

STATE OF OHIO
DEPARTMENT OF COMMERCE
DIVISION OF FINANCIAL INSTITUTIONS

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INSTITUTIONS

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IN RE: : CASE #: M2006-9992791
: :
CHARLES B. STUCHELL : HEARING OFFICER
: MARK J. BALLENGER, ESQ.
Denial of Loan Officer :
License) :

ADMINISTRATIVE HEARING OFFICER'S REPORT
Issued August 15, 2006

BACKGROUND

On or about June 1, 2006, the Ohio Division of Financial Institutions ("the State") served Charles B. Stuchell ("the Applicant") with notice that it intended to deny him a loan officer license. On June 7, 2006, he requested a hearing about the matter. In turn, his request was honored.

This case was heard on July 6, 2006, beginning at 1:08 p.m. at 77 S. High Street, Columbus, Ohio, Rm. 1908. A stenographic record was made of the proceeding.

The Applicant attended the hearing and acted *pro se*. Assistant Attorney General Ted Klecker presented the case on behalf of the State.

This report is hereby filed with the Superintendent of the Division of Financial Institutions and the Applicant.

INDEX OF EXHIBITS ADMITTED TO RECORD

<u>Exhibit #/Document I.D.</u>	<u>Description of Exhibit</u>
1. State's Exh. A	Jurisdictional Exhibits: Loan Officer License Application Denial with notices of the reason for denial and opportunity for hearing and certified mail receipt signed by the Applicant
2. State's Exh. B	Copy of the Hearing Request Form
3. State's Exh. C	Copy of the Notice of Hearing
4. State's Exh. D	Copy of the Loan Officer Application (the "Application")
5. State's Exh. E	Copy of a letter from the Applicant about his criminal background – provided subsequent to the submission of the Application

TESTIMONY GIVEN BY

- The Applicant

FINDINGS OF FACT

1. The State advised the Applicant of the reasons for its intent to deny him a loan officer license. (See the attached two pages, marked "Copy.")
2. In the Application, submitted to the State on July 26, 2005, the Applicant, in answering a question in a list of questions, checked the "no" box thereby indicating that he had not ever been convicted of any criminal offense, including one for passing a bad check. (Exh. #4, Question #5 and Tr. pp. 23-24.) The Applicant's signature of July 21, 2005, appears in the "Attestation" section at the end of the Application, where directly above his signature, it states: "Being first duly cautioned, I hereby swear or affirm that I have completed the foregoing Loan Officer Application fully and frankly," and "[t]he answers are complete and true of my own knowledge." (Exh. #4 and Tr.¹ pp. 18-20.)
3. The evidence presented at hearing showed the Application contained false information; despite what the Applicant attested to in the Application, he was convicted of a first degree misdemeanor of passing a bad check, after pleading no contest, in Columbiana County, Ohio, Northwest Area County Court, in the year 2001. (Exh. #5 and Tr. pp. 21-24 and 27-29.) This plea was made despite his contention that it was his then estranged wife who passed the check; he has contended she did this without his knowledge. (Exh. #5.) He also has contended that he forgot about the conviction when completing the Application. (Tr. pp. 23.)
4. The Applicant brought no witnesses to testify on his behalf. Additionally, he has asserted he should not have been required to disclose a non-felony criminal offense to an employer in completing the loan officer application. (Tr. pp. 20-22, 24-25, and 33.)

CONCLUSIONS OF LAW

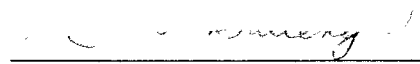
The Applicant was convicted of a criminal offense of passing a bad check and he has not, as required by R.C. 1322.041(A)(3), as it incorporates R.C. 1322.031(A)(2) – as a condition of licensure – proven by a preponderance of the evidence that his activities and employment record since the conviction show he is honest, truthful, and of good reputation, and that he will not commit such an offense again. (Findings of Fact #2, #3, and #4.) Instead, his attestation to, and submission of a false application, show he lacks the character to command the confidence of the public and warrant the belief that he would operate a loan officer business honestly – another requirement for licensure under R.C. 1322.041(A)(5). (Ibid.)

Additionally, by his false attestation and submission, the Applicant has arguably violated: R.C. 1322.07(A) (prohibition against making any substantial misrepresentation in a license application); R.C. 1322.07(B) (prohibition against making a false or misleading statement of a material fact), and R.C. 1322.07(C) (prohibition against engaging in conduct that constitutes improper, fraudulent, or dishonest dealings).

RECOMMENDATION OF ACTION

Therefore it is recommended that the Superintendent of the Division of Financial Institutions deny the Applicant's request for the issuance of a loan officer license.

Respectfully submitted,



Mark J. Ballenger
Administrative Hearing Officer

¹ "Tr." refers to the transcript of the subject hearing.