

DIVISION OF FINANCIAL INSTITUTIONS  
06 SEP 12 PM 2:14

**STATE OF OHIO  
DEPARTMENT OF COMMERCE**

**IN THE MATTER OF:**

**DIVISION OF FINANCIAL  
INSTITUTIONS**

**MICHAEL A. WRIGHT, JR.**

**CASE NO. 06-0053-LOD**

**LANDI JACKSON-FORBES  
HEARING OFFICER**

---

**REPORT AND RECOMMENDATION**

**Issued September 11, 2006**

**I. FINDINGS OF FACT**

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the Hearing Officer finds the following to be fact:

**A. Jurisdiction and Procedural History**

This matter came before Landi Jackson-Forbes, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions (hereinafter the "Division") to serve as Hearing Officer for the above captioned matter in accordance with the Administrative Procedures Act, Chapter 119, Ohio Revised Code (hereinafter "Revised Code"). The hearing was scheduled by the Division at the request of Respondent Michael A. Wright, Jr., of New Albany, Ohio (hereinafter "Respondent") to consider the Division's Notice of Intent to Deny Loan Officer License Application, Notice of Opportunity for a Hearing (hereinafter "NOH"), that was issued to Respondent on or about January 5, 2006.

The Division alleges that Respondent did not complete six hours of continuing education required Revised Code §13221.052 within calendar year 2004. For this reason, the Division contends that Respondent's Loan Officer License Application ("Application") should be denied.

The hearing was held at 2:30 p.m. on March 8, 2006, at 77 South High Street, 19<sup>th</sup> Floor, Room 1924, Columbus, Ohio. The Division, represented by Deputy Attorney General Matthew Lampke, appeared at the hearing. Riene Roszak attended the hearing as the Division's representative and testified for the Division. Respondent appeared *pro se* and testified at the hearing. At the hearing, State's Exhibits A through E were admitted into the record without objection and Respondent's Exhibit 1 was admitted into the record as discussed in the transcript (hereinafter "Tr.").

**B. Loan Officer License Application**

1. On May 2, 2002, amendments to the Ohio Mortgage Broker Act became effective that required mortgage loan officers to be licensed by the Division. (Revised Code §1322.02(B) & §1322.041(B))
2. Revised Code §1322.052 requires each licensee that has been issued a license to complete at least six hours of continuing education ("CE") each calendar year preceding renewal.
3. The Division granted Respondent an Ohio Loan Officer License on December 12, 2002. (State Ex. C)
4. Respondent completed the six hours of required CE for 2002 and 2003. (Tr. at 28 & 32)
5. Respondent renewed his Ohio Loan Officer License for calendar year 2004, which, pursuant to Revised Code §1322.041(B), would have taken place by April 30, 2004. (Tr. at 12)
6. In early June 2004, Respondent left the employment of Homeland Mortgage Banc, a mortgage broker licensed under Revised Code §1322.03 to work for an entity that is exempted from licensure pursuant to Revised Code §1322.02. (Tr. at 16)
7. On or about June 15, 2004, Homeland Mortgage, Banc, Inc. returned to the Division Respondent's original license in compliance with Revised Code §1322.031(E)(2). (State Ex. C)
8. Respondent did not request the Division transfer his license to another mortgage broker or request in writing that his license be held in escrow as allowed by Revised Code §1322.031(E)(2); however, Respondent's license was placed in escrow. (Tr. at 26 )
9. The Division's witness testified that a mortgage broker licensee whose license is in escrow must comply with the provisions of Revised Code §1322.01 to §1322.12 unless the licensee notifies the Division that they no longer work as a licensed loan officer and do not want the license transferred out of escrow. No evidence was introduced indicating that the Division has received such notice from Respondent. (Tr. at 25)
10. Respondent did not complete six hours of CE by December 31, 2004. (Tr. at 13 & 16)
11. Respondent's license was cancelled when he did not renew in April 2005. (Tr. at 26)

12. Respondent reapplied for a loan officer license with the Division on August 4, 2005 with The Mortgage Source, Inc. as the sponsoring mortgage broker company. (State Ex. E)
13. Respondent also submitted a loan officer application on August 12, 2005 with H&R Block as the sponsoring mortgage broker company. (State Ex. D)
14. On September 27, 2005, Respondent completed six hours of CE to comply with the 2004 calendar year. (Respondent Ex. 1, Tr. at 17)
15. The Division's witness testified that CE hours cannot be backdated or applied to another compliance period, but must be completed by the end of the compliance year unless the licensee enters into a settlement agreement with the Division. (Tr. at 13)
16. Respondent testified that he completed the requisite six hours of CE to comply with calendar year 2005. No evidence was admitted rebutting Respondent's testimony. (Tr. at 17)

## **II. CONCLUSIONS OF LAW**

### **A. Jurisdiction**

The Division procedurally complied with Revised Code Chapter 119 in mailing the NOH, in demonstrating delivery of the NOH, and in scheduling the hearing that had been requested by Respondent within the time parameters established in Revised Code §119.07, §119.08 and §119.09. The Division has jurisdiction in this matter.

### **B. Loan Officer License Application**

1. Revised Code §1322.10(A)(1)(a) provides that the Superintendent of Financial Institutions may refuse to issue a license if there is a finding of a violation of or failure to comply any provision of §§1322.01 to 1322.10 of the Revised Code.
2. The Division granted Respondent a loan officer license in 2002 and Respondent renewed that license in 2003 and 2004. Respondent did not complete six hours of CE by the end of calendar year 2004. The Division has demonstrated that Respondent did not comply with Revised Code §1322.052. Therefore, the Division may refuse to grant Respondent a license under Revised Code §1322.10. However, the language in Revised Code §1322.10 is discretionary not mandatory.
3. The record shows that Respondent complied with all the provisions of Revised Code §§1322.01 to 1322.12 until he was no longer employed by a mortgage

broker licensed by the Division. Respondent qualifies for a mortgage loan officer license under the Ohio Mortgage Broker Act in all respects except he did not complete six hours of CE in calendar year 2004.

4. Revised Code §1322.031 provides that a loan officer license must be returned to the Division when the loan officer leaves the employment of the sponsoring mortgage broker company. The licensee can not operate as a licensed loan officer unless the loan office license is transferred to another mortgage broker company. Revised Code §1322.031 further allows a loan officer license be held in escrow only at the licensee's written request. Outside of these provisions, no evidence was introduced that indicates that there are other laws, rules or written guidelines to inform a licensee, who intends to or becomes inactive, of additional procedures for leaving the licensed mortgage broker industry or of any requirements once they become inactive. The record does not show that Respondent willfully did not comply with the provisions of Revised Code §1322.052 as it currently exists. Instead the record shows that he incurred the cost and completed six hours of CE when it was brought to his attention that he had not complied for calendar year 2004. Respondent also completed six hours of CE in December 2005 to comply with calendar year 2005.
5. One of the purposes for requiring continuing education is to ensure that a licensee receives the minimal knowledge needed to operate in compliance with federal and state laws in conducting mortgage-lending activities. Respondent's history of compliance as a previous licensed loan officer and his attempt to comply with Revised Code §1322.052 for not only calendar year 2004, but also calendar year 2005, mitigates compliance risk and Respondent's violation of Revised Code §1322.052.

### **III. RECOMMENDATION**

In careful consideration of the record made in this matter, it is recommended that Superintendent of Financial Institutions grant Michael A. Wright an Ohio Loan Officer License.

Respectfully submitted,



Landi Jackson-Forbes

Hearing Officer

September 11, 2006

Docket No. 06-0053-LOD