

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

In the matter of:)	Case No. 04-0227-LOD
)	
KARL P. STEFANOFF)	<u>DIVISION ORDER</u>
20368 Westwood Drive)	Denial of Loan Officer License Application
Strongsville, Ohio 44136)	&
)	Notice of Appellate Rights

Respondent, Karl P. Stefanoff, submitted a loan officer license application (“Application”) to the Division of Financial Institutions (“Division”) on May 6, 2002. On January 23, 2004, the Division notified Stefanoff that it intended to deny his Application because: (1) in 1992 he pleaded guilty to and was convicted of assault and resisting arrest without violence; (2) in 1993 he pleaded guilty to and was convicted of attempted robbery, a felony of the third degree, and he has not proven that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he will not commit another criminal offense involving robbery or any criminal offense involving money or securities; (3) he violated R.C. 1322.07(A) by failing to disclose his conviction on his Application; (3) he violated R.C. 1322.07(B) by making a false statement of a material fact or by omitting a statement required by state law on the licensing application; (4) he violated R.C. 1322.07(C), which prohibits an applicant from engaging in improper or dishonest conduct; and (5) because his character and general fitness did 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 R.C. 1322.01 to 1322.12—the Ohio Mortgage Broker Act.

Stefanoff requested an administrative hearing which was held on August 23, 2004. A Report and Recommendation was filed with the Division on September 28, 2004, recommending that the Division grant Respondent’s Application. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report and Recommendation, the transcript of testimony and exhibits, as well as all applicable laws. As a result, the Division makes the following findings and conclusions. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (The Hearing Examiner's Report and Recommendation is attached).

The Division disapproves paragraph 2 on page 6 of the Report and Recommendation.

Respondent was convicted of a third degree felony which involved using or threatening the use of immediate force against another. (R.C. 2911.02) This type of crime is a direct reflection on a person's character and diminishes the amount of confidence the public can place in them.

The Division disapproves paragraph 3 on page 6 of the Report and Recommendation.

An applicant is not excused from answering a direct question concerning their criminal background because a background check will be preformed. Respondent answered "no" to Question 5 on his Application which he submitted to the Division, when in fact he had two criminal convictions. (See State's Exhibits 1 and 4). Further, the inability to understand a direct question evidences a lack of the requisite fitness needed of a loan officer. On a daily basis loan originators deal with consumers' personal financial information and counsel them on what is most often their largest financial investment. Being able to comprehend and evaluate complicated mortgage documents is a vital part of the job. By not being able to understand a direct question on a licensing application, Respondent has demonstrated to the Division that he does not hold the requisite fitness needed to be a loan officer. Further, as far as any violation being caused by a misunderstanding, violations of R.C. 1322.07 (A), (B), and (C) do not require intent.¹

¹ In R.C. 1322.07 (E) and (F), both sections contain language of intent by using the term "knowingly", whereas R.C. 1322.07 (A), (B), and (C) do not.

The Division disapproves paragraph 5 on page 7 of the Report and Recommendation.

The hearing officer concludes that the crime of attempted robbery is an offense that “...while serious, was of a kind that is committed by young men and not likely to be repeated later in life.” This conclusion is not supported by any evidence.

Respondent has the burden to prove by a preponderance of the evidence that his activities and employment record since his felony robbery conviction show that he is honest, truthful and of good reputation, and there is no basis in fact for believing that he will commit such an offense again. This burden was not met. All that Respondent entered into evidence was his own self-serving testimony. He provided no other witnesses or documentation which would evidence his work history, work ethic or reputation in the community.

The Division modifies paragraph 6 on page 7 of the Report and Recommendation.

When Respondent failed to disclose his convictions on his Application he also violated R.C. 1322.07(B) and (C) in addition to (A) as the hearing officer found. Hence, Respondent did not comply with R.C. 1322.01 through 1322.12—the Ohio Mortgage Broker Act. As a result, Respondent did not meet the condition for licensure outlined in R.C. 1322.041(A)(2).

The Division disapproves paragraph 7 on page 8 of the Report and Recommendation.

The Division, as pointed out in the previous paragraphs of this Order, finds that Respondent violated R.C. 1322.07(A), (B), and (C) by not disclosing his conviction on his Application. As stated above, intent is not an element of violating 1322.07 (A), (B), and (C). The Division has a responsibility to the public to be diligent in its oversight, and this responsibility demands that not answering a direct question about one’s criminal background accurately be taken seriously. Therefore, the Division finds 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 Ohio Mortgage Broker Act. See R.C. 1322.041(A)(5).

Furthermore, Respondent did not meet his burden of proof required by R.C. 1322.041(A)(3). The Division finds that Stefanoff has not proven that he is honest, truthful and of good reputation and that there is no basis in fact to believe that he would not commit such an offense again.

The Division disapproves the recommendation on page 8 of the Report and Recommendation.

Based on the foregoing conclusions, Respondent has not met the condition for licensure set forth in R.C. 1322.041(A)(2) and (3).

For the reasons stated above, the Division hereby denies the Loan Officer License Application of Karl P. Stefanoff.

It is so ordered.

NOTICE OF APPELLATE RIGHTS

Respondent is hereby notified that pursuant to R.C. 119.12, this Order may be appealed 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, pursuant to R.C. 119.12, 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 13th day of April 2006.

ROBERT M. GRIESER
Deputy Superintendent for Consumer Finance
Division of Financial Institutions
Ohio Department of Commerce