

STATE OF OHIO  
DEPARTMENT OF COMMERCE  
DIVISION OF FINANCIAL INSTITUTIONS  
CONSUMER FINANCE

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DIVISION OF FINANCIAL INSTITUTIONS  
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In re: Jeffrey D. Rawls

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Case No. 04-0314-LOD

FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF  
THE HEARING OFFICER

1. The Ohio Department of Commerce, Division of Financial Institutions ("Division"), proposes that the Loan Officer License Application of Jeffrey D. Rawls not be granted. The Division conducted an investigation and found:

- a. In or around 1993, in the 213<sup>th</sup> District Court of Tarrant County, Texas, Mr. Rawls was convicted of aggravated sexual assault of a child under 14 years of age;
- b. On or around April 18, 2002, Mr. Rawls attested in a sworn statement that information he provided on a licensing application was truthful, knowing that the information he provided was false; and
- c. On or around April 25, 2002, Mr. Rawls provided untruthful information to the Division.

2. As a result, the Division determined:

- a. Mr. Rawls' character and general fitness do 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 the Ohio Mortgage Broker Act as set forth in Revised Code Section 1322.041(A)(5);
- b. Mr. Rawls violated Revised Code Section 1322.07(A), which prohibits a loan officer applicant from "mak[ing] any substantial misrepresentation in any registration or license application";
- c. Mr. Rawls violated Revised Code Section 1322.07(B), which prohibits a loan officer applicant from "[m]ak[ing] false or misleading statements of a material fact, [or] omissions of statements required by state law"; and
- d. Mr. Rawls violated Revised Code Section 1322.07(C), which prohibits a loan officer applicant from "[e]ngag[ing] in conduct that constitutes improper, fraudulent, or dishonest dealings.

3. Mr. Rawls' address for service of process is 116-4 Mallard Glen, Centerville, Ohio 45458. He is hereinafter referred to as the "Respondent." The Respondent is employed by Superior Choice Lending, LLC, 18 S. Main Street, Centerville, Ohio 45458.

4. This matter was initiated by the Superintendent of the Division by the issuance on January 22, 2004, of a Notice of Intent to Deny Loan Officer Application & Notice of Opportunity for a Hearing, together with a covering letter (Exhibit 9).

5. The Respondent signed a certified mail receipt for that document. (Exhibit 9).

6. On February 4, 2004, the Division received a Hearing Request Form from the Respondent (Exhibit 10).

7. On February 6, 2004, the Division wrote to the Respondent scheduling a Hearing for 9:00 a.m. on February 13, 2004, and simultaneously continuing that Hearing until March 15, 2004, at 1:00 p.m. in Room 1908 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio (Exhibit 11).

8. On February 19, 2004, counsel for the Respondent wrote to the Division seeking a continuance of the Hearing. Exhibit 12).

9. On March 8, 2004, the Division wrote to counsel for the Respondent rescheduling the Hearing for 10:00 a.m. on Thursday, April 8, 2004. (Exhibit 13).

10. The hearing was conducted on April 8, 2004 beginning at 10:10 a.m. in Room 1918 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio. Attending were Daniel P. Jones, an Assistant Attorney General of Ohio in the Executive Agencies Section, Dennis Heitz, Esq. counsel for the Respondent, and the Respondent.

11. The hearing was conducted pursuant to Section 119 of the Ohio Revised Code. The Division is deemed to have jurisdiction to conduct the proceedings.

#### FINDINGS OF FACT

1. On April 18, 2002, the Respondent signed a Loan Officer Application (the "Application") under the provisions of the Ohio Mortgage Broker Act, Ohio Revised Code Section 1322. (Exhibit 1).

2. Question 5 of the Application provides:

Have you, or has any company for which you have been an officer, or more than 5% owner or director, ever been convicted of or pleaded guilty to any criminal offense including, but not limited to, theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking, or any criminal offense involving money or securities?

Yes ☐ No ☐

If the answer is yes, furnish details.

3. In response to Question 5, the Respondent answered "No".

4. As part of the Application, the Respondent signed a National Background Check consent. (Exhibit 1).

5. Following the submission of the Application, the Division received the report of the National Background Check which disclosed a June, 2000 entry from Montgomery County, Ohio, as a "sexual offender registration". (Exhibit 2).

