

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

In the matter of:)	Case No. 04-0173-LOD
)	
GLENN K. BRANT, JR.)	<u>DIVISION ORDER</u>
16987 Willow Wood Drive)	Denial of Loan Officer License Application
Strongsville, Ohio 44136)	&
)	Notice of Appellate Rights

DIVISION ORDER

On October 16, 2002, Glenn K. Brant, Jr. ("Respondent") submitted a loan officer license application ("Application") to the Division of Financial Institutions ("Division"). On January 22, 2004, the Division issued Brant notice of the Division's intent to deny his application because: (1) He had been convicted of felony theft in 2000 and 2001, and he had not proven that he is honest, truthful, and of good reputation and that there is no basis for believing that he will not commit another offense involving theft or money; and (2) Because his character and general fitness did not command the confidence of the public and warrant the belief that his business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act.

Brant requested a hearing, and pursuant thereto, an administrative hearing was held in accordance with Ohio Revised Code Chapter 119 on March 25, 2004.

The hearing officer filed his written Report and Recommendation with the Division on February 17, 2005, recommending that the Division grant Brant's application. Brant was served with a copy of the Report and Recommendation and a letter explaining his right to submit written objections. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the February 17, 2005 Report and Recommendation, all applicable laws, the transcript of testimony, and the exhibits. As a result, the Division modifies and/or disapproves the findings and/or conclusions listed

below. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (The Hearing Examiner's Report and Recommendation is attached hereto.)

The Division modifies the first sentence of paragraph 12 on page 3 of the Report and Recommendation to reflect that when Brant made payments "before the conviction" the letter from Mark Dreyer indicates that time period was before Brant's "problem," which was a period of time prior to October 1998. (Exhibit A, Transcript, p. 45.) Brant testified that he did not make any payments on his debt to Dreyer's company from October 1998 to the time of Brant's theft conviction in 2000. (Transcript, p. 45.) The Division also modifies the second sentence of paragraph 12 on page 3 of the Report and Recommendation to reflect that the letter referred to as "Exhibit A" is hearsay and the author was not available for cross-examination.

The Division modifies the second sentence of paragraph 13 on page 3 of the Report and Recommendation to reflect that although CIA's vested interest does not necessarily discredit CIA's positive recommendation, it does cause the Division to afford it very little weight, especially as the Division did not have an opportunity to cross-examine Mr. Dreyer or any other representative of CIA.

The Division disapproves paragraphs 5 and 6 on page 5 of the Report and Recommendation; paragraph 12 on page 6 of the Report and Recommendation; Section C, titled "Discussion," on pages 6 and 7 of the Report and Recommendation; and the Recommendation on page 7 of the Report and Recommendation.

Simply referring to the criminal charges that were brought against Brant as "collection actions" and classifying Brant's actions leading up to the convictions as a "bad business deal poorly handled" underestimates and minimizes the substantial wrongdoing that occurred. From

1995 until 1998, Brant misused funds from his “floor plan” for his automobile dealership for personal use and did not start paying the money back until he was ordered to pay it back by way of court-ordered restitution as a result of his criminal conviction in 2000. According to Brant, a “floor plan” is when a “lending institution loans you money to buy cars.” (Transcript, p. 22.) The lending institution then gave Brant access to a checking account that only Brant had access to and he was to write checks from that account payable to automobile dealers for cars. (Transcript, p. 22-23.) Instead of writing checks out to the automobile dealers, as he was contractually obligated to, Brant wrote checks and deposited them into his own account for personal use such as paying his mortgage and credit card obligations. (Transcript, p. 24, 45-46.) After Brant shut the doors to his automobile dealership in October 1998, Brant made no attempt to repay the money that he improperly used for personal expenses. (Transcript, p. 44.) As a result of these actions, the Medina County Common Pleas Court convicted Brant of felony theft in December 2000 and ordered him to pay restitution in the amount for **\$266,000.00** to CIA. (Exhibit 4 and 5.)

Not only was he convicted of theft in Medina County, but in 2001 he was convicted in Cuyahoga County of felony theft and ordered to pay **\$70,000.00** in restitution. (Exhibits 6 and 7.) This conviction is the result of Brant borrowing money from a friend in 1998 and making no attempt to pay him back until he was convicted in Cuyahoga County of felony theft in 2001. (Transcript, pp. 27, 44, 54.) With respect to the circumstances surrounding his Cuyahoga County theft conviction, Brant claimed his “friend” that he victimized had “trampled” on him by pursuing criminal charges. (Transcript, p. 54.) Despite being a convicted felon, Brant still believes himself to be the victim.

