

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

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| IN THE MATTER OF: | : | CASE NO. M2009-622 |
| | : | |
| ROSANNA MARTINO UHDE, | : | |
| | : | LISA M. FINNEGAN |
| RESPONDENT. | : | HEARING OFFICER |
| | : | |

ADMINISTRATIVE HEARING OFFICER'S
REPORT AND RECOMMENDATION
Issued December 16, 2009

I. FINDINGS OF FACT

A. Background

1. This matter came before Lisa M. Finnegan, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Department of Commerce, 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. The Division held the hearing on December 3, 2009 at 77 South High Street, 23rd Floor, Columbus, Ohio, 43215.

2. The Division held the hearing to consider the October 7, 2009 Order of Summary Suspension, Notice of Intent to Deny Renewal, and Notice of Hearing ("NOH"). The Division alleged that Rosanna Martino Uhde ("Respondent") violated R.C. § 1322.052 because she failed to complete at least six hours of approved continuing education during the 2008 calendar year.

3. Janyce C. Katz, Esq. and Dalia Mohammad, Esq. Assistant Attorneys General with the Executive Agencies Section of the Ohio Attorney General's Office, represented the Division at the hearing. Stephen E. DeFrank, Jr., Esq. testified on behalf of the Division. Neither Respondent nor anyone on her behalf appeared at the hearing. The Division introduced and the Hearing Officer admitted State's Exhibits A through E into the record at the hearing.

B. Jurisdiction and Procedural Matters

4. On October 7, 2009, the Division issued the NOH suspending Respondent's loan officer license pursuant to R.C. § 1322.10(F)(2) because Respondent failed to fulfill her continuing education requirement for calendar year 2008. In the NOH, the Division also indicated that it sought to deny Respondent's loan officer license renewal application. The Division set the matter for hearing on November 4, 2009.

5. The Division sent the NOH by certified mail, return receipt requested, to Respondent's last known address of record with the Division. On November 2, 2009, the United States Postal Service returned the certified mail envelope to the Division marked "unclaimed, unable to forward." *State's Exhibit B; Testimony of Stephen E. DeFrank, Jr., Transcript ("Tr.") at 11.*

6. On November 3, 2009, the Division sent the NOH by ordinary mail to Respondent, accompanied by a certificate of mailing. A cover letter enclosed with the NOH notified Respondent that the Division had rescheduled the hearing for December 3, 2009. The letter also contained the location and time of the hearing. *State's Exhibit A.*

7. The Division provided the Certificate of Mailing issued by the United States Postal Service demonstrating that the Division mailed the NOH to Respondent by ordinary mail on November 3, 2009. *State's Exhibit B.*

8. Respondent did not contact the Hearing Officer, the Attorney General's Office, or the Division concerning the November 3, 2009 hearing. *Tr. at 7.*

9. The Division held the hearing on the date, time, and location as specified in its November 3, 2009 letter to Respondent.

C. Respondent's Loan Officer License

10. Respondent held loan officer license number LO.014245.000 from March 3, 2002 through April 30, 2009. *State's Exhibit C.*

11. On April 27, 2009, Respondent applied on-line to renew her loan officer license with the Division. *State's Exhibit D.*

12. Stephen E. DeFrank, Jr., Esq., an attorney examiner with the Division, testified at the hearing. Mr. DeFrank reviews the files of loan officers and mortgage brokers to verify their compliance with the annual continuing education requirement of R.C. § 1322.052. Mr. DeFrank reviewed Respondent's continuing education file. *Testimony of Stephen E. DeFrank, Jr., Tr. at 9-10.*

13. At the hearing, the Division introduced a printout of Respondent's continuing education file maintained by the Division. The printout showed that Respondent did not complete the required six hours of continuing education during the 2008 calendar year. *State's Exhibit E; Testimony of Stephen E. DeFrank, Jr., Tr. at 13.*

14. The Division is seeking to continue the suspension of Respondent's license and to deny Respondent's loan officer license renewal application because she did not complete her required six hours of continuing education during the 2008 calendar year. *State's Exhibit A.*

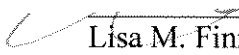
II. CONCLUSIONS OF LAW

15. The Division has procedurally complied with R.C. Chapter 119 and has established jurisdiction over this matter.
16. The Division is responsible for the licensing and regulation of loan officers and mortgage brokers pursuant to the Ohio Mortgage Broker Act, R.C. Chapter 1322.
17. R.C. § 1322.052 requires that loan officers licensed by the Division complete six hours of continuing education courses during each calendar year.
18. R.C. § 1322.10(F)(2) requires the Division to suspend, without a prior hearing, the license of a licensee who has failed to fulfill the continuing education requirements of R.C. § 1322.052. The suspension remains in effect until the licensee completes the required continuing education and pays a fine of \$500.00 to the treasurer of state to the credit of the consumer finance fund.
19. R.C. § 1322.10(A)(1)(a) authorizes the Division to deny a loan officer license renewal application for lack of compliance with any provision of R.C §§ 1322.01 through 1322.12.
20. The Division has established that Respondent is in violation of R.C. § 1322.052 because Respondent failed to complete six hours of continuing education courses during the 2008 calendar year. Therefore, sufficient evidence exists to continue the suspension of Respondent's license pursuant to R.C. § 1322.10(F)(2) and to deny Respondent's loan officer license renewal application pursuant to R.C. § 1322.10(A)(1)(a).

III. RECOMMENDATION

Based upon the evidence submitted into the record for this case, the Division has established that Respondent did not complete the statutorily required six hours of continuing education during the 2008 calendar year. The Division has provided a sufficient evidentiary basis to continue the suspension of Respondent's loan officer license pursuant to R.C. § 1322.10(F)(2), and to deny Respondent's loan officer license renewal application pursuant to R.C. § 1322.10(A)(1)(a), for Respondent's failure to comply with R.C. § 1322.052. Therefore, the Hearing Officer respectfully recommends that the Superintendent of the Division deny Respondent's loan officer renewal application.

Respectfully submitted,



Lisa M. Finnegan
Administrative Hearing Officer
December 16, 2009