

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

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IN RE: : CASE #: M2006-9992804
:
DANIEL W. BROXTERMAN : ADMINISTRATIVE HEARING
(the "Applicant") : OFFICER
: MARK J. BALLENGER, ESQ.
:
(Application for Loan Officer :
License) :

ADMINISTRATIVE HEARING OFFICER'S
REPORT & RECOMMENDATION
Issued December 1, 2006

BACKGROUND

On or about May 19, 2006, the Ohio Division of Financial Institutions ("the State") served the Applicant with notice that it intended to deny the Applicant a loan officer license. Thereafter, the Applicant requested a hearing about the matter. In turn, the Applicant's request was honored.

This case was heard on August 28, 2006, beginning at approximately 1:30 p.m. at 77 S. High Street, Columbus, Ohio, Rm. 1908. A stenographic record was made of the proceeding.

The parties attended the hearing. The Applicant was represented by Attorney Lawrence J. White. Assistant Attorney General Timothy C. Loughry represented 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. 1 | May 19, 2006, letter from State with the Notice of Intent to Deny Loan Officer License Application and Notice of Opportunity for a Hearing, with certified mail receipts; Hearing Request Form; June 12, 2006, notice of hearing; and, July 14, 2006, notice of hearing |
| 2. Exh. 2 | Applicant's March 2006, Loan Officer Application ("Application") with March 21, 2006, cover letter and other documents in support of the Applicant; Notice of Intent to Deny Loan Officer Application and Notice of Opportunity for a Hearing in Case No. 04-0257-LOD with a cover letter dated January 22, 2004; December 6, 2005, cover letter and Denial of Loan Officer License Application that was filed April 24, 2002 |
| 3. Exh. 3 | August 11, 2005, Report and Recommendation of a hearing officer in Case No. 04-0257-LOD |

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

TESTIMONY GIVEN BY

- The Applicant
- J. Edward Clark, President of American Sentry Mortgage L.T.D.
- Rick Browning, Vice President, American Sentry Mortgage L.T.D.

FINDINGS OF FACT

1. The State advised the Applicant of the reasons for its intent to deny the Applicant a loan officer license. (See the attached two pages, marked "Copy.")
2. After the filing of a loan officer application (not the one most recently filed, at issue here) in April 2002, and following a hearing on that application two years later in April 2004, and following the issuance of an August 2005 Report and Recommendation of a hearing officer, the State in December 2005 denied that 2002 application because the State found that, inter alia, the Applicant had provided a false answer on his loan officer application and that his previous convictions in 1990 and 1994 should be taken into account. (Exh. #2 and #3.)
3. During the years the Applicant was awaiting a decision concerning his 2002 loan Application, he was permitted by the State to work as a loan officer for American Sentry Mortgage, i.e., from April 2002 to December 2005. (Tr.1 pp. 58 and 64-65.) There is no indication that he was involved in any wrongdoing in that work during that time. (Tr. p. 65.)
4. The State of Kentucky approved the Applicant's application for a mortgage loan officer license on February 1, 2006. (Exh. #2 and Tr. pp. 65 and 75-76.)
5. The testimony and material in support of his application demonstrate that he is trustworthy, hardworking, and of good character. (Exh. #2 and Tr. pp. 57-77, 79-90, and 92-96.)

CONCLUSIONS OF LAW

The Applicant has, by a preponderance of the evidence, proven from his activities and employment record that his character and general fitness command the confidence of the public and warrant the belief that he will operate a mortgage business honestly and fairly – a requirement for licensure pursuant to R.C. 1322.041(A)(5). (Findings of Fact #2 thru #5.)

RECOMMENDATION OF ACTION

Therefore it is recommended that the Superintendent of the Division of Financial Institutions grant 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 from the subject hearing.

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

COPY

In the matter of:) Case No. M2006-9992804
)
DANIEL E. BROXTERMAN) Notice of Intent to Deny Loan Officer License Application
8287 Polo Trail Place) &
West Chester, Ohio 45069) 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

DANIEL E. BROXTERMAN ("Respondent") has applied to the Division for a loan officer license. His address of record is 8287 Polo Trail Place, West Chester, Ohio 45069 and his date of birth is July 28, 1963. Respondent's employer of record is American Sentry Mortgage, Ltd., 4770 Duke Drive, Suite 100, Mason, Ohio 45040.

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. In or around December 2005, the Division determined that Respondent had violated R.C. 1322.07(A), (B) and (C).
- B. In or around December 2005, the Division determined 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. See R.C. 1322.041(A)(5).

As a result of the findings listed above, the Division has determined that:

Respondent's actions, as listed above, shows 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. See R.C. 1322.041(A)(5).

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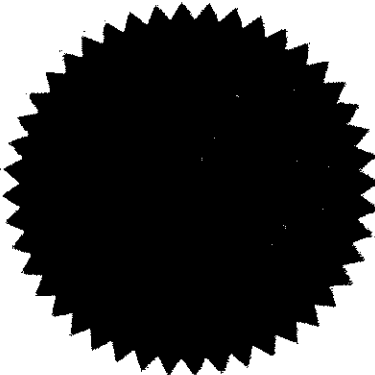
NOTICE OF OPPORTUNITY FOR A HEARING ON PROPOSED ACTION

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 19th day of May 2006.

ROBERT M. GRIESER

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