

Bob Taft  
Governor

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

Doug White  
Director

In the matter of:	)	Case No. 03-LO-D-57-58
	)	
<b>COREY MATTHEW VONDRAK</b>	)	<b>DIVISION ORDER</b>
35270 Downing Avenue	)	
North Ridgeville, Ohio 44039	)	<b>Denial of Loan Officer License Application</b>
	)	<b>&amp;</b>
	)	<b>Notice of Appellate Rights</b>

---

Respondent, Corey Matthew Vondrak ("Vondrak"), submitted a loan officer license application to the Division of Financial Institutions ("Division") on September 25, 2002. On April 30, 2003, the Division notified Vondrak that it intended to deny his loan officer license application because: (1) he had been convicted of petty theft and has not proven that he is honest, truthful and of good reputation and that there is no basis in fact to believe he will not commit a theft offense or any criminal offense involving money or securities; (2) he violated R.C. 1322.07(A) by failing to disclose his theft conviction on his loan officer license application; (3) he violated R.C. 1322.07(B) by making a false statement of material fact or by omitting a statement required on the licensing application; and (4) 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.

Vondrak requested a hearing and an administrative hearing was held on June 10, 2003. A Report and Recommendation ("R&R") was filed with the Division on July 24, 2003, recommending that the Division approve Vondrak's loan officer license application and grant him a loan officer license. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the Report and Recommendation, 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).

The Division disapproves the last sentence of paragraph 4 on page 4. Paragraph 4 reads:

Because of the Respondent's conviction in 1994 for a misdemeanor theft offense, the burden of proof shifted to the Respondent to show by a preponderance of the evidence that he is honest, truthful and of good reputation and there is no basis to believe he will commit such an offense again. The Respondent must also show 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.

Vondrak's theft conviction shifted the burden of proof to him to demonstrate, by a preponderance of the evidence, that his "activities and employment record since the conviction show that [he] is honest, truthful, and of good reputation, and [that] there is no basis in fact for believing that [he] will commit such an offense again." R.C. 1322.041(A)(3). However, it was the Division's burden to prove that Vondrak's character and general fitness do 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. Accordingly, paragraph 4 on page 4 is hereby modified to reflect the accurate burdens of proof.

The Division disapproves paragraph 13 on page 6 and paragraph 14 on pages 6 and 7.

Vondrak violated R.C. 1322.07(A) and (B) by failing to disclose his convictions on his licensing application. Question number 5 on the loan officer license application asked whether Vondrak had "ever been convicted of or pleaded guilty to **any** criminal offense including, but

not limited to, theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities?” (Emphasis added.) Vondrak answered “NO,” and then attested that he had “completed the \*\*\* [a]pplication fully and frankly[,]” and that his “answer [were] complete and true[.]”

R.C. 1322.07(A) forbids any license applicant from “[o]btain[ing] a \*\*\* license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or [from] mak[ing] any substantial misrepresentation in any \*\*\* license application[.]” R.C. 1322.07(B) prohibits a license applicant from “[m]aking false or misleading statements of a material fact, [or] omission of statements required by state law[.]” The hearing officer found that Vondrak had not disclosed his conviction on his licensing application. (See R&R paragraph 3, page 2; R&R paragraph 12, page 6) Accordingly, the evidence demonstrates that Vondrak violated R.C. 1322.07(A) and (B).

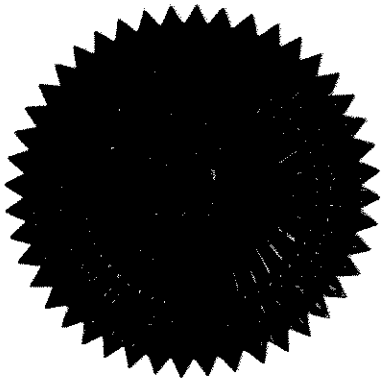
The Division disapproves the recommendation of the hearing officer to approve Vondrak’s application and to grant him a loan officer license. Vondrak’s failure to disclose his conviction on his licensing application is evidence of recent dishonesty and proves that Vondrak violated R.C. 1322.07(A) and (B). Vondrak’s dishonesty and violations of the Ohio Mortgage Broker Act show he does not possess the character and general fitness to 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.

