

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

In the matter of:)	Case No. 04-0002-LOD
)	
VAN W. EASTERDAY)	<u>DIVISION ORDER</u>
4016 Declaration Drive)	Approval of loan officer license application
Gahanna, Ohio 43230)	&
<hr style="width: 40%; margin-left: 0;"/>)	Notice of Appellate Rights

Respondent, Van W. Easterday, submitted a loan officer license application to the Division of Financial Institutions ("Division") on June 24, 2003. On January 22, 2004, the Division notified Easterday that it intended to deny his loan officer license application because: (1) in 1999 he had been convicted in federal court for Conspiracy to Distribute and Posses with Intent to Distribute Methamphetamine and Cocaine, and he had 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 offense involving drug trafficking or offense involving money; (2) he violated R.C. § 1322.07(A) by failing to disclose his convictions on his loan officer license application; (3) he violated R.C. § 1322.07(B) by making a false statement of a material fact or by omitting a statement required 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 his 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.

Easterday requested a hearing and an administrative hearing was held on March 24, 2004. A Report and Recommendation was filed with the Division on May 13, 2004, recommending that the Division deny Easterday's application and not grant him a loan officer license. Easterday objected to the report and/or recommendation.

In accordance with R.C. §119.09, the Division has considered the Report and Recommendation, objections filed thereto, all applicable laws, the transcript of testimony and the exhibits. As a result, the Division modifies and/or disapproves the findings and/or conclusions listed below. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (The Hearing Examiner's Report and Recommendation is attached hereto as Exhibit A.)

The Division will not consider “Exhibit A” which was submitted with Respondent’s objections on May 24, 2004. It is an attempt to introduce new evidence and the record of the proceeding was closed on March 24, 2004. (Transcript pp. 91-92).

The Division modifies the Report and Recommendation to reflect that any reference to “criminal convictions” be changed to “criminal conviction.”

The Division has considered the objections of Easterday and, in part, sustains the objections to the Report and Recommendation with respect to the issue of Easterday’s non-disclosure of his criminal conviction to the Division. The Division finds that Easterday did disclose his conviction to the Division as he submitted the paperwork concerning his conviction with his loan officer license application. Since he submitted his conviction paperwork to the Division with his application, the Division incorporates that paperwork as part of the application. Therefore, the Division disapproves the 4th, 5th, 6th and 7th full paragraphs found on page 3 of the report and recommendation. Therefore, as the Division finds that Easterday disclosed the conviction, the Division finds no violations of R.C. § 1322.07.

The Division disapproves the first full paragraph on page 3 of the report and recommendation.

Easterday did meet his burden and prove by a preponderance of the evidence that his activities and employment record show that he is honest, truthful and of good reputation, and there is no basis in fact for believing he will commit such an offense again. He has been working in the mortgage broker industry since 2001. (Transcript pg. 53). Easterday entered a total of twelve (12) letters into evidence. These letters were from both customers and others in the mortgage broker industry that had business dealings with Easterday. All expound on his professional conduct and overall honesty. Reverend John Barry Morris testified to Easterday’s character. He wrote one of the reference letters entered into evidence. (See Respondent’s Exhibit 8a). Reverend Morris testified that Easterday had done “...everything he possibly could do.” when helping them refinance their mortgage. (Transcript pg. 65). Additionally, Reverend Morris was aware of Easterday’s prior conviction and continued to recommend him to others seeking mortgage business. After being asked if he would continue to recommend Easterday to others Reverend Morris responded; “Absolutely...my wife and I both are interested with can-do-people with heart, and integrity, and with a degree of persistence and follow-through...” (Transcript pg. 66). Ms. Anne Vondran also testified on Respondent’s behalf. She is a branch manager for US

Bank and has referred clients and her own family members to Easterday. (Transcript pg. 77). Ms. Vondran also sent in a letter of reference in favor of Easterday writing; “He displays the highest integrity and honesty in all aspects of his life. I would recommend him to any and all of my customers and would be disappointed to lose his financial expertise.” (See Respondent’s Exhibit 8g).

The Hearing Officer did not indicate that Easterday testified anything but credibly. He also indicated that the past conviction did not evidence a pattern of criminal behavior. It appears that the Hearing Officer based his recommendation on his belief that there was a violation of R.C. 1322.07 §§ (A), (B) and (C). However, as discussed in the foregoing paragraphs, the Division finds that Easterday did in fact disclose his conviction and therefore did not violate R.C. 1322.07.

Respondent has met his burden and proven by a preponderance of the evidence that his activities and employment record show that he is honest, truthful and of good reputation, and there is no basis in fact for believing he will commit such an offense again.

In accordance with the findings and conclusions of this order, the Division hereby grants Easterday’s loan officer license application.

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 22nd day of November 2005.

ROBERT M. GRIESER

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

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