

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

In the matter of:	)	Case No. 04-0029-LOD
	)	
<b>STEPHEN T. KELLER</b>	)	<b><u>DIVISION ORDER</u></b>
27908 Hilliard Blvd.	)	<b>Denial of Loan Officer License Application</b>
Westlake, Ohio 44145	)	<b>&amp;</b>
	)	<b>Notice of Appellate Rights</b>

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Respondent, Stephen T. Keller, submitted a loan officer license application to the Division of Financial Institutions ("Division") on August 4, 2003. On January 22, 2004, the Division notified Keller that it intended to deny his loan officer license application because: (1) in or around 1995, he was convicted of theft; (2) in or around 1996, he was convicted of possession of marijuana; (3) in or around 1996, he was convicted of unauthorized use of property; (4) he has not proven that he is honest, truthful, and of good reputation, and that there is no basis in fact for believing that he will not commit another criminal offense involving theft or any criminal offense involving money or securities; and (5) because his character and general fitness did 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 R.C. 1322.01 to 1322.12—the Ohio Mortgage Broker Act.

Keller requested an administrative hearing which was held on March 1, 2004. A Report and Recommendation was filed with the Division on March 30, 2004, recommending that the Division grant Respondent's application. 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. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (The Hearing Examiner's Report and Recommendation is attached.)

The Division modifies paragraph 3 on page 5 of the Report and Recommendation.

Because the Division provided proof that Respondent had been convicted of two theft-related offenses, the burden of proof shifted to the Respondent to show by a preponderance of the evidence that there is no basis in fact for believing that he will commit another criminal

offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering or drug trafficking or any criminal offense involving money or securities. R.C. 1322.041(A)(3). However, it was the Division's burden to prove the Respondent's 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 R.C. 1322.01 to 1322.12—the Ohio Mortgage Broker Act. R.C. 1322.041(A)(5). Accordingly, the Division modifies paragraph 3 on page 5 to reflect the accurate legal burdens.

The Division modifies paragraph 3 on page 6 of the Report and Recommendation.

Respondent testified that he stole “20 or 30 [music] CDs” from his neighbor's vehicle. (Tr., p. 45). Respondent estimated the CDs value to be between \$5-18 a piece. Id.

The Division modifies paragraph 4 on page 6 of the Report and Recommendation.

After not finding an available check-out at the Lazarus store to pay for the wallet, Respondent “decided to put [the wallet] in my bag and walk out with it.” (Tr., p. 31).

The Division modified paragraph 8 on page 6 of the Report and Recommendation.

Respondent's mother, Nancy Keller, stated that she had only recently learned of Respondent's unauthorized use of property conviction. Asked on cross-examination whether Respondent was telling the truth in the hearing, Ms. Keller testified: “As far as I know. The shoplifting incident, I just found out about that two or three months ago.” (Tr., p. 52).

The Division disapproves of paragraph 9 and the conclusion and recommendation on page 7 of the Report and Recommendation.

Respondent's testimony contradicts the conclusion that “he has matured markedly.” In discussing the convictions for theft, unauthorized use of property, and possession of marijuana, following the 1996 conviction for possession of marijuana, Respondent stated that he last used marijuana in “maybe 2002 or 2001.” (Tr., p. 45). Given Respondent's testimony concerning fairly recent illicit drug use, the Division does not find that Respondent has “matured markedly.” In light of Respondent's admission to his relatively recent use of marijuana, the Division does not find 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 the purposes of the Ohio Mortgage Broker Act per R.C. 1322.041(A)(5).

Furthermore, the Division does not find that Respondent has met his burden of proof. Respondent's case was based entirely on his own self-serving testimony and that of his mother. Respondent provided no testimony from employers or others who could verify that his employment records and activities since the convictions show that he is honest, truthful, and of

good reputation and that there is no basis in fact for believing that he will commit a theft offense again. The letters from employers that were provided in Exhibit 12 were unsworn and submitted by two individuals from the employer, 1<sup>st</sup> Resource Mortgage, Ltd., who had only been acquainted with Respondent's work-product for a few months. The only witness to testify on Respondent's behalf was his mother, who was not Respondent's current or previous employer. In totality, this evidence does not meet the burden of proof required by R.C. 1322.041(A)(3).

For the reasons stated above, the Division hereby denies the Loan Officer License Application of Stephen T. Keller.

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, 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 this Order.

Signed and sealed this 25<sup>th</sup> day of January 2006.

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**ROBERT M. GRIESER**

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