

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

In the matter of:)	Case No. 03-LO-D-31-32
)	
VALARIE ANN HUTCHISON)	<u>DIVISION ORDER</u>
3427 Moneteith #2)	Denial of loan officer license application
Cincinnati, OH 45208)	&
_____)		Notice of Appellate Rights

Respondent, Valarie Ann Hutchison, submitted a loan officer license application to the Division of Financial Institutions ("Division"). The Division notified Hutchison that it intended to deny her loan officer license application because: (1) in 2002 she was convicted of four counts of deception to obtain dangerous drugs, all fifth degree felonies; (2) in or around 1992 Hutchison was convicted of the illegal processing of drug documents, a fourth degree felony; (3) in or around 1985 she was convicted of forging or altering a narcotic prescription; (4) in or around 1983 she was convicted of two counts of obtaining a controlled substance by fraud; and (5) because her character and general fitness do not command the confidence of the public and warrant the belief that her business will be operated honestly and fairly in compliance with the purposes of R.C. §§ 1322.01 to 1322.12—the Ohio Mortgage Broker Act.

Pursuant to Hutchison's request, an administrative hearing was held. A Report and Recommendation was filed with the Division, recommending that the Division approve Hutchison's application and grant her a loan officer license. 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. As a result, the Division makes the following findings and conclusions.

The record reveals that Hutchison has a criminal history involving fraud that spans nearly two decades. The degree of her offenses has progressively heightened. Her most recent felony convictions occurred eight days after Hutchison submitted her loan officer license application to the Division. (State's Exhibit 3; State's Exhibit 6 pages 16-21.) In 1983 Hutchison pleaded guilty to and was convicted of two counts of obtaining a controlled substance by fraud, both misdemeanors. In 1985 Hutchison pleaded guilty to and was convicted of forging or altering a narcotic prescription, a misdemeanor. Seven years later in 1992, Hutchinson pleaded guilty to and was convicted of the illegal processing of drug documents, a felony. In 2002, eight days

after she had submitted her license application to the Division, Hutchison was convicted of four felony counts of deception to obtain dangerous drugs.

Because the Division had shown that Hutchison had been convicted of crimes involving fraud, the burden shifted to Hutchison to prove, by a preponderance of the evidence, that her employment history and her activities since the conviction show that she is honest, truthful, and of good reputation, and that there is no basis in fact for believing that she will not commit another criminal offense involving fraud. (R.C. §§ 1322.031(A)(2) and 1322.041(A)(3).) To this end, Hutchison testified that all of her convictions resulted from her dependency on prescription drugs. She began attending Alcoholics Anonymous (“AA”) meetings after she was released from prison for her 1992 conviction, but did not follow through. Subsequently Hutchison experienced health problems for which she was prescribed narcotics. She then faced the death of her mother and a divorce and began abusing the prescription narcotics and committing crimes that enabled her to feed her habit, which led to her 2002 felony convictions. Hutchinson testified that she is sober and for the first time in her life she is asking others for help to remain so. (Tr. 89) She regularly attends AA meetings and has an AA sponsor, who submitted a letter on Hutchison’s behalf. Her sponsor said that she has known Hutchison for two years and that Hutchison is doing great with her recovery. (Respondent’s Exhibit 6.)

An addictionologist, who had met Hutchison when she had been admitted to a hospital for opiate detoxification in 2001, also testified on her behalf. (Tr. 11) The addictionologist testified that during Hutchison’s hospital stay in 2001, he received occasional reports about Hutchison from her treating counselors. (Tr. 11.) He reviewed her subsequent medical files prior to the hearing in preparation for his testimony, and based upon the information in those files, he believes that Hutchison is doing what she needs to do to remain sober, and if she continues with her current regimen, the likelihood of remaining sober is very high. (Tr. 20.) Conversely, if Hutchison does not continue with her current treatment and support practices, the chances of a relapse are high and it is likely she would then resort to the same types of fraudulent criminal behavior to obtain drugs. (Tr. 24-26.) The therapist who treated Hutchison in 2001 during a two month intensive outpatient treatment program also testified that if Hutchison continues with her current efforts to remain sober, it is likely she will be successful. (Tr. 31-32.)

Hutchison’s boss and the office sales manager, who both stand to benefit financially if Hutchison is granted a license, testified that Hutchison is a great worker and an asset to the company. (Tr. 50-78.) Hutchison’s efforts have increased the “office loan capture rate” so that

the office in which Hutchison works is ranked first in loan production in the company. (Respondent's Exhibit 12.) In addition, a number of additional letters from persons who know of Hutchison's addiction issues, and from persons who work in some capacity with Hutchison submitted letters. (Respondent's Exhibits 7, 8, 10, 11 and 13-19.)

After a thorough review of the evidence, the Division concludes that Hutchison has not proven, "by a preponderance of the evidence, that [her] activities and employment record *since the conviction* show that [she] is honest, truthful, and of good reputation, and there is no basis in fact for believing that [Hutchison] will commit" another criminal offense involving fraud. R.C. § 1322.041(A)(3). (Emphasis and alterations added.) The record does contain evidence that Hutchison is chemically dependent and is making great efforts to remain sober, and to that end the Division applauds her efforts and hopes that she will continue. In making the determination that Hutchison has not met her burden, the Division has looked at the evidence submitted pertaining to Hutchison's activities and employment record since her convictions. The record shows that she was first convicted of a crime involving fraud in 1983 and was most recently convicted of four felonies involving deception eight days after Hutchison submitted her loan officer license application to the Division. Insufficient time has elapsed to meaningfully demonstrate that Hutchison's activities and employment record since her convictions show that she is honest, truthful, and of good reputation. (See *Ryan O'Reilly English v. State of Ohio, Dept. of Commerce* (Aug. 31, 2004) Medina County Court of Common Pleas (affirming this Division's decision to deny an applicant a loan officer license finding that since only three years had past since the applicant's misdemeanor conviction, there was insufficient time to meaningfully demonstrate the burden set forth in R.C. 1322.041(A)(3)). See, also, *In the matter of Steven Perrigo*, Ohio Dept. of Commerce, Div. of Financial Inst. Case. No. 04-0279-LOD).

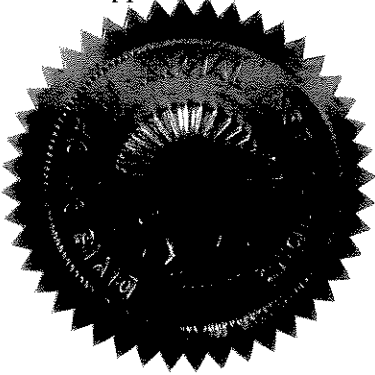
Based on the totality of the evidence, the Division further finds that Hutchison's character and general fitness do not command the confidence of the public and warrant the belief that her business would be operated honestly and fairly in compliance with the purposes of R.C. §§ 1322.01 to 1322.12.

In accordance with the foregoing, the Division disapproves paragraphs 4, 7, 8, and 9 on pages 7-8 of the Report and Recommendation, as well as the recommendation, and concludes that Hutchison's loan officer license application should be denied.

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, 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 18th day of May 2005.

A handwritten signature in dark ink, appearing to read "Robert M. Grieser", is written over a horizontal line.

ROBERT M. GRIESER

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

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