

**STATE OF OHIO  
DEPARTMENT OF COMMERCE**

DIVISION OF FINANCIAL  
INSTITUTIONS

06 OCT -5 AM 8:10

<b>IN THE MATTER OF:</b>	:	
	:	<b>DIVISION OF FINANCIAL</b>
	:	<b>INSTITUTIONS</b>
<b>LARRY G. RUBENACKER, JR.</b>	:	
	:	<b>CASE NO. 06-0046-LOD</b>
	:	
	:	<b>LANDI JACKSON-FORBES</b>
	:	<b>HEARING OFFICER</b>

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**REPORT AND RECOMMENDATION**

**Issued October 4, 2006**

**I. FINDINGS OF FACT**

After having heard the testimony, considered the evidence, observed the demeanor of the witnesses, and weighed their credibility, the hearing officer finds the following to be fact:

**A. Jurisdiction and Procedural History**

This matter came before Landi Jackson-Forbes, an attorney licensed to practice law in Ohio, and duly appointed by the Ohio Division of Financial Institutions (hereinafter the "Division") to serve as Hearing Officer for an adjudicative hearing in accordance with the Administrative Procedures Act, Chapter 119, Ohio Revised Code (hereinafter "O.R.C.").

The hearing was scheduled by the Division at the request of Respondent Larry G. Rubenacker, Jr., of Cincinnati, Ohio (hereinafter the "Respondent") to consider the Division's Notice of Intent to Deny Loan Officer License Application, Notice of Opportunity for a Hearing (hereinafter "NOH") that was issued to Respondent on February 24, 2006. The Division issued the NOH based upon an allegation that Respondent had failed to disclose his criminal background and does not show the character and general fitness to command the confidence of the public and warrant the belief that the business will be operated honestly and fairly in compliance with the law.

Said hearing was held at 1:30 p.m. on June 13, 2006, at 77 South High Street, 23<sup>rd</sup> Floor, West Conference Room, Columbus, Ohio. The Division appeared and was represented by the Ohio Attorney General's Office, Assistant Attorney General Theodore L. Klecker. Neither Respondent nor any representative appeared or submitted a written statement, even though the start of the hearing was delayed until 2:03 p.m.

At the hearing, State's Exhibits A through H were admitted into the record. One witness appeared for the Division.

**B. Loan Officer License Application**

1. The Division is the state agency responsible for the licensing and regulation of Mortgage Loan Officers pursuant to O.R.C. Chapter 1322.
2. Respondent is an individual who has conducted, and wishes to continue to conduct, business in Ohio as a Mortgage Loan Officer (hereinafter "Loan Officer.") (Exhibit D.)
3. The Division issued the NOH against Respondent on February 24, 2006. Service was perfected on March 11, 2006. (Exhibit A.)
4. Respondent requested a hearing, received by the Division on March 14, 2006. (Exhibit B.)
5. On March 17, 2006, the Division scheduled the hearing for March 24, 2006. (Exhibit C.)
6. The Division continued the original date of the hearing to April 25, 2006, on its own motion. (Exhibit C.)
7. On April 21, 2006, the hearing was continued to June 13, 2006, at the request of Respondent, at which time the hearing went forward without any further communication from Respondent or anyone representing Respondent.
8. On or about April 13, 2004, the Division received from Respondent a Loan Officer Application (hereinafter the "Application"), signed and attested to by Respondent on April 8, 2004. (Exhibit D.)
9. On Question 5 of the Application, which asks if the applicant has been convicted of any criminal offense, Respondent responded "No.". (Exhibit D.)
10. In response to a letter sent to Respondent by the Division, Respondent provided information regarding three convictions. (Exhibit E; Tr. p. 22.)
11. On, or about, October 8, 2002, in Clermont County Municipal Court, Respondent was found guilty of persistent disorderly conduct. (Exhibit G.)

12. On, or about, October 8, 2002, in Clermont County Municipal Court, Respondent was found guilty of driving under the influence. (Exhibit H.)
13. On, or about, February 23, 2004, in Clermont County Municipal Court, Respondent was found guilty of operating a motor vehicle without an operator's license. (Exhibit F.)
14. Respondent did not appear or otherwise offer any evidence relating to his honesty, truthfulness, good reputation or that his 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.

## **II. CONCLUSIONS OF LAW**

### **A. Jurisdiction**

1. The Division procedurally complied with O.R.C. Chapter 119.

### **B. License Application**

2. Respondent was shown to have attested to a false statement on his Application.
3. Respondent cannot be found to have the character and general fitness to 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 sections 1322.01 to 1322.12, O.R.C. Section 1322.041(A)(5), O.R.C.
4. Respondent did not offer any proof of his honesty, truthfulness, good reputation, character or fitness.
5. The Division also charged violations of the Ohio Mortgage Broker Act sections 1322.07(A) (making any substantial misrepresentation in any registration or license application), (B) (making false or misleading statements of a material fact or omissions of statement required by state law) and (C) (engaging in conduct that constitutes improper, fraudulent, or dishonest dealings) all resulting from Respondent answering Question 5, on the Application "No."

6. Respondent's failure to disclose his convictions on the Application does not automatically demonstrate that he intended to make a misrepresentation, false statement or engage in fraudulent or dishonest conduct. However, as Respondent did not offer any alternative explanation, and as Respondent is presumed to know that he had the criminal convictions on his record prior to submission of the Application, it is reasonable to conclude that Respondent committed a deliberate act in failing to disclose the criminal convictions and, therefore, Respondent is found to have made a misrepresentation, false statement or engage in fraudulent or dishonest conduct.

### III. RECOMMENDATION

The Division has proven that Respondent submitted a false sworn statement in an attempt to obtain his loan officer's license, in violation of section 1322.041(A)(5), O.R.C. and section 1322.07(C), O.R.C. As Respondent did not appear, did not submit any written statements and, in fact, did not present any evidence at all, there must be a finding for the Division in this case. The recommendation to the Superintendent of Financial Institutions is to deny a mortgage loan officer's license to Larry G. Rubenacker, Jr..

Respectfully submitted,

Landi Jackson-Forbes  
Hearing Officer  
October 4, 2006  
Docket No. 06-DFI-070