6. Following submission of the Application, the Division contacted the Respondent by letter seeking an explanation for the information disclosed on the National Background Check. (Exhibit 3).

7. In response to that letter, the Respondent submitted a written explanation as follows:

This letter is in reference to the recent correspondence I received from you dated June 25, 2002. In compliance with your request, you will find a detailed explanation of the facts and circumstances, which gave rise to my charge. I am also enclosing certified copies of the journal entries of the disposition and sentence.

My case began 16 years ago in 1986 at the age of 17. I was charged with sexual assault in the state of Texas. The girl was 3 years younger than myself. I was convicted of sexual assault after my case went to trial in June 1988. I was sentenced to 19 years in prison. After serving 4 years in prison, my case was overturned. I was released on the condition that I would accept probation. Four years ago I violated my probation by failing to report. In turn, my probation was revoked. With time served, I was released after one month to complete the rest of my original sentence on parole. Please understand, this charge is very old and I have never been charged or convicted of anything since. I am due for complete release March of 2004. This charge in no way will affect my ability to service clients in the state of Ohio with their mortgage needs. I am dedicated to forthrightness and complete compliance with all rules and regulations of the state of Ohio.

(Exhibit 4)

8. On July 16, 2002, the Respondent wrote to the Division indicating that he would need extra time to locate certified copies of the Judgment Entry. (Exhibit 5).

9. The Respondent submitted a copy of the Sex Offender Registration for Montgomery County, Ohio, dated August 7, 2001. (Exhibit 6). The Respondent also submitted a copy of the first page of a Motion for New Trial as well as the first page of a Voir Dire Proceedings which were conducted in the Tarrant County, Texas, 213<sup>th</sup> Judicial District Court on August 23, 1988, and June 13, 1988, respectively. (Exhibit 6).

10. On December 17, 2002, the Respondent, by letter, provided the Division with certified copies of the Judgment Entry from the Tarrant County, Texas, 213<sup>th</sup> Judicial District. (Exhibit 7). Those documents show that the Respondent was charged with aggravated sexual

assault of a child under fourteen years of age, that the incident arose on January 4, 1986, and that the Respondent was given 10 years of probation and no incarceration. (*Id.*).

11. The Respondent also provided a Loan Officer License Transfer Application seeking a transfer of his license, if granted, from Elite Mortgage Group to Colonial Mortgage Group. (Exhibit 8).

### CONCLUSIONS OF LAW

1. Ohio Revised Code Section 1322.041(A) provides that the Superintendent of the Division shall issue a Loan Officer License if the Superintendent finds that certain conditions are met including:

- (5) 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 Section 1322.01 to 1322.12 of the Revised Code.

2. Ohio Revised Code Section 1322.07 provides in relevant part:

No Mortgage broker, registrant, licensee or applicant for a certificate of registration or license under Sections 1322.01 to 1322.12 of the Revised Code shall do any of the following:

- (A) Obtain a certificate of registration or 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 misrepresentations in any registration or license application;
- (B) Make false or misleading statements of a material fact, omissions of statements required by state law, or false promises regarding a material fact, through advertising or other means, or engage in a continued course of misrepresentations;
- (C) Engage in conduct that constitutes improper, fraudulent or dishonest dealings[.]

....

3. The Division has the burden to show that the Respondent's character and fitness do 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 the Ohio Mortgage Broker Act as well as the burden of showing the violations of Section 1322.07(A), (B) and (C).

## DISCUSSION

1. The Respondent's date of birth as set forth on Exhibit 1 is April 26, 1968. The episode for which he was indicted occurred at a time when the Respondent, as of January 4, 1986, was seventeen years of age. (Exhibit 7). At the time of the hearing in this matter, the Respondent was thirty-five years of age. (Tr. 22).

2. The Respondent has been married for nine years. (Tr. 22). His wife attended the hearing. (Tr. 22). In 1993, the Respondent pled guilty to an incident that occurred in 1986 when he was seventeen years of age. (Tr. 23). At the time of the episode, the Respondent was a junior in high school. (Tr. 23). In Texas, where the offense occurred, he was prosecuted not as a juvenile but as an adult. (Tr. 23). At the time of the incident, the victim was thirteen years of age. She lived in the neighborhood near the Respondent's residence. (Tr. 24). The Respondent candidly admits that he had sexual intercourse with the victim. (Tr. 24). No child resulted from that act. (Tr. 25). Her mother found out about the relationship and reported it to the authorities. (Tr. 25).

