

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

In the matter of: ) Case No. M2006-9992743  
**GORDON LENDING CORPORATION** )  
5940 Wilcox Place- Suite B ) **DIVISION ORDER**  
Dublin, OH 43016 ) **Revocation of Mortgage Broker Certificate**  
 ) **of Registration &**  
 ) **Notice of Appellate Rights**

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Respondent, Gordon Lending Corporation ("Respondent") is licensed under R.C. 1322 as a mortgage broker with the Division of Financial Institutions ("Division"). On April 21, 2006 the Division notified Respondent that it intended to revoke its certificate of registration application and impose a fine of \$9,000 because Respondent violated 1322.07(C) of the Ohio Mortgage Broker Act by allowing five employees to act as loan officers without having active loan officer licenses.

Pursuant to R.C. 1322.10(A)(1)(a), the Superintendent of Financial Institutions may revoke a certificate of registration if the superintendent finds a violation of or failure to comply with any provision of Sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted under a certificate of registration.

Respondent requested an administrative hearing regarding the revocation of its certificate of registration, and a hearing was held on July 12, 2006 and July 24, 2006. A Report and Recommendation ("Report") was filed with the Division on January 22, 2007, recommending that the Division not revoke Respondent's certificate of registration but suspend it for a period of no less than six months and no more than one year and levy a fine in the amount of \$9,000. Respondent filed objections on February 1, 2007.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, the transcript of testimony and exhibits, Respondent's objections 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 is attached).

The Division modifies paragraph (B)(3) of the Findings of Fact to read: "Gordon Yocum is the sole owner and president of Gordon Lending Corporation." (Tr. at 100).

The Division modifies paragraph (B)(12) of the Findings of Fact to read “Uniform Residential Loan Applications” instead of “Unified Residential Loan Applications.”

The Division approves paragraphs (B)(14) and (B)(15) of the Findings of Fact but clarifies the following statements in the Report and Recommendation: “Mr. Pataky was still considered Gordon Lending’s licensed Operations Manager although he had no physical presence in Columbus, Ohio.” “Gordon Lending did not have an Operations Manager physically present in the Columbus office until Charles Sindeldecker assumed the role in either August 2004 or September of 2004.” According to the Ohio Mortgage Broker Act, the Operations Manager of a registrant may work from any licensed location of that registrant. The Report and Recommendation seems to make an assumption that the Operations Manager’s presence was required in the Dublin, Ohio office.

However, the Ohio Mortgage Broker Act specifies the duties the Operations Manager agrees to assume by being the Operations Manager. See R.C. 1322.03(A)(3) and R.C. 1322.01(H). According to the testimony of Gordon Lending Corporation’s owner, it is evident that Gordon Lending Corporation’s operations manager during this time was ineffective and not fulfilling his statutory duties, and until January of 2005, Respondent failed to have another individual in place to take over the statutory duties. Mr. Yocum testified that Mr. Pataky was still the operations manager until Mr. Sindeldecker passed the operations manager test in January 2005. (Tr. 2 at 132) While Mr. Pataky moved to Arizona, “he didn’t want to be responsible for what he couldn’t see” (Tr. 2 at 132) When answering the question of who assumed the operations manager responsibilities prior to Mr. Sindeldecker, Mr. Yocum responded “I think we all wore the hat to some degree.” (Tr.2. at 133) Mr. Yocum stated about the oversight of loan officers: “I just think a lot of procedures just weren’t put in place because it was one of those things that was—you just assumed that it wouldn’t happen, I guess.” (Tr.2. at 134) In early 2004, there was lax and ineffective oversight of the Respondent’s compliance with the Mortgage Broker Act, which allowed unlicensed employees of Gordon Lending to engage in activity that is prohibited, other than by individuals holding a loan officer license. The issue appears to be that Mr. Pataky left Ohio, did not wish to be the Operations Manager, did not fulfill the responsibilities, and Respondent failed to put another person in place to oversee compliance with the Ohio Mortgage Broker Act for Respondent pursuant to R.C. 1322.03(A)(3).

The Division disapproves paragraph (B)(4) of the Conclusions of Law in its entirety. This paragraph states in part: "In addition, the new provisions of the Ohio Mortgage Broker Act that went into effect on January 1, 2007 will also prohibit Respondent from allowing an unlicensed person to engage in the activities of a loan officer in Ohio." The Ohio Mortgage Broker Act in effect prior to January 1, 2007 also prohibited unlicensed individuals from acting as loan officers without a license. The new law adds the following requirements for licensure: successfully completing the examination before obtaining a license, completing 24 hours prelicensure continuing education, and submitting to federal background checks. Four of the five individuals whose unlicensed loans are at issue in this matter originated those loans after submitting incomplete loan officer license applications to the Division but before receiving an actual loan officer license. SB 185 adds no new safeguards against individuals working as loan officers after submitting incomplete applications. The implementation of SB 185 could conceivably help alleviate the situation in the case of one of the five individuals, Mr. Mphande, where an individual is licensed for a 90 day period because his or her license terminates by operation of law due to the failure of the individual to successfully complete the loan officer examination. Notably, the new requirements required by the Ohio Mortgage Broker Act would not have helped alleviate Gordon Lending Corporation's violations.