Vondrak’s loan officer license application is hereby denied.

It is so ordered.

**NOTICE OF RIGHT TO APPEAL**

Respondent is hereby notified that this order may be appealed, pursuant to R.C. 119.12, 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 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 27<sup>th</sup> day of April 2006.

---

**ROBERT M. GRIESER**

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

RECEIVED  
DIVISION OF FINANCIAL INSTITUTIONS

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

2003 JUL 24 PM 4:38

In re: Corey Matthew Vondrak : Case No. 03-LO-D-57-58

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

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

1. In or around 1994, Mr. Vondrak was convicted of Petty Theft, a first degree misdemeanor, in the Lakewood Municipal Court;
2. Respondent violated Ohio Revised Code Sections 1322.07(A) and 1322.07(B) by failing to disclose the criminal offense in the loan officer license application.

As a result, the Division determined:

- i. that he has not proven that he is honest, truthful and of good reputation and that there is no basis in fact to believe he will not commit such an offense again as set forth in Ohio Revised Code 1322.041(A)(2) and (3); and
- ii. that Mr. Vondrak'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).

Mr. Vondrak's address for service is 35270 Downing Avenue, North Ridgeville, Ohio 44039. He is hereinafter referred to as the "Respondent". The Respondent is employed by Indemnity Mortgage Corporation. (Exhibit 3).

This matter was initiated by the Superintendent of the Division by the issuance on April 30, 2003 of a Notice of Intent to Deny Loan Officer License & Notice of Opportunity for a Hearing together with a covering letter. (Exhibit 3).

Thereafter, the Respondent wrote to the Division requesting a hearing, which letter was received by the Division on May 12, 2003. (Exhibit 4).

On May 14, 2003, the Division wrote to the Respondent acknowledging receipt of the request for a hearing and scheduling the hearing for Tuesday, May 23, 2003 at 9:00 a.m. (Exhibit 5). The hearing was simultaneously continued and rescheduled for June 10,

2003 at 10:30 a.m. in Room 1924 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio. (Exhibit 5).

The hearing was held beginning at 10:30 a.m. on June 10, 2003 and was attended by: Paula Luna Paoletti, Deputy Assistant Attorney General of the Executive Agencies Section of the Attorney General's Office of Ohio; Philip Gerth, Esq. on behalf of the Respondent; the Respondent; Debbie Vondrak, wife of the Respondent; and, Archie and Gail Vondrak.

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 September 13, 2002, the Respondent signed a Loan Officer Application (the "Application") under the provisions of the Ohio Mortgage Broker Act, Ohio Revised Code Section 1322. (Exhibit 1).

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 or pleaded guilty to any criminal offense including, but not limited to, theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities?

3. In response to Question 5, the Respondent answered "No".

4. Thereafter, the Division wrote to the Respondent to indicate that his background check showed a charge of petty theft in 1994.

5. The Respondent submitted a handwritten, updated letter in which he wrote:

This letter is in response to the enclosed letter I received on December 13, 2002, regard a case against me from 1994.

I was 20 yrs. old at the time of the offence. I was living in a no bedroom efficiency. I was not even close to being mature-even at age 20. I had an argument with my neighbor, who was a friend at the time. He live in the efficiency next to mine. Anyway, the argument was over money he had owed me at the time, and refused to pay. So, in a serious lack of brain function and stupidity, I entered his efficiency without his knowledge. I had taken several rolls of change he had kept in a small bucket. I believe the

total value was about \$23.00. I did not take anything else. Afterwards, I admitted to him what I had done. He dropped his charges, but the Lakewood Police were already involved. He had put in a good word for me and the charge was amended to petty theft.

