

Ted Strickland  
Governor

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

Kimberly A. Zurz  
Director

In the matter of:	)	Case No. M2008-215
	)	
<b>ANDREW S. ROBINETT</b>	)	<b><u>DIVISION ORDER</u></b>
1951 Suffolk Road, Apt. 1	)	<b>Denial of Loan Officer License Application</b>
Columbus, Ohio 43221	)	<b>&amp;</b>
	)	<b>Notice of Appellate Rights</b>

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On or around April 9, 2008, the Division of Financial Institutions issued notice to Andrew S. Robinett ("Respondent") that the Division intended to deny his loan officer license application ("Application") because: 1.) In or around 2003, in the Franklin County Municipal Court Columbus, Ohio, Respondent was convicted of Falsification in violation of R.C. 2921.13(A)(5), a misdemeanor of the first degree; 2.) On or around October 27, 2006, Respondent attested in a sworn statement that information provided about his criminal background on the Application submitted to the Division was complete and truthful, when it was not; 3.) On or around November 22, 2006, in an attempt to obtain a loan officer license, Respondent provided untruthful information about his criminal background to the Division; 4.) Respondent's failure to truthfully disclose his criminal history violated R.C. 1322.07(A), (B), and (C); 5.) As Respondent has violated R.C. 1322.07(A), (B), and (C), Respondent's Application should be denied; and 6.) as a result of Respondent's conviction for Falsification, a criminal offense involving fraud, Respondent's Application should be denied pursuant to R.C. 1322.10(E).

Respondent requested an administrative hearing, which was held on June 26, 2008. Respondent appeared with counsel. A Report and Recommendation ("Report") was filed with the Division on August 26, 2008, recommending that the Division deny Respondent's Application. (A copy of the Report is attached hereto). 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 Division disapproves paragraph 33 and modifies paragraph 35 on pages 6 and 7 of the Report.

R.C. 1322.031(A)(2) requires a loan officer license applicant (“Applicant”) to disclose if he has ever been convicted or pleaded guilty to any criminal offense involving fraud and/or other enumerated crimes. R.C. 1322.041(A)(3) permits the Division to deny an Applicant if the superintendent finds that he has been convicted of or pleaded guilty to a criminal offense listed in R.C. 1322.031(A)(2) such as fraud or any crime “*that substantially is equivalent to a criminal offense described in*” R.C. 1322.031(A)(2) (Emphasis added.). As noted in the Report, Respondent pleaded guilty to Falsification, a violation of R.C. 2921.13 (A)(5), which states, in pertinent part:

(A) No person shall knowingly make a false statement, or knowingly swear or affirm the truth of a false statement previously made, when any of the following applies:

(5) The statement is made with purpose to secure the issuance by a government agency of a license, permit, authorization, permit, certificate, registration, release, or provider agreement.

It is correct that no language in R.C. Chapters 1322 or 2921 equates the term “falsification” with “fraud.” However, the key term in R.C. 1322.031(A)(2) is “involving fraud.” “Defraud,” as defined by R.C. 2913.01(B) “means to knowingly obtain, by deception, some benefit for oneself or another, or to knowingly cause, by deception, some detriment to another.” By pleading guilty to falsification, Respondent admitted that he had knowingly made a false statement, or knowingly affirmed the truth of a false statement previously made, with the purpose to secure a license issued by the government. Considering that the elements of Respondent’s falsification conviction involve the same elements of the term “defraud,” the Division concludes that Respondent has pleaded guilty to a criminal offense substantially equivalent to fraud.

Because Respondent has pleaded guilty to falsification, a criminal offense involving fraud, and violated R.C. 1322.07(A), (B), and (C), Respondent’s Application should be denied pursuant to R.C. 1322.10(A)(1)(a) and (b).

It is so ordered.

**NOTICE OF RIGHT TO APPEAL**

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, 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 22nd day of September 2008.

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**LEIGH A. WILLIS**  
Superintendent of Financial Institutions  
Division of Financial Institutions  
Ohio Department of Commerce