

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

In the matter of:	)	Case No. 05-0155-LOD
	)	
<b>YVETTE ARUNDEL</b>	)	<b><u>DIVISION ORDER</u></b>
3206 Farmers Delight Drive	)	<b>Denial of Loan Officer License Application</b>
Lewis Center, Ohio 43035	)	&
	)	<b>Notice of Appellate Rights</b>
	)	

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Yvette Arundel, (“Respondent”) submitted a loan officer license application to the Division on November 17, 2003. That application was withdrawn by operation of law due to Respondent’s failure to timely provide the Division with a criminal background check. Respondent submitted a second loan officer license application (“Application”) to the Division (“Division”) on September 2, 2004. On August 25, 2005, the Division notified Respondent that it intended to deny her Application because: (1) in or around 1999 she was convicted of petty theft, in the Dublin, Ohio Mayor’s Court; (2) Respondent’s actions show that she has not proven that she is honest, truthful, and of good reputation, and that there is no basis in fact for believing that she will not commit another criminal offense involving theft or any criminal offense involving money or securities; and (3) because her character and general fitness do not command the confidence of the public and warrant the belief that her 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.

Respondent requested an administrative hearing which was held on October 12, 2005. A Report and Recommendation (“Report”) was filed with the Division on January 17, 2006, recommending that the Division approve Respondent’s Application. No objections were filed.

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

The Division rejects paragraph 5, the second sentence of paragraph 6 and paragraph 7 on page 5 of the Report. The Division also rejects paragraph 8 on page 6 of the Report.

Paragraphs 5, 7 and 8 are interrelated. The Division rejects these paragraphs because the Report itself contradicts its own finding. In paragraph 4 on page 5, the Report states that Respondent's evidence was hearsay, there was no opportunity for cross examination and there was no way to test the authenticity and accuracy of the evidence. Respondent's self – serving evidence is admissible but it is impossible to weigh the credibility of these statements. Furthermore, in paragraph 5 of the Report it states that Respondents conviction for an R.C. 1322.031(A)(2) enumerated offense occurred recently. Therefore, Respondent has not met her burden and it was not necessary for the Division to rebut Respondent's evidence.

Regarding paragraph 6, accurately disclosing one's criminal record on a licensing application submitted to a state agency, which the individual knows will review the results of her criminal background check, does not establish that the individual is honest and has the requisite character and general fitness to be a loan officer. The Application requires applicants to disclose the following:

Have you ... ever been convicted of... **any criminal offense?**

(See, State's Exhibit 1). The criminal offenses listed in R.C. 13322.031(A) (2), such as theft, would disqualify the Respondent. While Respondent disclosed her conviction for theft, not enough time has passed to establish her general character and fitness, especially when considering how the theft offense occurred. In paragraph 5 on page 2 and 3 of the Report, Respondent's theft conviction resulted from a series of thefts from multiple customers at her place of employment. Respondent's conviction was not a result of one isolated incident or a single "mistake". Respondent devised a plan to steal over time and then carried out that plan. In Respondent's own words she stated "So what I did is the people that did pay in cash, I took somebody else's credit card and swiped their credit card to pay for somebody else's dinner, basically, and the cash that was supposed to go to the restaurant, I kept" ( Tr. pgs. 16-17).

The facts of this case do not establish that "the Respondent has proven by the preponderance of the evidence that her activities and employment record since the conviction show that she is honest, truthful, and of good reputation." Furthermore, the facts of this case do not establish by a preponderance of the evidence that "there is no basis in fact for believing that she will commit such an offense again."

Furthermore, the Division finds that Respondent's convictions for theft justify a finding that Respondent's character and general fitness do not command the confidence of the public, or warrant the belief that the business would be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act, pursuant to R.C. 1322.041(A) (5).

Upon consideration of the record, the Division rejects the Hearing Officer's recommendation. Respondent's Application is denied.

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 10<sup>th</sup> day of January 2007.

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**ROBERT M. GRIESER**

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