation of Mortgage Loan Officers pursuant to O.R.C. Chapter 1322. ( Ex. 7).
2. Respondent is an individual who has conducted, and continues to conduct, business with Ohio Lending Solutions in Ohio. ( Ex.1;Tr. p. 17).
3. A statutory requirement became effective on May 2, 2002, which mandated, for the first time, that Mortgage Loan Officers become licensed (Senate Bill 76, 2001).
4. On or about March 22, 2004, the Division received from Respondent a Loan Officer Application (hereinafter the "Application"). (Ex. 1).
5. Respondent filled out and signed the Application on or about, March 4<sup>th</sup>, 2004. (Ex. 1).
6. Within the Application Respondent answered "no" to Question number 5, which asked: "Have you...ever been convicted of or pleaded guilty to any criminal offense including, but not limited to . . . fraud . . . passing bad checks . . ." (Ex. 1).
7. In or around 2001, Respondent was convicted of Passing A Bad Check, a misdemeanor of the first degree. (Ex. 7).
8. Respondent submitted several notarized letters of reference to attest to her character.

**II. CONCLUSIONS OF LAW**

**A. JURISDICTONAL ISSUE**

1. The Division procedurally complied with O.R. C. Chapter 119.

**B. LICENSE APPLICATION**

2. Ohio Revised Code Section 1322.031(A)(2) requires that in an application for a license as a loan officer, an applicant must submit a statement as to whether the applicant has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement,

forgery, fraud, passing bad checks, money laundering, or drug trafficking or any criminal offense involving money or securities.

3. Ohio Revised Section 1322.041 provides the Superintendent of the Division shall issue a Loan Officer License if the Superintendent 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.

4. Ohio Revised Code Section 1322.07(A) and (B) provide:

NO mortgage broker, registrant, licensee, or applicant for certificate of registration or license under Sections 1322.01 to 1322.07 of the Revised Code shall do any of the following:

(A) Obtain a certificate of registration or license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application;

(B) Make any false or misleading statements of a material fact or any omission or statements required by state law, or false promises regarding a material fact through advertising or other means, or engage in a continued course of misrepresentations;

5. Because the Respondent answered "no" to Question 5 of the Application, the burden of proof shifted to the Respondent to show by a preponderance of the evidence that her character and fitness command the confidence of the public to warrant the belief that the business will be operated honestly and fairly in compliance with the purpose of the Mortgage Broker act.
6. Respondent appeared at the hearing represented by counsel and submitted several notarized letters of character reference.

## DISCUSSION

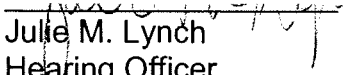
1. The Respondent stated that she was had overdrawn her bank account by several hundred dollars and that she received notices from several different institutions that she immediately paid. Respondent testified that she also paid the bank but two months later a police officer asked her to come to the police department and make a statement that Convenient Food Mart had said she hadn't paid a check. (Ex.3,3,5; Tr.p12-13).
2. The Respondent testified that she went to the police department and they gave her a ticket and said to appear in Mayor's Court. (Tr. p. 13)
3. The Respondent stated that at the time she didn't realize that she was being charged with passing a bad check she believed that Convenient Food Mart had a judgment against her and wanted to be paid. (Tr.p13).
4. Respondent stated that she appeared in Mayor's Court and explained what happened then went to a little booth and signed a paper. (Tr.p.13).
5. Respondent testified that she thought she had sufficient funds to cover her checks but as soon as she realized she didn't she "made good on the checks". Respondent stated she didn't realize that the check to Convenient Food Mart was unpaid. (Tr.p.14).
6. Respondent testified that she did not overdraw her account on purpose and thought she had enough money to cover the checks she had written. (Tr.p.14).
7. Respondent testified that she did not read the paperwork given to her at court but just went to the clerks window and paid the fine and reimbursed the check, and that she paid it because she did not realize it was a criminal action but thought it was a civil judgment action (Tr.pp15-16).
8. Respondent testified she has no other criminal history and she has an expungemnt hearing scheduled for July 7, 2004 which is tomorrow. (Tr.p.19;Ex.A)
9. Respondent submitted several letters attesting to her integrity and character but the most relevant one being from Frank Castro, Jr. her employer at Ohio Lending Solutions who describes Respondent as loyal, dependable and very dedicated and believes she will be a tremendous loan officer. (Tr.p20:Ex.C).
10. Assistant Attorney General Dan Jones in his opening statement stated that Respondent miscalculated her bank balance and overdrew the account. That she did so without malice, without fraud and that it was an honest mistake. Attorney General Dan Jones closed by asking this Hearing Office to find that she should have her licensed approved. (Tr. pp.7-8).

11. Based upon Respondent's testimony her character and general fitness do command the confidence of the public to warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act, as set forth in section 1322.041(A)(5).

#### **RECOMMENDATION**

Based on the above-findings of fact, conclusion of law and discussion thereof, it is the recommendation of the Hearing Officer that the Superintendent of the Division grant a Loan Officer License to the Respondent.

Respectfully submitted,

  
Julie M. Lynch  
Hearing Officer  
August 25, 2004