

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

In the matter of:	)	Case No. M2009-1111
	)	
<b>CHRISTOPHER R. TELLIS</b>	)	<b><u>DIVISION ORDER</u></b>
23411 Summerfield, Apt. 30 L	)	<b>Refusal to Issue Loan Officer License</b>
Aliso Viejo, CA 92656	)	<b>&amp;</b>
	)	<b>Notice of Appellate Rights</b>
	)	

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

On March 16, 2010, the Division of Financial Institutions issued notice to Christopher R. Tellis ("Respondent") that the Division intended to refuse to issue him a loan officer license and that set forth the following allegations and findings:

- A. The Division is authorized by R.C. 1322.10(A)(1)(a) to refuse to issue a loan officer license if the Division finds that the licensee or applicant has violated or failed "to comply with any provision of sections 1322.01 to 1322.12 of the Revised Code or the rules adopted under those sections or any other law applicable to the business conducted[.]"
- B. R.C. 1322.041(A)(6) provides that a loan officer license shall be issued if the applicant'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 sections 1322.01 to 1322.12 of the revised code.
- C. R.C. 1322.041 at the time of Respondent's application required the Division to refuse issuance of a loan officer license to any applicant who had pleaded guilty to or had been convicted of theft.
- D. On or around January 2, 2000, in the County Court for the City and County of Denver, Colorado Respondent pleaded guilty to and was convicted of shoplifting.
- E. R.C. 1322.07(A) prohibits an applicant from obtaining a "license through any false or fraudulent representation of a material fact or any omission of a material fact required

by state law, or make any substantial misrepresentation in any registration or license application.”

- F. On or about October 21, 2009, Respondent submitted an application for a loan officer license pursuant to R.C. Chapter 1322. Respondent’s application remains pending.
- G. Loan officer application Question Number Four (4) asked “Have you been arrested for, convicted of or pleaded guilty to any 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? (Please note that a conviction for theft, as that term is defined in R.C. 2913.01(K), is a statutory bar to licensure.)” Respondent answered “No,” thus making a false or fraudulent representation of a material fact or an omission of a material fact required by state law, or making a substantial misrepresentation in a license application in violation of R.C. 1322.07(A).
- H. Loan officer application Question Number Five (5) asked “Have you ever been convicted of or pleaded guilty to any criminal offense in a state other than the state where you currently reside?” Respondent answered “No,” thus making a false or fraudulent representation of a material fact or an omission of a material fact required by state law, or making a substantial misrepresentation in a license application in violation of R.C. 1322.07(A).

As a result of the findings listed above, the Division has determined that:

- 1. Respondent pleaded guilty to and was convicted of shoplifting or theft under the laws of the state of Colorado and the city and county of Denver, Colorado.
- 2. Because Respondent pleaded guilty and was convicted of theft, the Division is authorized under R.C. 1322.041 and R.C. 1322.10(A)(1)(a) to refuse to issue a loan officer license.
- 3. Respondent made a false or fraudulent representation of a material fact or an omission of a material fact required by state law, or made a substantial misrepresentation in a license application in violation of R.C. 1322.07(A).
- 4. Because Respondent failed to comply with R.C. 1322.07(A), the Division is authorized to refuse issuance of a loan officer license to Respondent pursuant to R.C. 1322.10(A)(1)(a).
- 5. Because Respondent was convicted of theft and provided false information on his loan officer application, Respondent lacks the character and general fitness to 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 sections 1322.01 to 1322.12 of the revised code.
- 6. Because Respondent lacks the character and fitness required by R.C. 1322.041(A)(6), the Division is authorized to refuse issuance of a loan officer license pursuant to R.C. 1322.041 and 1322.10(A)(1)(a).

The Notice also informed Respondent that he had thirty (30) days to request an adjudicatory hearing pursuant to R.C. Chapter 119 regarding the Division's allegations set forth in the Notice.

