

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

In the matter of:)	Case No. 04-0147-LOD
)	
ROBERT A. RUDESS, JR.)	<u>DIVISION ORDER</u>
1102 Nevada Street)	
Toledo, Ohio 43605)	Denial of Loan Officer License Application
)	

DIVISION ORDER

On May 3, 2002, Robert A. Rudess, Jr. ("Respondent") submitted a loan officer license application to the Division of Financial Institutions ("Division"). On January 22, 2004, the Division issued Respondent a notice of the Division's intent to deny Respondent's application, and notified Respondent of his right to a hearing on the matter. Respondent requested a hearing, and pursuant thereto, an administrative hearing was held in accordance with Ohio Revised Code Chapter 119 on April 6, 2004.

The hearing officer filed her written report and recommendation with the Division on July 16, 2004, recommending that the Division deny Respondent's application. A copy of the report and recommendation and a letter explaining Respondent's right to submit written objections to the report was served on Respondent. Respondent did not file objections.

In accordance with R.C. § 119.09, the Division has considered the Report and Recommendation, 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 as Exhibit A.)

- The Division modifies the second sentence of paragraph 5 on page 6 of the Report and Recommendation.

Paragraph 5 on page 6 reads:

"Once the *passing a bad check conviction* was proven by the Division, the Respondent had the burden to prove, by a preponderance of the evidence, that his 'activities and employment record since the conviction show that {he} is honest, truthful, and of good reputation, and there is no basis in fact for believing that {he} will commit such an offense again' in order to obtain a license. R.C. 1322.041(A)(3)." Emphasis added.

The Division did not allege that Respondent was convicted of passing a bad check. The Division did allege and prove an attempted forgery conviction. (See Exhibits 2B, 5B, 5C, Transcript pp. 21-23) Attempted forgery is a crime involving forgery. R.C. 1322.031(A)(2) and 1322.041(A)(3) Paragraph 5 on page 6 shall read:

"Once the attempted forgery conviction was proven by the Division, the Respondent had the burden to prove, by a preponderance of the evidence, that his

‘activities and employment record since the conviction show that {he} is honest, truthful, and of good reputation, and there is no basis in fact for believing that {he} will commit such an offense again’ in order to obtain a license. R.C. 1322.041(A)(3).”

The Division hereby denies the Loan Officer License Application of Respondent, Robert A. Rudess, Jr.

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 29th day of July 2005.

ROBERT M. GRIESER

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

Certified Mail No. 7002 2030 0002 6804 9898