

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS
CONSUMER FINANCE

In re: Ronald L. Ross

: Case No. 03-LO-D-92-93

RECEIVED
DIVISION OF FINANCIAL
INSTITUTIONS
04 FEB 26 AM 9:30

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF
THE HEARING OFFICER

1. The Ohio Department of Commerce, Division of Financial Institutions ("Division"), proposes that the Loan Officer License Application of Ronald L. Ross not be granted. The Division conducted an investigation and found:

In or around 2000, Mr. Ross was convicted of assault on a police officer, a first degree misdemeanor in the Municipal Court of Hamilton County, Ohio. This assault occurred at Cleveland Hopkins Airport at a time in which the nation's airports were under heightened security.

2. As a result, the Division determined that Mr. Ross's character and general fitness do not command the confidence of the public to warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act, as set forth in Section 1322.041(A)(5).

3. Mr. Ross's address for service is 2635 Foxwood Drive, Akron, Ohio 44333. He is hereinafter referred to as the "Respondent". The Respondent is employed by One Call Mortgage. (Exhibit I).

4. This matter was initiated by the Superintendent of the Division by the issuance on September 22, 2003 of a Notice of Intent to Deny Loan Officer License & Notice of Opportunity for a Hearing together with a covering letter. (Exhibit I).

5. On October 11, 2003, the Respondent wrote to the Division requesting a hearing. (Exhibit J).

6. On October 17, 2003, the Division wrote to the Respondent's counsel acknowledging receipt of the request for a hearing and scheduling the hearing for October 28, 2003 at 10:00 a.m. (Exhibit K). The hearing was simultaneously continued until a date to be determined. (Id.).

7. On December 19, 2003, the Division wrote to the Respondent to reschedule the hearing for January 8, 2004 at 2:30 p.m. in Room 1910 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio 43215.

8. The hearing was held beginning at 2:30 p.m. on January 8, 2004 and was attended by: Daniel P. Jones, Assistant Attorney General of the Executive Agencies

Section of the Attorney General's Office of Ohio; and the Respondent. Appearing as witnesses were Sharon Ross, Michael Kadair and Laurie Kadair.

9. The hearing was conducted pursuant to Section 119 of the Ohio Revised Code. The Division is deemed to have jurisdiction to conduct the proceedings.

FINDINGS OF FACT

1. On June 4, 2003, the Respondent signed a Loan Officer Application (the "Application") under the provisions of the Ohio Mortgage Broker Act, Ohio Revised Code Section 1322. (Exhibit A). A cover letter from his employer was attached. (Exhibit B).

2. Question 5 of the Application provides:

Have you or has any company for which you have been an officer, or more than 5% owner or director, ever been convicted of **any criminal offense**? Exclude minor misdemeanor traffic and parking offenses. (DUIs and DWI's are criminal offenses.) Yes ☐ No ☐

If yes, submit a detailed explanation of the facts and circumstances, which gave rise to each charge and a certified copy of the journal entry evidencing the disposition of each charge.

3. In response to Question 5, the Respondent did not check either "Yes" or "No", but stated "Misdemeanor altercation regarding a parking ticket at Cleveland Airport on July 30, 2002. (Exhibit A).

4. Following the submission of the Respondent's Application, the Division did an investigation into the Respondent's background. That investigation appeared to show two distinct involvements with assault charges. (See Exhibits C and D.) However, the two involvements arose out of the same episode. (See Exhibit E). What appears to be separate incidents are merely reflected confusingly in Court documents. In fact, the Journal Entry of the Cuyahoga County Court of Common Pleas shows the entry of a plea to a first degree misdemeanor and a sentence of suspended jail time, the imposition of probation and the requirement to perform community service. (Exhibit G).

5. On October 11, 2003, the Respondent, as part of his request for a hearing in this matter, wrote to the Division, in part, as follows:

The incident occurred at the departure area of the Cleveland Airport. My wife dropped off my daughter and myself with her two small children. We were preparing for a flight to California. I was accompanying my daughter to aid her with her two small children, which were not yet three years of age. Our plan was to get assistance from the

skycap to help us with six bags, a stroller, and carseats. Unfortunately; however, there were no skycaps on duty that day. My daughter asked my wife to help her with the small children while we all proceeded to the baggage check-in area. This area is located just near the end of the drop-off section of the Airport.