In plain terms, Brant's improper conduct with respect to both of his criminal theft convictions amounts to "robbing Peter to pay Paul." Anyone who has been so recently proven to operate a business in such a manner does not have the character and fitness to originate loans. The Division cannot find that a man whose improper conduct and convictions have been so recent could command the confidence of the public, especially as he is one who still sees himself as "trampled" by one of his victims. (Transcript, p. 54.)

Because he has been twice-convicted of theft, it was Brant's burden to prove, by a preponderance of the evidence, that his employment history 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 such an offense again. (R.C. 1322.031(A)(2) and 1322.041(A)(3).) Brant was convicted of his last theft offense in April 2001. (Exhibit 6.) As a result, only thirty-five months have elapsed from the time of his last theft conviction until the hearing in this matter. (Exhibit 10.) As only thirty-five months have elapsed, Brant has not had enough time to meaningfully demonstrate that he is honest, truthful, and of good reputation and that there is no basis in fact for believing he would commit such an offense again. (See *Ryan O'Reilly English v. State of Ohio, Dept. of Commerce* (Case No. 04CIV0163) Medina County Court of Common Pleas (affirming the Division's decision to deny an applicant's application on the basis that three years since a conviction was insufficient time to meaningfully demonstrate the burden of proof set forth in R.C. 1322.041(A)(3)); see also *In the matter of: Brian D. DeStefanis* (Division Case No. 04-0056-LOD, Division Order dated February 8, 2005) (Division found that 28 months was insufficient time for applicant to meet the burden of proof set forth in R.C. 1322.041(A)(3)); and *In the matter of: Steven A. Perrigo* (Division Case No. 04-0279-LOD, Division Order dated

February 11, 2005) (Division found that 33 months was insufficient time for applicant meet the burden of proof set forth in R.C. 1322.041(A)(3)).

Further, the Division has concerns with the evidence presented by Brant. Other than Brant's self-serving testimony, only two other witnesses testified, namely Vinson Watkins and Kevin Smith. With respect to the testimony of Vinson Watkins, although he testified favorably for Brant on direct examination, Watkins stated on cross-examination that he would be "very disturbed" about a person "who deposits money into their own account that doesn't belong to them[.]" (Transcript, p. 118.) The Division could not agree more. As far as the testimony of Kevin Smith is concerned, Smith, as majority shareholder in E-Lending Corp., has a direct financial interest and benefit in seeing Brant obtain his loan officer license. (Transcript, p. 125.) With respect to the six letters offered into evidence by Brant, all of them were un-sworn and made by people who were not made available for cross-examination. (Exhibits A through F.) Three of the letters were written by people who never indicated that they have knowledge of Brant's felony theft convictions. (Exhibits C, D, and E.) As for the letter of Mark Dreyer, Chairman of CIA – the company Brant stole from, the Division does not believe that this letter would have been written by Dreyer if CIA did not have a vested interest in seeing Brant obtain his license so that he could continue making restitution to CIA. (Exhibit A.) CIA's economic interests are not justification for the issuance of a loan officer license to Brant. Looking at all of the evidence presented by Brant, the short amount of time that has passed since the convictions, and the nature and magnitude of his offenses, the Division finds that Brant has not proven by a preponderance of the evidence that his activities and employment record since his last theft conviction show that he is honest, truthful, and of good reputation and there is no basis in fact for believing that he would not steal again. (See R.C. 1322.041(A)(3).)

Brant has two recent theft convictions. One of those theft convictions resulted required him to pay \$266,000.00 in restitution; the other, \$70,000.00 in restitution. One of those theft convictions was related to the way Brant conducted his business. Brant did not begin compensating CIA for the money he stole until he was court ordered to do so. In the other instance, Brant stole from his friend, yet feels that his friend “trampled” on him for pursuing criminal charges. (Transcript pp. 27, 54.) As a result, the Division finds Brant’s character and general fitness do not command the confidence of the public and warrant the belief that his business will be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act. On a daily basis loan officers deal with consumers’ personal financial information and advise consumers on what is most often their largest financial investment. Brant does not hold the requisite character and general fitness to originate loans.

In accordance with the foregoing, the Division concludes that Brant’s 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, 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 28th day of March 2006.

ROBERT M. GRIESER

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