

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

In the matter of:)	Case No. 04-0126-LOD
)	
JANET J. BRANT)	<u>DIVISION ORDER</u>
16987 Willow Wood Drive)	Denial of loan officer license application
Strongsville, Ohio 44136)	&
<hr style="width: 40%; margin-left: 0;"/>)	Notice of Appellate Rights

Respondent, Janet J. Brant, submitted a loan officer license application to the Division of Financial Institutions (“Division”) on March 18, 2002. On January 22, 2004, the Division notified Brant that it intended to deny her loan officer license application because: (1) she had been convicted of disorderly conduct in 2001; (2) in 2003 she had pleaded guilty to and been convicted of attempted theft, and she had not proven 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 theft-type offense; (3) she violated R.C. § 1322.07(A) by failing to disclose her convictions on her loan officer license application; (4) she violated R.C. § 1322.07(B) by making a false statement of a material fact or by omitting a statement required on the licensing application; (5) she violated R.C. § 1322.07(C), which prohibits an applicant from engaging in improper or dishonest conduct; and (6) because her character and general fitness did 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.

Brant requested a hearing and an administrative hearing was held on April 5, 2004. A Report and Recommendation was filed with the Division on June 1, 2004, recommending that the Division not approve Brant’s application and deny her a loan officer license. Brant filed objections, which have been considered.

In accordance with R.C. §119.09, the Division has considered the Report and Recommendation, Brant’s objections thereto, applicable laws, the transcript of testimony and the exhibits. As a result, the Division modifies and/or disapproves the findings and/or conclusions listed below. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (The Hearing Examiner’s Report and Recommendation is attached hereto as Exhibit A.)

The Division modifies Paragraph 7 on page 2 of the Report and Recommendation to reflect that on February 19, 2004, not February 3, 2004, the Division wrote to Respondent to schedule the hearing.

The Division modifies Paragraph 2 on page 2 of the Report and Recommendation to reflect that the phrase “Exclude minor traffic and parking offenses” was not part of the loan officer license application referenced by the hearing officer.

The Division disapproves paragraph 18 on page 9 of the Report and Recommendation. The hearing officer incorrectly interprets R.C. § 1322.041(A)(3.) If an applicant has been convicted of a theft offense, they have to prove to the Division “by a preponderance of the evidence, that the applicant’s activities and employment record since the conviction show that the applicant is honest, truthful, and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.” See R.C. § 1322.041(A)(3.) Nowhere in R.C. § 1322.041(A)(3) does it limit consideration of convictions to a time prior to the completion of a loan officer license application.

Brant was convicted of attempted theft in 2003, approximately two and a half months prior to the issuance of the Division’s Notice. (See Exhibits 5 and 8.) The Division properly notified Brant in its Notice that it was using her 2003 attempted theft conviction as basis for denial of her loan officer license application. As such, it was Brant’s burden to demonstrate by a preponderance of the evidence the burden outlined in R.C. § 1322.041(A)(3.) Upon review of the record, the Division finds that Brant failed to meet this burden.

Otherwise, the Division adopts the other findings and recommendation of the hearing officer and hereby denies Brant’s loan officer license application.

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 29th day of July 2005

ROBERT M. GRIESER

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

Certified Mail No. 7002 2030 0002 6806 2613