

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

In the matter of:	)	Case No. 04-0259-LOD
	)	
<b>STEPHANIE R. SIMMONS</b>	)	<b><u>DIVISION ORDER</u></b>
4808 Williamsburg Road NW	)	<b>Denial of loan officer license application</b>
Cincinnati, Ohio 45215	)	&
<hr style="width: 40%; margin-left: 0;"/>	)	<b>Notice of Appellate Rights</b>

Respondent, Stephanie R. Simmons, submitted a loan officer license application to the Division of Financial Institutions (“Division”) on November 14, 2002. On January 22, 2004, the Division notified Simmons that it intended to deny her loan officer license application because: (1) she was convicted of falsification in 1993; (2) she was convicted theft by deception in 1995; and (3) she had not proven to the Division 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 offense; and (4) 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.

Simmons requested a hearing and an administrative hearing was held on April 21, 2004. A Report and Recommendation was filed with the Division on June 18, 2004, recommending that the Division approve Simmons’ application and grant her a loan officer license. In response, Simmons submitted a letter to the Division stating she “ha[d] no objections[.]”

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 Report and Recommendation is modified or disapproved as follows: Paragraph 3 on page 2 erroneously states that the Division received Simmons loan officer application on April 26, 2002. The application was received on November 14, 2002. The Report and Recommendation is hereby modified to reflect this change.

For the reasons stated hereafter, the Division disapproves: the last sentence of paragraph 9 on page 3; the second sentence and last sentence of paragraph 14 on page 4; the second sentence and the last three sentences of paragraph 6 on page 5; paragraph 7 on page 5 and 6; and the recommendation found on page 7.

The record reflects that Simmons was convicted of a felony-level theft offense in 1995. (See Exhibit 5.) Accordingly, the burden shifted to Simmons to prove, by a preponderance of the evidence, that her activities and employment history since the 1995 conviction show that she is honest, truthful, and of good reputation, and that there is no basis in fact for believing that she will commit such an offense again. (R.C. 1322.031(A)(2) and R.C. 1322.041(A)(3).) In support of meeting her burden of proof, Simmons only provided her own self-serving testimony and two unsworn letters and several customer surveys from people not made available for cross-examination at the hearing. The hearing officer stated that the evidence presented, other than Simmons own testimony, constituted “not\*\*\*much independent evidence.” (R and R, p. 5, paragraph 6.) The Division agrees. One unsworn letter is from a person who only knew Simmons for ten months in 2003 and 2004. The other letter is from a person who had known Simmons over four years from April 2004. (See Respondent’s Exhibit A.) As the conviction occurred in 1995, Simmons must show that since 1995 her employment record and activities show that she is honest, trustworthy, and of good reputation and unlikely to steal again. Other than the self-serving testimony of Simmons, no evidence regarding her employment record or activities from 1995 through 1999 was presented. The Division finds that Simmons’ self-serving testimony coupled only with two unsworn letters does not prove, “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 to believe that [she] will commit the offense again.” (R.C. §§ 1322.031(A)(2) and 1322.041(A)(3).)

Simmons submitted several customer surveys at the hearing. (See Respondent’s Exhibit A.) Seven of those surveys list Simmons as “Loan Officer.” Simmons testified that she had been “...just kind of originating[.]” for her current employer. (See Transcript p. 29.) Simmons was only an applicant to become a licensed loan officer. (See Exhibit 1.) The Ohio Mortgage Broker Act requires that all loan officers who want to originate loans that fall under the jurisdiction of the Ohio Mortgage Broker Act be licensed by the Division. Ms. Simmons was not licensed by the Division to be a loan officer in the State of Ohio. Although the Division never charged Simmons with operating as a loan officer without first obtaining a license in its notice of intent to deny, the Division finds this evidence presented by Simmons, in addition to her falsification and theft convictions, as proof that she does not have the requisite character and

general fitness to command the confidence of the public and warrant the belief that her business will be operated in compliance with the Ohio Mortgage Broker Act.

In accordance with the foregoing, the Division concludes that Simmons' 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 2nd day of August 2005

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**ROBERT M. GRIESER**

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

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