Respondent requested an administrative hearing, which was scheduled for August 12, 2010. Respondent participated in the August 12, 2010 hearing by telephone. The hearing officer's report and recommendation (the "Report and Recommendation") was filed with the Division on September 2, 2010 (a copy is attached). The Report and Recommendation found that the Division established a sufficient evidentiary basis for denying Respondent's 2009 loan officer license application based upon the filing of a false and/or fraudulent application, but recommended the Division grant Respondent's 2009 loan officer license application for the reasons set forth in the report.

Pursuant to R.C. 119.09, the Division may approve, modify, or disapprove the recommendation of a hearing officer based upon the report, recommendation, transcript of testimony and evidence, or objections of the parties and any additional testimony and evidence permitted. In accordance therewith, the Division has considered the record, consisting of the Report and Recommendation, the transcript of testimony and exhibits, as well as all applicable laws. Any finding and/or conclusion not specifically addressed in the attached Memorandum in Support is approved, adopted and incorporated herein.

For the reasons provided herein and in the attached Memorandum in Support, the Division modifies the Report and Recommendation. The Division has weighed the evidence and hereby REFUSES to issue a loan officer license to Respondent Christopher R. Tellis.

IT IS SO ORDERED.

### **NOTICE OF APPELLATE RIGHTS**

Respondent is hereby notified that pursuant to R.C. 119.12, this Division Order may be appealed by filing a notice of appeal with the Division setting forth the Order that Respondent is appealing from and stating that the Division's order is not supported by reliable, probative, and substantial evidence and is not in accordance with law. The notice of appeal may also include, but is not required to include, the specific grounds for the appeal. The notice of appeal must also be filed with the appropriate court of common pleas in accordance with R.C. 119.12. In filing

the notice of appeal with the Division or court, the notice that is filed may be either the original notice or a copy of the original notice. A notice of appeal must be filed within fifteen (15) days after the date of mailing of this Division Order.

Signed and sealed this 19<sup>th</sup> day of November, 2010.

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**LEIGH A. WILLIS**

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

**STATE OF OHIO  
DEPARTMENT OF COMMERCE  
DIVISION OF FINANCIAL INSTITUTIONS**

**Memorandum in Support of the Division Order  
To Refuse the Loan Officer/Originator License Application of Christopher R. Tellis**

**Case No. M2009-1111**

The Ohio Department of Commerce, Division of Financial Institutions (the "Division") hereby approves all of the Findings of Fact and Conclusions of Law set forth in the Administrative Hearing Officer's Report and Recommendation (the "Report and Recommendation") issued July 1, 2010, except as set forth below.

**I. Findings of Fact**

Based on a review of the transcript and the exhibits admitted into the record, the Division hereby modifies Paragraph 10 of the Findings of Fact which should read as follows:

**10. Colorado Revised Statute Section 38-51.5 Shoplifting unlawful; retail theft.**

It shall be unlawful for any person to take or conceal or exercise control over any goods, wares or merchandise (property) a another which is displayed or in any other manner offered for sale and which has any aggregate value of less than one thousand dollars (\$1,000.00), when the person intends to avoid payment for the merchandise or knowingly deprives the person entitled to possession of the property of use and benefit of the property.

The modification is necessary because Finding of Fact Paragraph 10 placed the title of the statute in parentheses. There were no parentheses in the Colorado Code around the words "Shoplifting unlawful; retail theft." See State's Exhibit I. The use of parentheses is contrary to the legislative intent of the Colorado legislature and deemphasizes the purpose of the statute. In 1997 and today, Colorado Revised Statute Section 18-4-403 provides "[i]f any law of this state refers to or mentions larceny, stealing, embezzlement (except embezzlement of public moneys), false pretenses, confidence games, or shoplifting, that law shall be interpreted as if the word "theft" were substituted therefore[.]" Also, in 2007, the Denver City and County Counsel amended City Ordinance 38-51.5 to raise the value amount of property or theft from \$500.00 to \$1,000.00.

The Division hereby disapproves Finding of Fact Paragraphs 20 and 22. The Division disapproves Finding of Fact Paragraph 20 because R.C. 1322.07(A) does not require intent in order to find a violation. R.C. 1322.07 is titled "Prohibitions" by the Ohio General Assembly. The legal definition of "prohibition" is to forbid an action. The ordinary dictionary definition of "prohibit" is to forbid by authority, to prevent or debar. Thus, under R. C. 1322.07(A), an applicant is forbidden to provide false or fraudulent information on an application to obtain a license from the Division. Furthermore, on his 2009 loan officer license application, Respondent attested under penalty of perjury that the information in his application was true. See State's Exhibit D and Findings of Fact Paragraphs 9, 12, 13 and 20.

