

**STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS**

DIVISION OF FINANCIAL
INSTITUTIONS

IN RE: : **CASE #: 05-9992071**
:
DANIEL L. ROSEN : **HEARING OFFICER**
: **MARK J. BALLENGER, ESQ.**
(Denial of Loan Officer :
License) :

05 AUG 21 PM 12: 23

**ADMINISTRATIVE HEARING OFFICER'S
REPORT**

Issued August 18, 2006

BACKGROUND

On or about March 24, 2006, the Ohio Division of Financial Institutions ("the State") served Daniel L. Rosen ("the Applicant") with notice that it intended to deny the Applicant a loan officer license. On April 14, 2006, the Applicant requested a hearing about the matter. In turn, the Applicant's request was honored.

This case was heard on July 25, 2006, beginning at 10:15 a.m. at 77 S. High Street, Columbus, Ohio, Rm. 1908. A stenographic record was made of the proceeding.

The Applicant did not appear at hearing. Assistant Attorney General Laura A. Meechan presented the case on behalf of the State.

This report is hereby filed with the Superintendent of the Division of Financial Institutions and the Applicant.

INDEX OF EXHIBITS ADMITTED TO RECORD

<u>Exhibit #/Document I.D.</u>	<u>Description of Exhibit</u>
1. State's Exh. A	Copy of the October 2005 Loan Officer Application ("Application")
2. State's Exh. B	Copies of letters concerning the conviction for retail theft, including explanation of the conviction and certified copy of conviction
3. State's Exh. C	Copy of Loan Officer License Application Denial letter with notice of the reasons for denial and an opportunity for hearing and confirmation of their delivery by certified mail
4. State's Exh. D	Copy of the Hearing Request Form and copy of letter
5. State's Exh. E	Copy of the Notice of Hearing and email from the Applicant

TESTIMONY GIVEN BY

- The State's witness, Staff Attorney Carrie V. Moore of the Consumer Finance Section
- The State's witness, Administrative Assistant Iris Eubank

*FINANCIAL INSTITUTIONS
REAL ESTATE & PROFESSIONAL LICENSING*

*INDUSTRIAL COMPLIANCE
SECURITIES*

*LABOR & WORKER SAFETY
STATE FIRE MARSHAL*

*LIQUOR CONTROL
UNCLAIMED FUNDS*

"An Equal Opportunity Employer and Service Provider"

FINDINGS OF FACT

1. The State advised the Applicant of the reasons for its intent to deny the Applicant a loan officer license. (See the attached two pages, marked "Copy.")
2. In the Application, submitted to the State in October 2005, the Applicant, in answering a list of questions, checked two "yes" boxes thereby indicating that the Applicant had been convicted of a criminal offense, inter alia, theft. (Exh. #1, Questions #6 and 8.)
3. In fact, in May 2002, the Applicant was convicted of retail theft in a court of law in York County, Pennsylvania. (Exhs. #2 and Tr. pp. 10.) He pled guilty and was convicted despite his contentions that the theft had resulted from an unfortunate set of circumstances, where in order to retrieve his wallet from his vehicle, he absentmindedly left a store without paying for the shoes he was wearing. (Exh. #1.)
4. The Applicant sought to withdrawal the Application, but the State denied his request. (Exhs. #4 and #5 and Tr.¹ pp. 5 and 13.)
5. The Applicant, in support of his application, contended that he was an extremely honest, trustworthy, and responsible individual who has not even had a speeding ticket in approximately 5 years. (Exh. #1.) In addition, he asserted that his employment with MBNA America and the steps taken to obtain that employment prove this too. (Ibid.)

CONCLUSIONS OF LAW


The Applicant was convicted of a criminal offense of retail theft, and the Applicant has not, as required by R.C. 1322.041(A)(3), as it incorporates R.C. 1322.031(A)(2) – as a condition of licensure – proven by a preponderance of the evidence that the Applicant's activities and employment record since the conviction show the Applicant is honest, truthful, and of good reputation, and that the Applicant will not commit such an offense again. (Findings of Fact #2, #3, and #4.) His self-serving statements were of little evidentiary value. (Findings of Fact #5.)

Additionally, the Applicant has not met the requirement for licensure found in R.C. 1322.041(A)(5); the evidence does not demonstrate that his character commands the confidence of the public and warrants the belief that he would operate a loan officer business honestly. (Findings of Fact #3.)

RECOMMENDATION OF ACTION

Therefore it is recommended that the Superintendent of the Division of Financial Institutions deny the Applicant's request for the issuance of a loan officer license.

Respectfully submitted,



Mark J. Ballenger
Administrative Hearing Officer

¹ "Tr." refers to the transcript of the subject hearing.