

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

In the matter of:

JACK P. BERNING
631 Sheridan Avenue
Bexley, Ohio 43209

)
)
)
)
)
)
)

Case No. M2008-418

**Notice of Intent to Deny Renewal
of Loan Officer License
&
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, and the rules adopted thereunder.

RESPONDENT

JACK P. BERNING ("Respondent") is an individual that holds a loan officer license issued by the Division to originate residential mortgage loans pursuant to R.C. Chapter 1322. Respondent has no current employer of record and, therefore, his loan officer license is being held in escrow. Respondent's home address of record is 631 Sheridan Avenue, Bexley, Ohio 43209, and his date of birth is May 17, 1978.

NOTICE OF PROPOSED ACTION

In accordance with R.C. sections 1322.041 and 1322.10, and R.C. Chapter 119, the Division intends to DENY the renewal of Respondent's loan officer license.

BASIS FOR PROPOSED ACTION

The Division has conducted an investigation of Respondent, pursuant to R.C. 1322.10(B), and has found the following:

- A. The Division is authorized by R.C. 1322.10(A)(1)(b) to refuse to renew a loan officer license if the Division finds that the licensee has pleaded guilty to or been convicted of "any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, drug trafficking, or any criminal offense involving money or securities."
- B. On March 11, 1998, Respondent appeared in the 175th District Court, Bexar County, Texas, before Judge Mary Roman, and entered a plea of Nolo Contendere to and was found guilty of Burglary Habitation- Force in *The State of Texas v. Jack Patrick Berning*, Case No. 98CR0242W.

- C. On or around January 20, 2006, May 30, 2006 and May 5, 2007, Respondent attested in a sworn statement that information he provided on his licensing application was truthful, knowing that the information he provided was false.
- D. On or around January 20, 2006, May 30, 2006 and May 5, 2007, Respondent provided untruthful information to the State of Ohio, Department of Commerce, Division of Financial Institutions.

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

- 1. Based on Respondent's conviction, as shown above, the Division has the authority to deny the renewal of Respondent's loan officer license pursuant to R.C. 1322.10(A)(1)(b).
- 2. Based on Respondent's conviction, as shown above,, the Division has determined that the Respondent has been convicted of a theft offense as described in R.C. 1322.031(A)(2), and, therefore, the Respondent does not meet the requirements for renewal of Respondent's loan officer license pursuant to R.C. 1322.041(A)(3) & (B)(3). See O.A.C. 1301:8-7-01(K).
- 3. Respondent's actions, as listed in paragraphs C and D above, violated R.C. 1322.07(A), which prohibits a loan officer applicant from "mak[ing] any substantial misrepresentation in any registration or license application[.]"
- 4. Respondent's actions, as listed in paragraphs C and D above, violated R.C. 1322.07(B), which prohibits a loan officer applicant from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statements required by state law[.]"
- 5. Respondent's actions, as listed in paragraphs C and D above, violated R.C. 1322.07(C), which prohibits a loan officer applicant from "[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings."
- 6. Based on Respondent's violations of 1322.07(A), (B) and (C), the Division is authorized to deny the renewal of Respondent's loan officer license pursuant to R.C. 1322.10(A)(1)(a).
- 7. As a result of the violations listed above, 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) and (B)(3).

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 the 2008 renewal application of Respondent's loan officer license.

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: Jacqueline Mallett, Consumer Finance Attorney Examiner, 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 the 2008 renewal application of Respondent's loan officer license.

Signed and sealed this 31st day of December 2008.

LEIGH A. WILLIS

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