

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

In the matter of:	)	Case No. 04-0194-LOD
	)	
<b>DONALD W. ROBERTS</b>	)	<b><u>DIVISION ORDER</u></b>
899 Saxon Avenue	)	<b>Denial of Loan Officer License Application</b>
Akron, Ohio 44314	)	<b>&amp;</b>
	)	<b>Notice of Appellate Rights</b>

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Respondent, Donald W. Roberts, submitted a loan officer license application to the Division of Financial Institutions (“Division”) on May 2, 2002. On January 22, 2004, the Division notified Roberts that it intended to deny his loan officer license application because: (1) in 1995 he pleaded guilty to and was convicted of passing a bad check, and he had 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 passing bad checks or any criminal offense involving money or securities; (2) in 1998 he pleaded guilty to and was convicted of felonious assault; (3) he violated R.C. 1322.07(A) by failing to disclose his convictions on his loan officer license application; (4) he violated R.C. 1322.07(B) by making a false statement of a material fact or by omitting a statement required by state law on the licensing application; (5) he violated R.C. 1322.07(C), which prohibits an applicant from engaging in improper or dishonest conduct; and (6) 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.

Roberts requested an administrative hearing, which was held on June 14, 2004. A Report and Recommendation was filed with the Division on October 26, 2004, recommending that the Division deny 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 disapproves paragraph 17 on page 6 of the Report and Recommendation.

There is no mens rea standard required to violate sections 1322.07 (A), (B), and (C).<sup>1</sup> Roberts had two criminal convictions, one resulting in a prison sentence. (State's Exhibits 6A and 6B). Therefore, he was required to disclose his convictions in response to question 5 of the loan officer license application. However, Roberts chose not to disclose his convictions thereby violating R.C. 1322.07(A), (B), and (C). Additionally, the Division concludes that because Roberts failed to disclose his convictions on his loan officer license application, he does not hold the requisite character and general fitness which commands the confidence of the public and warrants the belief that his business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act.

As a result, the record indicates that Respondent did not meet the condition for licensure outlined in R.C. 1322.041(A)(2).

For the reasons stated above, the Division adopts the hearing officer's recommendation and denies the loan officer license application of Donald W. Roberts.

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 1st day of March 2006.

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**ROBERT M. GRIESER**

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

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