Respondent's objections state: "All employees who acted outside the scope of the Ohio Revised Code were fired." (Respondent's Objections, p.2) It is true that the only individual employed by Respondent when the Division started its investigation, Jack Burton, was fired. (Tr.2. at 39) This statement is false as Respondent's Operations Manager and owner testified that Mangisani Mphande was fired due to lack of production, and Corwin was not fired. (Tr.2. at 66). Respondent's Operations Manager testified that Ms. Keefer was not fired, either. (Tr.2 at 66).

The Division disapproves the last sentence of Paragraph (B)(5) of the Conclusion of Law: "For these reasons, I recommend that the Division suspend Respondent's mortgage broker certificate of registration" as well as the Recommendation of the hearing officer on Page 7 of the Report and Recommendation, recommending Respondent's certificate of registration be suspended. The Division approves the recommendation that Respondent be fined in the amount of \$9,000.

The Division has demonstrated that in a span of two months, five unlicensed employees of Gordon Lending Corporation originated nine loans. (Tr. 1 p. 119-120, Tr. 2 p. 13-14; State's Exhibits 4-9, 12-19) The Division has demonstrated a violation of R.C. 1322.07(C), Gordon Lending Corporation has engaged in improper, fraudulent, and dishonest dealings by allowing unlicensed individuals to originate mortgage loans while under Gordon Lending Corporation's employ. Therefore, according to R.C. 1322.10(A)(1)(a), the Division has the authority to revoke a Respondent's certificate of registration.

During the hearing, Respondent's current Operations Manager testified that its unlicensed employees that brokered the loans specified in the Division's Notice bypassed the normal procedure of Respondent to try to "hide something" by originating the loans through face to face interview because Respondent tracks the employees' production by mail or by working with the lender directly instead of going through Respondent's processors. Tr.2 p. 20-21. Tr.2 p. 61. The Division's Exhibits demonstrated that each of the named five individuals worked through Respondent's processing department on at least one loan and Mr. Hadlock originated his loan through the mail. State's Exhibits 12, 13, 15,16,18. Although these methods were used by Respondent to monitor its employees, Respondent's Operations Manager was not aware of the loans other than Bridgett Harris's loan until it received the Division's notice. Tr.2 p. 64. Further, Respondent has not shown any adverse action was taken by Respondent against employees based on these unlicensed loans until after the Division began investigating the matter. Consequently, the minimal "checks and balances" Respondent had in place during 2004 were ineffective to ensure its employees were operating within the bounds of the Ohio Mortgage Broker Act.

Gordon Lending Corporation points to safeguards it has recently imposed on its business practices to prevent unlicensed employees to be able to originate loans while unlicensed and that destroy any financial incentive the unlicensed employees may have in originating loans while unlicensed. These safeguards are cited in the Hearing Officer's Report and Recommendation Paragraphs 19-21 of the Findings of Fact, B. Mortgage Broker Certificate of Registration as well as in pages 2-3 of Respondent's Objection to the Report and Recommendation and in Tr. 2 34-39, 59, 69, and 76-77. Respondent's objections assert that the hearing officer, in her Report and Recommendation has not given adequate weight to the measures Respondent has put in place to

prevent unlicensed loan officers from originating loans for Respondent in the future. However, Respondent has presented no evidence that these safeguards were implemented or even in the planning stages before Respondent learned about the Division's investigation. Even considering the safeguards and measures Gordon Lending Corporation has put into place since the beginning of the Division's investigation, Respondent's prior conduct indicates a lack of deference and willingness to comply with the Ohio Mortgage Broker Act as well as carelessness about oversight of its business and employees in ensuring that the Ohio Mortgage Broker Act is followed. The Division believes this prior conduct is an indicator of Respondent's willingness to comply with the OMBA in the future. (For this reason the Division also disapproves the first portion of Paragraph (b)(4) of the Conclusions of Law).

For the reasons stated above, the Division hereby revokes the certificate of registration application of Gordon Lending Corporation and fines Gordon Lending Corporation in the sum of \$9,000. Pursuant to R.C. 1322.10(A)(2), such fine shall be made payable to the treasurer of state to the credit of the consumer finance fund created in compliance with R.C. 1321.21.

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 must, 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 29<sup>th</sup> day of JUNE 2007



A handwritten signature in blue ink that reads "Richard F. Keck".

**RICHARD F. KECK**

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