The Division disapproves Finding of Fact Paragraph 22 because it is inconsistent with the law. The version of R.C. 1322.041(A)(3) in effect in 2009, did not shift the burden to the Division

when the Applicant had pleaded guilty to or had been convicted of theft. See Conclusion of Law Paragraph 32 and Findings of Fact Paragraph 23.

## **II. Conclusions of Law**

Based on a review of the transcript and the exhibits admitted into the record in this case and the Findings of Fact set forth herein and in the Report and Recommendation, the Division hereby disapproves Conclusions of Law Paragraphs 35-37 and 43-46.

The Division disapproves Conclusion of Law Paragraph 35 because Respondent pleaded guilty to “theft” in Colorado under a statute that was substantially equivalent to “theft” as defined in R.C. 2913.02. When Respondent’s narrative of what happened is compared to the definitions of theft under Colorado and Ohio law, it is conclusive that Respondent committed “theft” in that he took the property of another (took and concealed spray paint cans from Home Depot) without consent and depriving the owner of possession (attempted to walk out without paying). See State’s Exhibit’s E and I and Findings of Fact Paragraph 17.

The Division disapproves Conclusion of Law Paragraph 36 for the same reason given for disapproving Conclusion of Law Paragraph 35 and because the version of R.C. 1322.041(A)(3) in effect in 2009, did not shift the burden to the Division when the Applicant had pleaded guilty to or had been convicted of theft. See Conclusion of Law Paragraph 32.

The Division disapproves Conclusion of Law Paragraph 37 because it is inconsistent with the law.

The Division disapproves Conclusion of Law Paragraph 43 because R.C. 1322.07(A) does not require intent in order to find a violation. Thus, under R.C. 1322.07(A), an applicant is forbidden to provide false or fraudulent information on an application to obtain a license from the Division.

The Division disapproves Conclusion of Law Paragraphs 44 and 45 because R.C. 1322.07 prohibits certain actions by applicants. Prohibition of certain actions by applicants was the intent of the Ohio General Assembly when it enacted R.C. 1322.07. In addition, pursuant to R.C. 1322.07 and R.C. 1322.10(A)(1)(a) the Division is authorized to refuse issuance of a license for violations of Chapter 1322. Thus, the Division has discretion to issue licenses. In exercise of its discretion, the Division determined to refuse issuance of a license to Respondent based on his violations of Chapter 1322. Given the prohibition established by the Ohio General Assembly to prevent obtaining a license under Chapter 1322 by providing false or fraudulent information on an application, the Division would be derelict in its statutory duties to ignore or dismiss lying on an application as if it were simply the innocuous misspelling of a word.

The Division disapproves Conclusion of Law Paragraph 46 because, for the reasons given for the above modification and disapprovals, it is inconsistent with the law and the legislative intent of the Ohio General Assembly.

## **III. Recommendation**

After finding that the Division has established a sufficient evidentiary basis for denying Respondent’s 2009 loan officer license application because Respondent submitted a false and/or

fraudulent application, the Report and Recommendation recommends that the Division grant Respondent's 2009 loan officer license application for the reasons stated in the Report. The Division has authority to refuse issuance of a license for any violation of Chapter 1322. A single violation is sufficient to refuse issuance of a license under Chapter 1322. Because Respondent submitted a false/fraudulent application and pleaded guilty to and was convicted of theft, refusal to issue Respondent a loan officer license is justified and supported by the evidence and the law.

Based on the Findings of Fact and Conclusions of Law, as set forth above, the Division hereby modifies the Report and Recommendation. The Division has weighed the evidence and hereby refuses to issue Respondent Christopher R. Tellis a loan officer license.

Signed and sealed this 19<sup>th</sup> day of November, 2010.

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**LEIGH A. WILLIS**

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