I have to admit that when I was young, like many, I was stupid. I whole-heartily regret the decisions I've made in my past. As you can see, my record is clean since this incident.

About two months after the incident my son, Matthew, was born. (5-16-95) His birth made me grow up and become a responsible person. I can never thank God enough for that moment. I have since been divorced and retained full custody of him.

I am not even close to being the same person since that time. Please do not hold my past mistake against me. As you can see in the enclosed letter I recently received from one of my clients, I take this job very seriously. I am very good at helping people with their financial decisions. I treat clients with the respect they deserve. Something that this industry severely lacks. This is my career, I hope my past stupidity doesn't jeopardize this for my family and I. If I could go back 9 years ago and do things differently, I surely would not hesitate.

Thank you very much for your time and consideration in this most important matter.

(Exhibit 2).

### CONCLUSIONS OF LAW

1. Ohio Revised Code Section 1322.031(A)(2) requires that in an application for a license as a loan officer, an applicant must submit a statement as to whether the applicant has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking or any criminal offense involving money or securities.

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

- (3) The applicant has not been convicted or pleaded guilty to any criminal offense described in division

(A)(2) of section 1322.031 of the Revised Code, or, if the applicant has been convicted of or pleaded guilty to such offense, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment records since the conviction show that the applicant is honest, truthful and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.

...

- (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.

3. Ohio Revised Code Section 1322.07(A) and (B) provide:

No mortgage broker, registrant, licensee, or applicant for a certificate of registration or license under Sections 1322.01 to 1322.07 of the Revised Code shall do any of the following:

- (A) Obtain a certificate of registration or license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or make any substantial misrepresentation in any registration or license application;
- (B) Make any false or misleading statements of a material fact, omissions or statements required by state law, or false promises regarding a material fact, through advertising or other means, or engage in a continued course of misrepresentations;

...

4. Because of the Respondent's conviction in 1994 for a misdemeanor theft offense, the burden of proof shifted to the Respondent to show by a preponderance of the evidence that he is honest, truthful and of good reputation and there is no basis to believe he will commit such an offense again. The Respondent must also show 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.



5. The Respondent answered Question 5 of the Application incorrectly.

### DISCUSSION

1. The Respondent's involvement in the criminal justice system arises from a theft of some rolls of coins. (Tr. 17). At the time of this offense, the Respondent was living in a rooming house above Miller's Diner in Lakewood. (Id). A friend lived across the hall. (Id). The Respondent and his friend had an argument about \$40 due the Respondent. (Id). (Tr. 34). On the day in question, while the friend was at work, the Respondent entered the friend's apartment. (Tr. 17). The Respondent entered the friend's room through an outside window. (Tr. 35). When the friend returned home, he noticed the missing money and the Police were called. (Tr. 17, 36).

2. The Respondent appears to have no further involvement in the criminal process as an adult.

3. At the time of the incident, the Respondent was 19. (Tr. 18). He is 29 now. (Id).

4. The Respondent's sentence was a fine of \$150 (after suspension of \$850 of fines) and jail time of 90 days suspended. (Exhibit 6). He was placed on one-year inactive probation. (Id).

5. The Respondent claims membership in the National Association of Realtors, the Ohio Association of Realtors and the Northern Ohio Regional Multiple Listing Service. (Tr. 12). He testified that he has a license in Ohio as a real estate salesperson and that the license is presently in escrow. (Tr. 12). The Respondent testified that there has never been any action taken on his real estate salesperson license. (Tr. 12-13).

6. Since the criminal incident, the Respondent worked for Lube Stop as an assistant manager and later as a manager. (Tr. 19). He managed several different stores in a three-year period. (Id). Following that, the Respondent, at the urging of his wife, went into the real estate sales business. (Id). He stayed in that position for a year-and-a-half, but was unable to earn enough money. (Id). He then went to work for UPS. (Id). He has now been working in the mortgage industry for a little more than three years. (Tr. 20).

