

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

In the matter of:)	Case No. M2010-366
)	
MICHAEL A. V LCEK)	<u>DIVISION ORDER</u>
9772 Wainwright Terrace)	Refusal of Loan Originator Application
Olmsted Falls, Ohio 44138)	&
)	Notice of Appellate Rights
)	

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division") and charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act, as codified in Ohio Revised Code ("R.C.") Chapter 1322, the Division finds that this Order is necessary and appropriate, in the interest of the public, and is consistent with the purposes of the Ohio Mortgage Broker Act; and

WHEREAS, on June 29, 2010, the Division issued Respondent a Notice that informed him that the Division had conducted an investigation of Respondent and, as a result thereof, alleged that:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to issue a loan originator license if the Division finds that the applicant has violated or failed to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration.
- B. The Division is empowered by R.C. 1322.041 to issue a loan originator license if the Division finds, among other things, that the applicant "has not been convicted of or pleaded guilty or nolo contendere to any [crime/offense listed in subsections (a) or (b)] in a domestic, foreign, or military court[.]"
- C. R.C. 1322.041(A)(3)(b) provides, in part, that the applicant cannot have been convicted of, plead guilty or nolo contendere to "a felony involving . . . theft" at any time prior to the date a license application is made.
- D. R.C. 1322.041(A)(6) provides that a loan originator license shall be issued if the applicant's financial responsibility, 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.
- E. On or about September 20, 2001, in the Cuyahoga County Ohio Court of Common Pleas, Respondent pleaded guilty to theft R.C. 2913.02, a felony of the fifth degree (per R.C. 2913.71).
- F. On or about February 16, 2010, Respondent submitted an application for a loan originator license pursuant to R.C. Chapter 1322 and the nationwide mortgage licensing system.

As a result of the above findings, the Division makes the following conclusions:

1. Respondent's actions, as listed above, show 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)(6).
2. Respondent pleaded guilty to felony theft.
3. Because Respondent pleaded guilty to felony theft, Respondent does not meet the conditions for issuance outlined in R.C. 1322.041(A)(3).
4. Because Respondent does not meet the conditions for issuance of a loan officer license pursuant to R.C. 1322.041(A)(3) and (A)(6), the Division has the authority to refuse issuance of a loan originator license to Respondent..

WHEREAS, the Notice informed Respondent of the Division's intent to refuse Respondent's loan originator license application and of the opportunity for a hearing regarding the refusal if requested within thirty days from the mailing of the Notice. The Notice further cautioned Respondent that "[i]f the Ohio Division of Financial Institutions d[id] not receive a written request for a hearing in its offices within thirty (30) days of the time of the mailing of th[e] Notice, the Superintendent w[ould] issue an order refusing to issue Respondent a loan originator license."

WHEREAS, service of the Notice on Respondent was perfected;

WHEREAS, Respondent failed to request a hearing by the statutory deadline and thereby failed to defend against the Division's allegations;

WHEREAS, the Division finds that the allegations contained in the Notice are true and that Respondent's loan originator license application should be refused;

Respondent Michael A. Vlcek's loan originator license application is hereby REFUSED.

IT IS SO ORDERED.

NOTICE OF APPELLATE RIGHTS

Respondent is hereby notified that this Order may be appealed, pursuant to R.C. 119.12, 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 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 4th day of August, 2010.

LEIGH A. WILLIS
Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce