

STATE OF OHIO  
DEPARTMENT OF COMMERCE

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DIVISION OF FINANCIAL  
INSTITUTIONS

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IN THE MATTER OF:

BRADLEY M. KRUPA

DIVISION OF FINANCIAL  
INSTITUTIONS

CASE NO. 05-0070-LOD

LANDI JACKSON-FORBES  
HEARING OFFICER

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**REPORT AND RECOMMENDATION**

Issued November 16, 2005

**I. FINDINGS OF FACT**

**A. Jurisdiction and Procedural History**

This matter came before Landi Jackson-Forbes, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions (hereinafter the "Division") to serve as Hearing Officer for the above captioned matter in accordance with the Administrative Procedures Act, Chapter 119, Ohio Revised Code (hereinafter "O.R.C."). Said hearing was held at 1:31 PM on October 18, 2005, at 77 South High Street, 19<sup>th</sup> Floor, room 1918, Columbus, Ohio.

The hearing was scheduled by the Division at the request of Respondent Bradley M. Krupa, of Lorain, Ohio (hereinafter the "Respondent") to consider the Division's Notice of Intent to Deny Loan Officer License Application, Notice of Opportunity for a Hearing (hereinafter "NOH"), that was issued to Respondent on or about February 24, 2005, and the Agreed Entry filed on September 12, 2005 in the Cuyahoga Court of Commons Pleas. The Agreed Entry was entered between the Division and Respondent as a result of Respondent's appeal of the Division's final order denying Respondent a loan officer license issued April 25, 2005.

The Division issued the NOH to Respondent on the bases that Respondent plead guilty to and was convicted of bank fraud in the United States District Court, Northern District of Ohio. The Division alleges that based upon Respondent's actions and conviction, he has not proven that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that Respondent will not commit another criminal offense involving fraud, money or securities. The Division further alleges that Respondent's actions and conviction shows his 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 the Ohio Mortgage Broker Act.

The Division, represented by Assistant Attorney General Timothy Loughry appeared at the October 18, 2005 hearing and presented its case. Witness for the Division was Mr. Krupa as upon cross-examination. Respondent was represented by Robert T. Glickman and Ian M. Redmond. Respondent appeared as his own witness together with Douglas Matthews and Matthew O'Brien.

At the hearing, State's Exhibits 1 through 9 were admitted into the record by stipulation. State's Exhibits 10 and 11 were admitted into the record without objection. Respondent's Exhibits A through E were admitted into the record without objection, as discussed in the transcript (hereinafter "Tr.").

#### **B. Loan Officer License Application**

1. A statutory requirement became effective on May 2, 2002, which mandated that mortgage loan officers become licensed by the Division. (Senate Bill 76, 2001, codified at Ohio Revised Code Chapter 1322)
2. Respondent began working at First Ohio Banc and Lending's branch in Mentor, Ohio in March 2002 as a junior loan officer where he assisted clients with obtaining financing and processed paperwork. (Tr. at 29 & 60-61 )
3. On or about June 3, 2002, the Respondent applied for an Ohio Mortgage Broker Loan Officer license ("loan officer license") by submitting a signed, sworn and attested Ohio Loan Officer Application to the Division pursuant to R.C. Chapter 1322. (Respondent Ex. E.)

4. Within the Loan Officer Application Respondent checked the "yes" box to question number 5, which asked: "Have you ... ever been convicted of or pleaded guilty to any criminal offense including, but not limited to, theft, ...fraud, passing bad checks, ... , or any criminal offense involving money..." (Respondent Ex. E; Tr. at 41, 58)
5. Question number 5 on the Loan Officer Application further requires that "if the answer is yes, furnish details". Respondent wrote, "Wrote checks out of a closed account 1998/1999". (Respondent Ex. E; Tr. at 41, 58)
6. In July 1998, while living in the Cleveland area, Respondent opened a bank account using checks drawn out to him from a closed bank account of one of his father's clients, withdrew the cash and eventually moved to the Philippines. Respondent returned to Cleveland after discovering through his parents that he was sought by the FBI. Subsequently, Respondent moved to Arizona and purchased watches from Nordstrom's Department Store with checks from a closed bank account that was in his name and attempted to return the watches for a cash refund. (State Ex. 9, Tr. at 33-37)
7. On October 18, 1999, Respondent plead guilty to, and was convicted of two counts of bank fraud in the United States District Court, Northern District of Ohio. (State Ex. 8)
8. Respondent was ordered to pay restitution in the amount of \$38,500 and return the watches. Respondent also spent 30 days in a halfway house in Arizona and was placed under probation for four year. One year of his probation was spent in Arizona and the remaining three years were spent in Cleveland, Ohio. (State Ex. 8, Tr. at 36-38, 51-52, 75-76)
9. Respondent acknowledges his commission of the offenses. (State Ex. 8, Tr. at 33)
10. Respondent's explanation of his conviction was that after being diagnosed with mononucleosis, he was eventually prescribed forty milligrams of the drug Adderall, which caused him to suffer from severe anxiety and depression. Respondent explained that it was during this time that he engaged in the criminal acts that lead to his conviction. (State Ex. 9, Tr. at 33, 38, 48-50)

11. Question/Statement number 8 on the Loan Officer Application provides that the applicant must submit a fingerprint background check as part of the application. (Respondent Ex. E)
12. Respondent submitted his fingerprints as required by the Application. (Tr. at 76)
13. Pursuant to §1322.03 (B) of the Revised Code, the Division is required to conduct a criminal records check based on the applicant's fingerprints as part of the application process.
14. The Division neither contacted Respondent nor required him to provide additional information or an explanation regarding Respondent's "yes" answer to question number 5 on his application. (Tr. at 41-42, 76-77)
15. The Division granted Respondent Mortgage Broker Loan Officer License # 4297. The expiration date on the license was April 30, 2003. (State Ex. 11)
16. Respondent took the Ohio Mortgage Broker Loan Officer Test on September 11, 2002 and received a passing score. (Respondent Ex. D; Tr. at 56)
17. Respondent completed six hours of continuing education ("CE") on December 31, 2002 for calendar year 2002 as required by Revised Code §1322.041(b)(2) and §1322.052. (Respondent Ex. A)
18. On or about February 5, 2003, the Division sent a letter to Respondent stating that they did not have a record of his completing six hours of CE by December 31, 2002, and giving him until March 14, 2003 to complete the required CE hours. The letter also required Respondent to submit a copy of his CE certificate of completion to the Division, mark on the copy that the CE credits apply to 2002 CE requirements and submit a letter explaining why Respondent failed to timely complete the CE credits. The letter ended with the statement: "Failure to comply with any of the above will result in the denial of your 2003 renewal application." (State Ex. 10)
19. Revised Code §1322.041 (B) provides that a loan officer license may be renewed annually provided an application and renewal fee are submitted to the Division on or before the thirtieth day of April.

20. Respondent testified that prior to the loan officer license expiration date of April 30, 2003 he filled out the application to renew his license and gave the completed form to the manager at First Ohio Banc and Lending's Mentor branch so that all loan officer license renewals could be sent to the Division as a packet. (Tr. at 29, 54, 89, 93-94)
21. Respondent did not receive a renewed Mortgage Broker Loan Officer license from the Division in 2003. (Tr. at 29)
22. Respondent and his branch manager, Doug Matthews, both testified that they contacted the Division and had conversations with the Division regarding Respondent's 2003 renewal application and his not receiving a renewed loan officer license for 2003. (Tr. at 29, 30, 44-46, 67, 69-71, 86-88, 95)
23. The Division did not affirmatively state whether or not they had received and/or processed a 2003 renewal application for him. Respondent also testified that the Division did not affirmatively indicate whether Respondent did or did not have a license in 2003 and never told him to stop originating loans until he received the NOH. (Tr. at 30, 43-46)
24. The Division did not present evidence to refute testimony submitted on behalf of Respondent.
25. Respondent continued to originate loans in 2003. (Tr. at 43)
26. Respondent completed six hours of CE on December 16, 2003 for calendar year 2003 as required by Revised Code §1322.041(b)(2) and §1322.052. (Respondent Ex. B, Tr. at 55)
27. Respondent continued to originate loans in 2004 and was promoted to branch manager at Ohio Banc and Lending's Middleburg branch. (Tr. at 61, 84-85)
28. Respondent did not submit a renewal application to the Division by the April 30<sup>th</sup> deadline in 2004. (Tr. at 45)
29. A copy of Respondent's 2002 test scores, 2002 and 2003 CE certificates were sent to the Division as well as given to an auditor with the Division during an on-site examination. (Tr. at 87-88)
30. Respondent was informed that he needed to re-apply for a loan officer license. (Tr. at 31, 45, 77, 87)

31. On or about August 13, 2004 Respondent re-applied, as noted by the words "Re-applying" stamped on the application, for a loan officer license by submitting a signed, sworn and attested Ohio Loan Officer Application to the Division. (State Ex. 7)
32. Respondent checked the "yes" box to question number 5 on the application, which asked: "Have you ... ever been convicted of or pleaded guilty to any criminal offense including, but not limited to, theft, ...forgery, ... , or any criminal offense involving money..." , and wrote "1997 - wrote bad checks".
33. Respondent completed six hours of CE on October 12, 2004 for calendar year 2004 as required by Revised Code §1322.041(B)(2) and §1322.052. (Respondent Ex. C)
34. On or about November 23, 2004, the Division sent a letter notifying Respondent that his application was being investigated. The letter requested Respondent to explain the different explanation to question #5 on his 2002 and 2004 applications and a certified copy of the judgment entry evidencing Respondents plea and conviction. (State Ex. 9)
35. Respondent explained in a letter to the Division and testified that the discrepancy between the dates and the offenses written on the 2002 and 2004 application were a mistake on his part due to being upset because he had to re-apply and rushing to fill out the application. Respondent further stated that he put down "passed bad checks" because he believed he already had a background check on file and nothing had changed since he applied for a loan officer license in 2002. (State Ex. 9, Tr. at 32)
36. Respondent has had no criminal convictions after 1999 or since receiving a LOL in 2002. (Tr. at 58-59)
37. Respondent never violated his probation and has never missed a payment towards the restitution that he was ordered to pay and is currently still paying. (Tr. at 52-53)
38. No formal or informal disciplinary proceedings have ever been taken against Respondent by his employer or any other state agency, nor has any subordinate ever complained about him. The Division has reviewed some of his files for compliance during an audit and has not found any violations. (Tr. at 60, 62, 66-67)

39. Two persons, a former co-worker and subordinate of Respondent, whom Respondent terminated due to drug use and non-productivity, and Respondent's current branch manager testified favorably regarding Respondent's work ethics, character and reputation for honesty. Both persons were aware of Respondent's criminal offenses and/or conviction in 1999. (Tr. at 85, 96-98, 103, 112-113)
40. Respondent ceased originating loans when he received the NOH but was retained by Ohio Banc and Lending as a corporate sales trainer responsible for training their loan officers. (Tr. at 61, 97, 99-100)

## II. CONCLUSIONS OF LAW

1. Pursuant to Revised Code §1322.041(A)(5), to issue a license, the Division must make a finding that, inter alia, Respondent's character and general fitness 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 Revised Code §1322.01 to §1322.12
2. In 1999 Respondent plead guilty to and was convicted of bank fraud, a criminal offense involving fraud and money specifically cited in Revised Code §1322.031(A)(2) and §1322.041(A)(3).
3. The bank fraud offense and conviction being proven by the Division shifts the burden to Respondent to prove by a preponderance of the evidence that Respondent's "activities and employment record since the conviction show that he is honest, truthful, and of good reputation, and there is no basis in fact for believing that Respondent will commit such an offense again." Revised Code §1322.041(A)(3)
4. Respondent inferred in his testimony that a link existed between his physical, mental and emotional well being, the dosage of Adderall that he was taking at the time that he committed the offenses and his commission of those offenses. Respondent however did not provide any medical testimony or other expert evidence to corroborate his testimony that there was a correlation between his criminal activity and the dosage of Adderall taken during that time period. This being the case, the Hearing Officer gave no weight to Respondent's testimony regarding Adderall.

5. Although Respondent's conviction is in the recent past, Respondent's demeanor and testamentary evidence that he successfully completed probation and that he made restitution payments on a regular basis indicates that he has been honest, truthful and of good reputation since his conviction, and that there is no basis in fact for believing that Respondent will commit the criminal offenses again.
6. Respondent answered Question #5 honestly on both the June 3, 2002 and August 13, 2004 applications submitted to the Division. Respondent's testimony regarding the discrepancy between the explanations on the two applications was credible and the discrepancy does not alter the fact that Respondent answered honestly. Answering truthfully on the application indicates that Respondent is truthful and favorably demonstrative of Respondent's character and general fitness and of whether the business will be operated honestly and fairly in compliance with law.
7. Respondent's testimony that he completed a renewal application for 2003 to be submitted to the Division and that the Division was contacted regarding the lack of a renewed LOL in 2003 was credible. Respondent's un-refuted testimony regarding his communications with the Division about the 2003 renewal indicate that he was honest in his belief that at all times that he was originating loans he had a current LOL and was complying with the law. He had already answered question #5 honestly and truthfully on his 2002 application and received a LOL from the Division. There was no reason for him not to apply in 2003 and expect his LOL to not be renewed.
8. Respondent's acts of completing the continuing education required by law to keep his license renewed demonstrate his belief that he had renewed his license in 2003. Respondent's acts demonstrate that he recognizes the importance of complying with the law to hold a LOL. These acts demonstrate that Respondent's character and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with law.
9. Un-rebutted testamentary evidence from Respondent and his branch manager that for the two years that Respondent originated loans, he was honest and fair in his loan officer activities, complied with the law, and that the Division had no complaints against Respondent is a positive indication that he has the character and general fitness to command the confidence of the public and that the business will be operated honestly and fairly in compliance with law.



10. The Division did not rebut evidence of Respondent's current reputation and employment record. There is no basis in fact for believing that Respondent will commit such an offense again.
11. Respondent provided sufficient evidence to overcome the Division's evidence questioning his character and general fitness to command the confidence of the public and the belief that the business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act.

### III. RECOMMENDATION

In careful consideration of the record made in this matter, it is recommended that Bradley M. Krupa be found to have presented sufficient evidence to prove, by a preponderance of the evidence, that his activities since his conviction show that he is honest, truthful, and of good reputation, and there is no basis in fact for believing that he will be subject to a judgment again and that his character and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act, and that consequently he be issued an Ohio Loan Officer License.

Respectfully submitted,

Landi Jackson-Forbes  
Hearing Officer  
November 16, 2005  
Docket No. 05-0070-LOD