

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

In the matter of:)	Case No. 03-LO-D-33-34
)	
DAVID McNEIL)	Notice of Intent to Deny Loan Officer License
7867 Edgedale Avenue NE)	&
North Canton, Ohio 44721)	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

DAVID McNEIL ("Respondent") has applied to the Division for a loan officer license. His address of record is 7867 Edgedale Avenue NE, North Canton, Ohio 44721, and his date of birth is December 3, 1955. Respondent's employer of record is Rockwell Mortgage Corporation., located at 4833 Munson Street NW, in Canton, Ohio.

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 a loan officer license.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.031(B), and has found the following:

1. In or around 1992, in the Cuyahoga County Court of Common Pleas, Ohio, Respondent pleaded guilty to and was convicted of the offense of RECEIVING STOLEN PROPERTY (MOTOR VEHICLE), a misdemeanor of the third degree.
2. In or around 1992, in the Cuyahoga County Court of Common Pleas, Ohio, Respondent was found to have been in VIOLATION OF THE TERMS OF HIS PROBATION, which he was sentenced to as a result of the above listed receiving stolen property conviction.
3. In or around 1990, in the Municipal Court of Mentor, Ohio, Respondent pleaded guilty to and was convicted of PETTY THEFT, a first degree misdemeanor.
4. In or around 1997, in the Municipal Court of Akron, Summit County, Ohio, Respondent was convicted of the offense of DOMESTIC VIOLENCE, a misdemeanor of the first degree.
5. In or around 1998, in the Summit County Court of Common Pleas, Ohio, Respondent pleaded guilty to and was convicted of the offense of DOMESTIC VIOLENCE, a misdemeanor of the first degree.

6. Respondent violated R.C. 1322.07(A) and 1322.07(B) by failing to disclose the criminal offense(s) listed in the paragraph(s) above on his/her loan officer license. R.C. 1322.07(A) prohibits an applicant for a loan officer license from "[o]btain[ing] a *** license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or [from] making any substantial misrepresentation in any *** license application[.]" R.C. 1322.07(B) prohibits an applicant for a loan officer license from "[m]ak[ing] false or misleading statements of a material fact, omissions of statements required by state law[.]"

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

1. Respondent has not proven that he/she is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he/she will not commit another 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. See R.C. sections 1322.031(A)(2) and 1322.041(A)(3).
2. Respondent has not proven that he/she is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he/she will not be subject to another judgment involving conversion, embezzlement, misappropriation of funds, fraud, misfeasance or malfeasance, or breach of fiduciary duty. See R.C. sections 1322.031(A)(3) and 1322.041(A)(4).
3. 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).

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: Amanda Axtell, Esq., 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 30th day of April, 2003.

ROBERT M. GRIESER

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

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