7. During his employment in the mortgage industry, the Respondent has not had any allegations of dishonesty or theft made against him. (Id). The Respondent submitted an affidavit from James Lusk of Integrity Mortgage in support. (Respondent's Exhibit A). Respondent also submitted supporting documentation from Garrett C. Estes, an insurance agent, Respondent's Exhibit B and Tr. 23, and from Anthony S. D'Amico, Respondent's Exhibit C and Tr. 25. The Respondent also submitted copies of a dozen customer survey letters as returned by loan customers. (Respondent's Exhibit D, Tr. 26-30).

8. In support of his position, the Respondent presented the testimony of his father, mother and wife. His father stated that the Respondent has a reputation for honesty. (Tr. 39). The Respondent has helped his father buy and sell real estate. (Id). The father and son have a close relationship. (Id). The Respondent's father attributes the birth of a child as having a dramatic positive effect on the Respondent. (Tr. 39-40). The senior Mr. Vondrak does not believe that his son will commit a crime again. (Tr. 40). At the time of the criminal incident, the senior Mr. Vondrak believes that the Respondent was young and maturing. (Tr. 40).

9. The Respondent's wife also gave supporting testimony. (Tr. 42-44). She has known the Respondent for four and one-half years. (Tr. 42). She believes he is very responsible and that he has a positive relationship with the couple's child. (Tr. 43). She does not believe that the Respondent will commit another crime. (Tr. 44).

10. Finally, the Respondent presented the supporting testimony of his mother. (Tr. 46-48). She spoke of his maturity since the birth of his son. (Tr. 47). She does not believe he will commit another crime. (Tr. 47-48).

11. The Hearing Officer has little trouble concluding that the Respondent, at age 19, committed a minor misdemeanor theft offense. Since that time, he has matured considerably, has married and is raising a son. Considering the several years that have passed since the conviction and the Respondent's favorable work record and community reputation, the Hearing Officer concludes that the record shows adequate information of the Respondent's honesty, truthfulness and good reputation. The Hearing Officer also concludes that there is an adequate basis for believing that the Respondent will not commit such an offense again.

12. However, the Respondent's failure to answer Question 5 of the Application (Exhibit 1) accurately is troubling. Criminal convictions are material facts. The failure to disclose a criminal conviction is a violation of Ohio Revised Code Section 1322.07(A). An omission of a criminal conviction is the making of a false or misleading statement of a material fact and a violation of Ohio Revised Code Section 1322.07(B). The Division has a right to expect applicant to answer Question 5, as well as all other questions fully, truthfully and accurately. No applicant should expect to be able to answer Question 5 untruthfully in hope that the Division simply does not find a prior criminal conviction.

13. In this single, isolated case, the Hearing Officer believes that the Respondent believed (mistakenly) that the question asked only for felony convictions. (Tr. 30). Ordinarily such misunderstandings, without more, are not enough for an applicant to sustain his/her burden of proof. In this instance, the supportive weight of the evidence submitted by the Respondent outweighs his error in completing Question 5 of the Application. In this isolated instance, the Hearing Officer is convinced that the failure to answer Question 5 correctly is vastly outweighed by the cumulative testimony and evidence in this matter.


14. Based on the evidence and the Exhibits and the Transcript, the Hearing Officer concludes that by a preponderance of the evidence the Respondent has shown that

he is honest, truthful and of good reputation and that there is no basis to believe that he will commit such an offense again; and his character and general fitness command that confidence of the public to warrant the belief that the business will be operated honestly and fairly and in compliance with purposes of the Ohio Mortgage Broker Act.

**RECOMMENDATION**

Based on the above-findings of fact, conclusions of law and discussion thereof, 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  
July 23, 2003

52344v1  
29621-11  
0710803 16:36