

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

| | | |
|-------------------------|---|---|
| In the matter of: |) | Case No. 04-0314-LOD |
| |) | |
| JEFFREY D. RAWLS |) | <u>DIVISION ORDER</u> |
| 34265 Cooper Road |) | Denial of loan officer license application |
| Poteau, Oklahoma 74953 |) | & |
| |) | Notice of Appellate Rights |

Respondent, Jeffrey D. Rawls ("Rawls"), submitted a loan officer license application to the Division of Financial Institutions ("Division") on April 25, 2002. On January 22, 2004, the Division notified Rawls that it intended to deny his loan officer license application because: (1) he had been convicted of aggravated sexual assault of a child under 14 years of age; (2) he violated R.C. § 1322.07(A) by failing to disclose his conviction on his loan officer license application; (3) he violated R.C. § 1322.07(B) by making a false statement of material fact or by omitting a statement required on the licensing application; (4) he violated R.C. § 1322.07(C) by making a substantial misrepresentation on his loan officer license application; and (5) 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 purposes of R.C. §§ 1322.01 to 1322.12 – the Ohio Mortgage Broker Act.

Rawls requested a hearing and an administrative hearing was held on April 8, 2004. A Report and Recommendation ("R&R") was filed with the Division on June 11, 2004, recommending that the Division approve Rawls's loan officer license application and grant him a loan officer license. No objections were filed.

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

The Division disapproves paragraph 16 on page 7 for the following reasons.

The hearing officer's opinion that the "episode occurred in a setting where teenagers were exploring their emerging sexuality and adulthood." is specifically stricken. Additionally, the Division disagrees with the hearing officer's opinion that respondent's crime did not occur in

connection with any violence. Respondent was convicted of aggravated sexual assault, a first degree felony that requires the sexual intercourse is without the victim's consent.

The Division strikes the last sentence of paragraph 18 on page 7.

The legislature did not limit the Division to review only activities or convictions that are related to the financial services industry when considering a loan officer license application. Criminal convictions reflect on a person's character and honesty and therefore are relevant to the Division's decision of whether or not to grant a license.

The Division disapproves paragraph 19 on page 7.

Rawls stated on his license application that he had never been convicted of any criminal offense. He signed the license application under oath, swearing that he had completed it "fully and frankly[, and that] the answers were complete and true" when they were not. Further, as far as any violation being "unintentional", violations of R.C. §§ 1322.07 (A), (B), and (C) do not require intent.¹ The hearing officer found that Rawls had not disclosed his conviction on his licensing application. (See R&R paragraphs 2 and 3, page 2) Accordingly, the evidence demonstrates that Rawls violated R.C. §§ 1322.07(A), (B), and (C).

The Division disapproves paragraph 20 on page 7-8.

Respondent's failure to answer Question 5 on the licensing application correctly does not warrant the belief that his business can be operated honestly and fairly in compliance with the Ohio Mortgage Broker Act. Additionally, the inability to understand a direct question evidences a lack of the requisite fitness needed of a loan officer. On a daily basis loan originators deal with consumers' personal financial information and counsel them on what is most often their largest financial investment. Being able to comprehend and evaluate complicated mortgage documents is a vital part of the job. By not being able to understand a direct question on a licensing application, respondent has demonstrated that he does not hold the requisite fitness to be a loan officer.

For the foregoing reasons the Division also disapproves the recommendation to grant respondent's loan officer license.

¹ In R.C. §§ 1322.07 (E) and (F), both sections contain language of intent by using the term "knowingly." R.C. §§ 1322.07 (A), (B), and (C) do not.

In accordance with the foregoing, the Division concludes that Rawls's loan officer license application should be denied.

It is so ordered.

NOTICE OF RIGHT TO APPEAL

Respondent is hereby notified that this order may be appealed, pursuant to R.C. 119.12, 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 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 17th day of November 2005.

ROBERT M. GRIESER

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