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**STATE OF OHIO  
DEPARTMENT OF COMMERCE**

IN THE MATTER OF:

**MARRION L. OWENS**

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DIVISION OF FINANCIAL  
INSTITUTIONS

CASE NO. 06-0045-LOD

**LANDI JACKSON-FORBES  
HEARING OFFICER**

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**REPORT AND RECOMMENDATION**

**Issued October 5, 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 "Revised Code").

The hearing was scheduled by the Division at the request of Respondent Marrion L. Owens, of Fairfield, 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 22, 2006. The Division issued the NOH based upon an allegation that Respondent was found guilty of two theft-related crimes and, also, that she submitted false information on the license application 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 and is thereby ineligible to hold a license as a mortgage loan officer.

The hearing was held at 2:00 p.m. on May 3, 2006, at 77 South High Street, room 1936, 19<sup>th</sup> floor, Columbus, Ohio. The Division appeared and was represented by the Ohio Attorney General's Office, Assistant Attorney General James M. Evans. Neither Respondent nor any representative appeared, even though the start of the hearing was delayed until 2:25 p.m.

At the hearing, State's Exhibits 1 through 9 were admitted into the record. Division's Exhibit 10 was proffered 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 Revised Code 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 1.)
3. The Division issued the NOH against Respondent on February 22, 2006. Service was perfected on February 24, 2006. (Exhibit 3.)
4. Respondent requested a hearing, received by the Division on March 8, 2006. (Exhibit 4.)
5. On March 9, 2006, the Division scheduled the hearing for March 20, 2006. (Exhibit 5.)
6. The Division continued the original date of the hearing to May 3, 2006, on its own motion, at which time the hearing went forward without any further communication from Respondent or anyone representing Respondent. (Exhibit 5.)
7. On or about May 3, 2005, the Division received from Respondent a Loan Officer Application (hereinafter the "Application"), signed and attested to by Respondent on April 12, 2005. (Exhibit 1.)
8. On Question 5 of the Application, which asks if the applicant has ever been convicted of any criminal offense, Respondent responded "Yes.". (Exhibit 1.)

9. In response to Question 5, Respondent provided information regarding the theft and passing bad checks convictions. (Exhibit 1; Testimony.)
10. In response to a letter sent to Respondent by the Division, Respondent provided information regarding the theft conviction. (Exhibit 2; Testimony.)
11. On, or about, November 6, 1991, in Hamilton County Municipal Court, Respondent was found guilty of theft. (Exhibits 1, 7.)
12. On, or about, May 18, 1991, in the City of Sharonville Mayor's Court, Respondent was found guilty of passing bad checks. (Exhibit 2.)
13. On or about September 10, 2002, the Division received from Respondent a Loan Officer Application (hereinafter the "2002 Application"), signed and attested to by Respondent on September 9, 2002. (Exhibit 6.)
14. Respondent submitted multiple copies of two letters explaining the events leading to two of her arrests, one of which dealt with the eventual theft conviction. These letters have been treated by this hearing officer as "written statements" submitted pursuant to Revised Code Chapter 119, even though the letters were submitted as part of the application process. It is noted that one letter speaks to one arrest which resulted in a dismissal, and the letter dealing with the theft conviction has been treated as a statement against interest. (Exhibits 1, 2.)
15. Respondent did not appear or otherwise offer any evidence relating to her honesty, truthfulness, good reputation or that her 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 or that Respondent's activities and employment record since the conviction show that Respondent is honest, truthful, and of good reputation, and there is no basis in fact for believing that Respondent will commit such an offense again.

## **II. CONCLUSIONS OF LAW**

### **A. Jurisdiction**

1. The Division procedurally complied with Revised Code Chapter 119.

### **B. License Application**

2. The Division has proven that in 1991 Respondent was convicted of a theft offense and a passing bad checks offense.
3. Revised Code §1322.041(A)(3) states, *inter alia*, that, if Respondent has been convicted of any criminal offense involving certain named offenses, including theft and passing bad checks, Respondent must prove by a preponderance of the evidence that Respondent's activities and employment record since the conviction show that Respondent is honest, truthful, and of good reputation, and there is no basis in fact for believing that Respondent will commit such an offense again.
4. The Division also charged that Respondent's 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. Revised Code §1322.041(A)(5).
5. Respondent did not offer any proof that Respondent's activities and employment record since the conviction show that Respondent is honest, truthful, and of good reputation, or to prove there is no basis in fact for believing that Respondent will commit such an offense again or that 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.
6. The Division also charged violations of the Ohio Mortgage Broker Act §§ 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."
7. Insufficient foundation was laid for the 2002 Application to be used within this proceeding. In addition, because the 2002 Application was withdrawn, the application is a nullity.

8. Respondent disclosed that she had criminal convictions in the current Application and, therefore, has not violated any paragraph of Revised Code §1322.07.

### **III. RECOMMENDATION**

The Division has proven that Respondent is guilty of two theft offenses. As Respondent did not appear 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 Marrion L. Owens

Respectfully submitted,

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✓ *[Signature]*  
Landi Jackson-Forbes  
Hearing Officer  
October 5, 2006  
Docket No. 06-DFI-063