

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

In the matter of:)	Case No. 03-LO-D-61-62
)	
MARK ANTHONY MOORE)	<u>DIVISION ORDER</u>
321 Galewood Drive)	
New Carlisle, OH 45344)	Loan Officer License Application Approval
)	

DIVISION ORDER

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act, codified in Ohio Revised Code ("R.C.") Chapter 1322; and

WHEREAS, the Division finds that this Order is appropriate and is consistent with the purposes fairly intended by the provisions of the Ohio Mortgage Broker Act; and

WHEREAS, on April 17, 2002, Mark Anthony Moore ("Respondent") submitted a loan officer license application to the Division, and on April 30, 2003, the Division issued Respondent a notice of the Division's intent to deny his loan officer license application, and notified Respondent of his right to a hearing on the matter;

WHEREAS, Respondent requested a hearing, and pursuant thereto, an administrative hearing was held in accordance with Ohio Revised Code Chapter 119 on June 10, 2003;

WHEREAS, the hearing officer filed his written Report and Recommendation with the Division on July 24, 2003, recommending that the Division grant Respondent's application;

WHEREAS, Respondent was served with a copy of the Report and Recommendation and a letter explaining Respondent's right to submit written objections thereto;

WHEREAS, Respondent did not file objections;

WHEREAS, pursuant to R.C. 119.09, the Division has considered the Report and Recommendation, applicable laws, the transcript of testimony and exhibits;

WHEREAS, pursuant to R.C. 119.09, the Division hereby modifies and/or disapproves the following finding contained in the Hearing Examiner's Report and Recommendation:

1. Paragraph 9 under the section titled "Discussion" in the Hearing Examiner's Report and Recommendation states:

The incident giving rise to the charge of passing bad checks happened nearly five years ago. It appears that the issuance of two check [sic] totaling \$27.70 was attributable to oversight rather than an intent to deceive. The amount of the transaction is de minimus. Given the facts of the misdemeanor check charge, the amount of time that has passed since the episode, the remote chance of this type of affair recurring, the Respondent's appearance and testimony at the hearing, the Hearing Officer concludes that the Respondent has met his burden.

De minimis means "about petty details."¹ It is derived from the Latin legal phrase *de minimus no curat lex*, which means "the law does not concern itself with petty matters."²

While \$27.20 may not be a significant amount of money, the Division will not characterize a conviction involving a small dollar amount as *de minimis*—insignificant or immaterial, one that will have no legal relevance or bearing on the end result. The Ohio General Assembly has stated that "any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, *** drug trafficking, or any criminal offense involving money or securities" is significant and will have a bearing on the licensing of mortgage loan officers, regardless of whether the offense constituted a misdemeanor or felony under criminal law. (Emphasis added.) R.C. 1322.031(A)(2) and 1322.041(A)(3).

When an applicant has pleaded guilty to or has been convicted of a criminal offense enumerated in R.C. 1322.031(A)(2), regardless of the degree of the offense or the age of the conviction, the burden shifts to the applicant to prove that his/her "activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and that there is no basis in fact for believing that the applicant will commit such an offense again." R.C. 1322.031(A)(2) and 1322.041(A)(3). An examination of the factual circumstances surrounding a conviction may be relevant in a R.C. 1322.041(A)(5) analysis, wherein an applicant's character and general fitness are scrutinized.

WHEREAS, the Division approves all finding and/or conclusions not specifically address above;

The Division hereby confirms and approves the Hearing Examiner's Recommendation that the Division approve Respondent's loan officer license application and issue him a loan officer license.

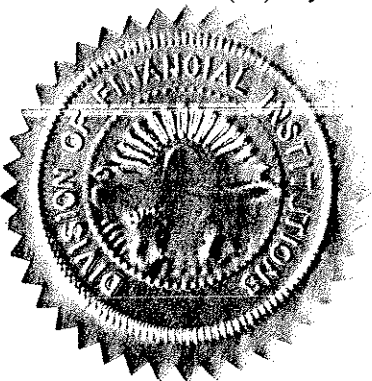
NOTICE OF RIGHT TO APPEAL

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, 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 9th day of February 2004.

ROBERT M. GRIESER

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



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¹ *The Oxford Essential Dictionary of Foreign Terms in English*. Ed. Jennifer Speake. Berkley Books, 1999. *Oxford Reference Online*. Oxford University Press. Ohio State University. 9 February 2004 <<http://proxy.lib.ohio-state.edu:2154/views/ENTRY.html?subview=Main&entry=t33.e1820>>

² *Id.*