

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

In the matter of: ) Case No. M2008-484  
)  
RUSSELL J. JAMES ) **DIVISION ORDER**  
8819 Broadview Road )  
Broadview Heights, Ohio 44147 ) **TERMINATION of Notice of Intent to Deny**  
) **Renewal of Loan Officer License**  
)

---

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions (the "Division"), is charged with the responsibility of administering and enforcing the Ohio Mortgage Broker Act ("OMBA"), as codified in Ohio Revised Code ("R.C.") Chapter 1322, the Division finds that this Order is necessary and appropriate, in the interest of the public, and is consistent with the purposes of the OMBA; and

WHEREAS, the Ohio Department of Commerce, by and through the Superintendent of the Division of Financial Institutions ("Division"), on October 2, 2008, issued Russell J. James ("Respondent") a Notice of the Division's intent to deny his loan officer license renewal application; and

WHEREAS, the Notice informed him that the Division had conducted an investigation of Respondent and, as a result thereof, alleged that:

On or about July 21, 1983, Respondent appeared in the Court of Common Pleas of Cuyahoga County, Ohio, before Judge Harry A. Hanna and entered a plea of guilty to one count of Attempted Breaking and Entering (R.C. 2923.02 and 2911.13), in *State of Ohio v. Russell J. James*, Case No. 83—179935-ZA.

As a result of the finding listed above, the Division has determined that the Respondent has been convicted of a theft offense as described in R.C. 1322.031(A)(2), and, therefore, the Division is not authorized to renew Respondent's loan officer license pursuant to R.C. 1322.041(A)(3) & (B)(3).

WHEREAS, Respondent requested a hearing, which was scheduled for June 16, 2009, but not held because the Division and Respondent agreed to continue the hearing pending the outcome of a similar matter on appeal in Cuyahoga County—*Carroll M. Holtz v. Ohio Department of Commerce*, Case No. CV-651473; and

WHEREAS, the Cuyahoga County Court of Appeals issued a decision in the *Holtz* case on December 3, 2009, which held that the term "theft" as used in R.C. sections 1322.031(A)(2) and 1322.041(A)(3) does not encompass "theft offenses" as defined in R.C. 2913.01(K);

The Division finds that Respondent's criminal conviction is substantially similar to that of the Plaintiff's conviction in the *Holtz* case, and, therefore, the Division is unable to refuse to issue him a loan officer license based on that conviction alone;

The Division hereby terminates the October 2, 2008 Notice.

IT IS SO ORDERED.

**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 18<sup>th</sup> day of February, 2010.

---

**LEIGH A. WILLIS**

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