3. The Respondent was convicted of the crime in 1988 but appealed the sentence. (Tr. 25). The Appellate Court overturned that original conviction due to ineffective assistance of counsel but a higher court reinstated the conviction. (Tr. 24-25). By 1993, when the case had been remanded to the trial court, the Respondent bargained for the probationary sentence. (Tr. 26). He was placed on ten years probation. (Tr. 26, Exhibit 7). Prior to that entry of a guilty plea in exchange for a sentence of probation, the Respondent had been incarcerated while the case was on appeal for four years. (Tr. 26).

4. At one point during his probationary status, the Respondent got into an altercation with a neighbor, some pushing and shoving ensued, the Respondent's wife was struck, and the authorities were summoned. (Tr. 27). The Respondent was charged with violating his probation, but was sentenced to time served and released on parole. (Tr. 28). He has now completed his parole.

5. In answering Question 5, the Respondent claimed to have relied on a telephone conversation with someone at the Division. (Tr. 29-31). The Respondent believed that Question 5 asked only about the specifically enumerated offenses. (Tr. 31).

6. The Respondent has made no secret of his prior single, isolated criminal involvement. (Tr. 32). Even when he applied for the position at Colonial Mortgage Group, he told them that he needed to tell them something at the outset of the application process. (Tr. 32).

7. While required under law, the Respondent has correctly registered annually as a Sexual Offender. (Tr. 34). It is that registration that gives rise to the report from the National Background Check. (Exhibit 2).

8. Prior to his incarceration, the Respondent worked as a insurance agent for Shannon Life Insurance Company. (Tr. 35). After his release he returned to Shannon Life. (Tr. 36). While in prison, he completed his GED, and, in fact, nearly completed an Associate's Degree. (Tr. 36). The Respondent has a Group One and Group Two license in the State of Texas to sell insurance. (Tr. 36-37). That license lapsed because of voluntary non-renewal but

was not suspended or revoked at any time. (Tr. 37). The Respondent has had no complaints lodged or filed against him, either in Ohio or in Texas. (Tr. 37). He has neither been sued nor sued anyone for professional matters. (Tr. 37). He has been bonded and insured for financial fidelity in order to work for Shannon Life Insurance. (Tr. 37-38). Respondent and his wife attend Hope Community Church in Centerville. (Tr. 38). They are involved in a group called Operation New Life where drug addicts, alcoholics and the homeless are given counseling and ministry. (Tr. 38). The Respondent was working as a loan officer on November 1, 2002, the date the Ohio Mortgage Broker Act became effective, and has continued to work since that time. (Tr. 42-43).

9. The Respondent first moved to Ohio in June, 2000, and that prompted his registration as a sexual offender in Montgomery County. (Tr. 47-48.)

10. Testifying in support of the Respondent was Daniel Davis. (Tr. 54, *et seq.*). He is an account executive for a lender. (Tr. 54). He has been working in that capacity for nine years and works with mortgage loan officers on a daily basis. (Tr. 55). He has known the Respondent for four years, has worked on between sixty and seventy loans with the Respondent. (Tr. 56). Mr. Davis found the Respondent to have a good reputation for honesty and integrity. Mr. Davis has also gone sailing on several occasions with the Respondent and together they have joined their respective spouses for socializing. (Tr. 59-60). Mr. Davis knows of the Respondent's criminal history and found the Respondent to have been remorseful and ashamed of what had happened. (Tr. 60). Mr. Davis believes that the Respondent is a real asset to the lending industry and that, should a license not be granted, that the industry would have lost a good person. (Tr. 60). Mr. Davis accredited the Respondent's criminal conviction to "something stupid that a kid did". (Tr. 63).

11. The Respondent submitted certified records from Montgomery County, Ohio, showing the Respondent's registration as a Sexual Offender annually from the year 2000 to the year 2003. (Respondent's Exhibit A).

12. The Respondent submitted a letter from Sarah Boettner, of the Ohio Department of Rehabilitation and Correction, Adult Parole Authority, indicating that during his supervision, the Respondent had no arrests or adverse contact with law enforcement and that he successfully completed the required Sex Offender Treatment Program in December, 2000. (Respondent's Exhibit B).