While we were in route to the baggage machine area, an irate policewoman across the way yelled, "Move the car". While struggling with the baggage, I tried to call to her attention that the driver of the car, my wife, was assisting my daughter and me in getting checked in at the baggage machine area. To my amazement, the policewoman ignored our dilemma. She went to the car and proceeded to write a parking citation.

So that the baggage would not be left unattended, I asked my wife to stand with them while I went to further explain our situation. The officer was not interested and continued to write the citation. In my frustration, A (sic) waved my hand in the direction of the baggage machine area. I accidentally clipped the edge of the citation book. **At no time did I make any physical contact with the officer.** I then turned away and proceeded back to the baggage machine area. My wife was about to go back to the car when the police officer came over and placed me under arrest for "Assault of an officer". I was then taken into custody.

A strikingly similar letter was submitted by the Respondent's adult daughter. (See Exhibit F).

CONCLUSIONS OF LAW

1. Ohio Revised Code Section 1322.041(A) provides that the Superintendent of the Division shall issue a Loan Officer License if the Superintendent finds that certain conditions are met including:

- (5) The applicant's character and general fitness 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 sections 1322.01 to 1322.12 of the Revised Code.

2. Because the Respondent has been convicted of a misdemeanor offense, the burden of proof shifted to the Respondent to show by a preponderance of the evidence that his character and fitness command the confidence of the public to warrant the belief

that the business will be operated honestly and fairly in compliance with the purpose of the Ohio Mortgage Broker Act.

DISCUSSION

1. The facts leading to the arrest and ultimately to the criminal conviction of the Respondent are not in substantial doubt. The Respondent submitted a written statement of those facts which is set forth as Exhibit J. The Respondent's adult daughter relayed the same essential facts in writing as part of Exhibit F. The Respondent's oral direct testimony was substantially the same. (Tr. 19-23).

2. The function of the Hearing and this Report and Recommendation will not attempt to dissect the episode at the airport on that hot summer day. The facts stand for themselves. Leaving a vehicle in a no parking zone at an airport is difficult to understand. Expressing vehement frustration at a police officer only compounded the matter. The Respondent was in the wrong to have left his car where he did. He should have accepted the ticket with that acknowledgment in mind.

3. It is, however, clear that the actions of the Respondent are entirely inconsistent both with his life in the business community as well as his life in the social community. The episode appears to be a single, isolated event that has little chance of recurring.

4. At the time of the hearing, the Respondent was a 68 year-old man. He is substantially retired and owns the business that he had started after working for another company for about 21 years. (Tr. 24). He has one son who works with him in the business, one son that passed away prematurely and a son-in-law who also works for the business. (Tr. 24). The Respondent is an electrical engineer having been graduated from the University of Akron in 1957. He was also a United States Air Force Officer for 3 years. (Tr. 24-25)

5. The record is complete with references to the Respondent's activities in the community and in his church. He belongs to St. Hillary's Church in Akron where he is a Eucharistic minister. (Tr. 26). He also participates in a program called JOY, which stands for Jesus, Others and You. (Id). He also participates in Christmas in April. (Tr. 26). The Respondent also has a large and loving family.

6. The Hearing Officer is impressed with the sincerity of the Respondent as well as the testimony of his wife, daughter and son-in-law. It is clear that the Respondent did little to interfere with the operations of the Cleveland Airport at the time of his arrest and while he overreacted to the situation, the likelihood of this episode being repeated is virtually nil. While this conviction happened only 2 years ago, the overall set of facts mitigate against denying the Respondent a licensed based exclusively on that criminal involvement.

7. The Hearing Officer also notes that the Applicant disclosed this misdemeanor criminal matter in the Application.

8. Finally, the Hearing Officer acknowledges that the Respondent will be working under the direct supervision of his son-in-law in a family-owned business.

9. The Hearing Officer is indeed convinced that the Respondent has met his burden of proof.

RECOMMENDATION

Based upon the above-findings of fact, conclusions of law and discussion contained herein, it is the recommendation of the Hearing Officer that the Superintendent of the Division grant a Loan Officer License to the Respondent.

Respectfully submitted,

Kenneth R. Cookson
Hearing Officer
February 24, 2004

58146v1
29621-35
22304 12:03