

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

In the matter of:)	Case No. M2006-9992815
)	
ROY DANIEL NICHOLS)	<u>DIVISION ORDER</u>
140 Woodland Run)	Denial of Loan Officer License Application
Canfield, OH 44406)	&
)	Notice of Appellate Rights
)	

Respondent, Roy Daniel Nichols (“Respondent”), submitted a loan officer license application to the Division of Financial Institutions (“Division”) on April 28, 2006. On July 27, 2006, the Division notified Respondent that it intended to deny his loan officer license application (“Application”) because: (1) In or around 1992, in the Trumbull County, Ohio, Municipal Court, Respondent was convicted of theft; (2) in or around 2000, in the Columbiana County, Ohio, Municipal Court, Respondent was convicted of passing bad checks; (3) in 2006 Respondent attested in a sworn statement that information he provided in the Application was truthful when it was not; (4) in 2006, Respondent provided untruthful information to the State of Ohio, Department of Commerce, Division of Financial Institutions; (5) Respondent violated R.C. 1322.07(A) by making a substantial misrepresentation in the Application; (6) Respondent violated R.C. 1322.07(B) by making a false statement of a material fact or by omitting a statement required by state law in the Application; (7) Respondent violated R.C. 1322.07(C), which prohibits an applicant from engaging in improper or dishonest conduct; (8) per R.C. sections 1322.031(A)(2) and 1322.041(A)(3), Respondent has 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 theft, passing pad checks or any criminal offense involving money or securities; and (9) 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 October 5, 2006. Respondent did not appear. A Report and Recommendation (“Report”) was filed with the Division on December 9, 2005, recommending that the Division deny Respondent's Application. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report and Recommendation, the transcript of testimony and exhibits, as well as all applicable laws. (The Hearing Examiner's Report and Recommendation is attached).

The Division disapproves paragraph 2 under FINDINGS OF FACT on page 2 and the first paragraph under CONCLUSIONS OF LAW on page 2 of the Report.

When the Respondent signed his application in front of a notary he affirmed that he had answered all questions completely, truthfully and correctly. (See Exhibit 4). This in fact was not what Respondent had done, neglecting to inform the Division of his convictions for theft and passing bad checks. These crimes are specifically mentioned in Question Six of the Application. (See Exhibit 4). Therefore, the Division concludes that Respondent violated 1322.07 (A), (B), and (C). Additionally, there is no requisite intent to violate the aforementioned provisions. As to the dicta concerning the use of "any" instead of "all", according to both Dictionary.com, and Merriam-Webster's Online Dictionary (www.m-w.com/dictionary/any) the terms "every" or "all" are in fact a synonymous with any. Therefore, Respondent was required to disclose all of his convictions, not just one. Notably, Respondent did not accurately disclose even one of his two convictions.

Following its review of the record, the Division hereby adopts the hearing officer's recommendation. Therefore the Division denies the loan officer license application of Roy Daniel Nichols.

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 6th day of February 2007.

RICHARD F. KECK

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