13. Dr. Jim Lemons, Pastor of the River Oaks Baptist Church in Forth Worth, Texas, sent an email affirming his "highest regard" for the Respondent. Dr. Lemons was pastor of the Respondent's church and a personal friend during the 1990's. (Respondent's Exhibit C).

14. Respondent submitted a letter from Reverend Rick Leonard from Victory Family Church, Assembly of God, which is located in Burleson, Texas. Rev. Leonard spoke highly of the Respondent with full knowledge of the Respondent's criminal background. Rev. Leonard has entrusted the Respondent to be alone with Rev. Leonard's children. Rev. Leonard knows the Respondent's wife and finds her to be a "wonderful, faithful woman". (Respondent's Exhibit D).

15. Finally, the Respondent submitted a letter from Mark E. Windle, President, and John D. Simpson, Secretary, of Colonial Mortgage Group, praising the Respondent and acknowledging his advanced knowledge in the mortgage loan origination industry and praising his conduct with the public. (Respondent's Exhibit E).

16. The Respondent's sole, isolated contact with the criminal justice system occurred when he was a minor, age seventeen. According to the Respondent, he had a single incident of sexual intercourse with an acquaintance. No force was used. Based on the record before him, the Hearing Officer believes that this episode occurred in a setting where teenagers were exploring their emerging sexuality and adulthood. The episode did not occur in connection with any crime of violence. Undoubtedly, the Respondent was given a lengthy punishment; all of which he has served. In addition, the Respondent will carry the responsibility of registering as a sex offender for at least another decade. He has made all of the required registrations to date and appears likely to make those registrations in the future.

17. Since the conviction in this matter, the Respondent has matured into adulthood, married and has been advancing his education and career. The Hearing Officer has had an opportunity to observe the Respondent, his behavior and the formulation of his answers. The Hearing Officer is impressed with the maturity of the Respondent, his candid admission of the mistakes he made in his youth as well as his desire to start his life anew.

18. The incident which gave rise to the criminal conviction occurred nearly eighteen years ago. The Respondent was seventeen at the time of the episode and eighteen years have elapsed since the episode. The Respondent has presented into the record, his own testimony, as well as that of a professional and social colleague which demonstrates that the Respondent'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 the Ohio Mortgage Broker Act. Supplementing this evidence are similar materials provided in writing. (See Respondent's Exhibits A through E). The conviction is for activity that is wholly unrelated to the financial services industry.

19. The Hearing Officer is concerned that Question 5 of the Application was not answered correctly. However, here, that failure to answer appears to be wholly based on the inability of the Respondent to understand Question 5. There is no evidence supporting a finding that the Respondent answered Question 5 with a view to being dishonest or in an attempt to hide his criminal conviction. Indeed, his annual registration as a sexual offender in Montgomery County would overwhelmingly outweigh any suggestion that he was attempting to hide a criminal past. Further, based on the personal observations of the Hearing Officer and listening to the testimony of the Respondent, the Hearing Officer is convinced that the Respondent was not attempting to deceive the Division. In this instance, the Hearing Officer, on a sound foundation, can find that the incorrect answer to Question 5 was based on mistake and not on deceit.

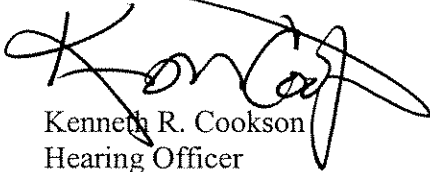
20. Accordingly, the Hearing Officer determines that the Respondent has met his responsibilities here and that the Respondent's character and general fitness command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act. The failure to answer

Question 5 correctly is deemed by the Hearing Officer to have been based on inadvertence and mistake.

RECOMMENDATION

Based on the findings of fact, conclusions of law, and discussion set forth herein, it is the recommendation of the Hearing Officer that the Superintendent of the Division grant a Loan Officer License to the Respondent.

~~Respectfully submitted,~~

A handwritten signature in black ink, appearing to read 'Ken Cookson', written over the word 'Respectfully'.

Kenneth R. Cookson  
Hearing Officer  
June 16, 2004