

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

In the matter of:	)	Case No. 06-0046-LOD
	)	
<b>LARRY G. RUBENACKER JR.</b>	)	<b><u>DIVISION ORDER</u></b>
4675 Buckskin Trail	)	<b>Denial of Loan Officer License Application</b>
Cincinnati, OH 45245	)	<b>&amp;</b>
	)	<b>Notice of Appellate Rights</b>
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Respondent, Larry G. Rubenacker, Jr. ("Respondent"), submitted a loan officer license application ("Application") to the Division of Financial Institutions ("Division") on April 13, 2004. On February 24, 2006, the Division notified Respondent that it intended to deny his loan officer Application because: (1) Respondent attested in a sworn statement that information he provided in his Application was truthful when it was not; (3) Respondent provided untruthful information to the State of Ohio, Department of Commerce, Division of Financial Institutions; (4) Respondent violated R.C. 1322.07(A), (B), and (C) by attesting to the accuracy of the Application and not disclosing his criminal history in his Application, which was filed with the Division; and (5) because Respondent's character and general fitness do not 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 R.C. sections 1322.01 to 1322.12, the Ohio Mortgage Broker Act.

Respondent requested an administrative hearing, which was held on June 13, 2006. A Report and Recommendation ("Report") was filed with the Division on October 5, 2006, recommending that the Division deny Respondent's Application. Objections were timely filed on January 16, 2007.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, Respondent's objections, 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 disapproves of, in part, paragraph 6 on page 4 of the Report. While Respondent's conduct appears to have been intentional, the hearing officer's inference that intent

is a necessary element is incorrect. R.C. 1322.07(A), (B), and (C) do not require a deliberative act for their violation. In contrast to 1322.07(E) and (F), which contain language of intent by use of the term “knowingly,” R.C. 1322.07(A), (B), and (C) do not employ such language. An applicant that, regardless of intent, fails to carefully read and answer each question in a loan officer application, swears to its veracity, and then files such application with the Division is in violation of R.C. 1322.07(A), (B), and (C) when such answer is patently untrue.

Here, Respondent failed to disclose his criminal background on the Application. Yet, Respondent affirmed before a notary that his Application was “complete and true” and shortly thereafter filed the Application, containing a false answer as to his criminal history, with the Division. (State’s Ex. A). Respondent’s actions constitute a violation of 1322.07(A), (B), and (C).

Respondent stated in his Objections that the reason he did not disclose his criminal history is because he was confused by the question on the Application. The inability to understand a direct question evidences a lack of the requisite fitness needed of a loan officer. On a daily basis loan originators deal with consumers’ personal financial information and counsel them on what is most often their largest financial investment. Being able to comprehend and evaluate complicated mortgage documents is a vital part of the job. By not being able to understand a direct question on a licensing application, respondent has demonstrated to the Division that he does not hold the requisite fitness needed to be a loan officer.

With the exceptions stated above the Division hereby adopts the hearing officer’s recommendation and denies the Application of Larry G. Rubenacker, Jr.

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 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 31st day of January 2007.

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**RICHARD F. KECK**

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