

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

In the matter of:	)	Case No. 03-LO-D-05-06
	)	
<b>AARON JACKSON, JR.</b>	)	<b><u>DIVISION ORDER</u></b>
18100 Libby Road	)	<b>Denial of loan officer license application</b>
Maple Heights, OH 44137	)	<b>&amp;</b>
	)	<b>Notice of Appellate Rights</b>

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Respondent, Aaron Jackson, Jr., submitted a loan officer license application to the Division of Financial Institutions ("Division") on November 1, 2002. On April 30, 2003, the Division notified Jackson that it intended to deny his loan officer license application because: (1) he had been convicted of receiving stolen property, 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 that type of crime again; (2) he had been convicted of possession of marijuana; (3) he violated R.C. § 1322.07(A) by failing to disclose his criminal convictions on his loan officer license application; (3) he violated R.C. § 1322.07(B) by making a false statement of a material fact or by omitting a statement required on the licensing application; and (4) because Jackson's character and general fitness did not command the confidence of the public and warrant the belief that his 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.

Jackson requested a hearing and an administrative hearing was held on July 24, 2003. A Report and Recommendation was filed with the Division on September 10, 2003, recommending that the Division approve Jackson's application and grant him a loan officer license. No objections were filed.

In accordance with R.C. §119.09, the Division has considered the Report and Recommendation, applicable laws, the transcript of testimony and the exhibits. As a result, the Division modifies and/or disapproves the findings and/or conclusions listed below. Any finding and/or conclusion not specifically addressed below is approved, adopted, and incorporated herein. (The Hearing Examiner's Report and Recommendation is attached hereto as Exhibit A.)

- The Division disapproves paragraph 12 on page 6 of the Report and Recommendation ("R&R"). Jackson's receiving stolen property conviction was

not a fourth degree misdemeanor, it was a felony. A conviction for receiving stolen property cannot be described as *de minimus*. *De minimis* means “about petty details.”<sup>1</sup> It is derived from the Latin legal phrase *de minimus no curat lex*, which means “the law does not concern itself with petty matters.”<sup>2</sup>

The Ohio General Assembly has declared that “any criminal offense involving theft, *receiving stolen property*, embezzlement, forgery, fraud, passing bad checks, money laundering, \*\*\* drug trafficking, or any criminal offense involving money or securities” is significant and will have a bearing on the licensing of mortgage loan officers, regardless of whether the offense constituted a misdemeanor or felony, and regardless of the age of the conviction. (Emphasis added.) R.C. 1322.031(A)(2) and 1322.041(A)(3).

Furthermore, the Division rejects the conclusion that Jackson’s 1976 and 1982 convictions were a result of youthful exuberance. Jackson was 23 years of age when he was convicted of marijuana possession, and when he was convicted of receiving stolen property he was 29 years old.

- The Division disapproves of the last sentence of paragraph 13 on page 6 which reads: “No applicant should expect to be able to answer Question 5 untruthfully in the hope that the Division simply does not find a prior criminal conviction.” The Division modifies the sentence by striking everything after “untruthfully,” so that the final sentence reads: “No applicant should expect to be able to answer Question 5 untruthfully.” Regardless of one’s reason for answering a question untruthfully, an untruthful answer on a licensing application is unacceptable.

- The Division disapproves paragraphs 14 and 15 on page 6 of the R&R. Jackson violated R.C. § 1322.07(A) and (B) by failing to disclose his convictions on his licensing application. Question number 5 on the loan officer license application asked whether Jackson had “ever been convicted of or pleaded guilty

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<sup>1</sup> *The Oxford Essential Dictionary of Foreign Terms in English*. Ed. Jennifer Speake. Berkley Books, 1999. *Oxford Reference Online*. Oxford University Press. Ohio State University. 9 February 2004 <<http://proxy.lib.ohio-state.edu:2154/views/ENTRY.html?subview=Main&entry=t33.e1820>>

<sup>2</sup> *Id.*

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?” Jackson answered “NO,” and then attested that he had “completed the \*\*\* [a]pplication fully and frankly[,]” and that his “answers [were] complete and true[.]”

R.C. § 1322.07(A) forbids any license applicant from “[o]btain[ing] a \*\*\* license through any false or fraudulent representation of a material fact or any omission of a material fact required by state law, or [from] mak[ing] any substantial misrepresentation in any \*\*\* license application[.]” R.C. § 1322.07(B) prohibits a license applicant from “[m]aking false or misleading statements of a material fact, [or] omission of statements required by state law[.]”

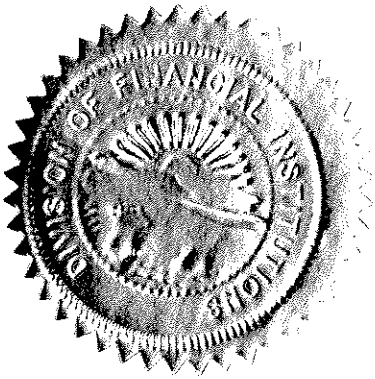
Jackson testified that he did not disclose his convictions on the application submitted to the Division. (See Transcript page 19.) The hearing officer found that Jackson had not disclosed his conviction on his licensing application. (See R&R paragraph 3 on page 2; paragraph 2 on page 5; and paragraph 13 on page 6.) Accordingly, the evidence demonstrates that Jackson violated R.C. §§ 1322.07(A) and (B).

- Based upon all the reasons stated above, the Division finds that Jackson’s character and general fitness does not command the confidence of the public and warrant the belief that his business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act. The Division disapproves the recommendation of the hearing officer to approve Jackson’s application and to grant him a loan officer license.


Jackson’s loan officer license application is hereby denied.

### **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 must, 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.

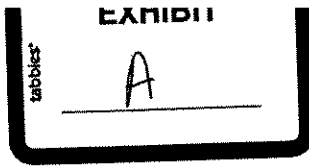


Signed and sealed this 16<sup>th</sup> day of June 2004.

  
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**ROBERT M. GRIESER**

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

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

CHALLENGE FINANCIAL INVESTMENTS  
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In re: Aaron Jackson, Jr.

: Case No. 03-LO-D-05-06

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

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

1. In or around 1976, Mr. Jackson was convicted of possession of marijuana, a misdemeanor, in the Cleveland Municipal Court;
2. In 1982, Mr. Jackson was convicted of receiving stolen property, a felony of the 4th degree, in the Cuyahoga County Court of Common Pleas; and,
3. Mr. Jackson violated Ohio Revised Code Sections 1322.07(A) and 1322.07(B) by failing to disclose the criminal offense, in the loan officer license application.

As a result, the Division determined:

- i. that he has not proven that he is honest, truthful and of good reputation and that there is no basis in fact to believe he will not commit such an offense again as set forth in Ohio Revised Code 1322.041(A)(2) and (3); and
- ii. that Mr. Jackson's character and general fitness do not command the confidence of the public to 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 Section 1322.041(A)(5).

Mr. Jackson's address for service is 18100 Libby Road, Maple Heights, Ohio 44137. He is hereinafter referred to as the "Respondent". The Respondent was employed by Money Management Financial Services, Inc. at the time of the submission of his application. (Exhibit 5). He is now employed by Challenge Financial Investments. (Tr. 33).

This matter was initiated by the Superintendent of the Division by the issuance on April 30, 2003 of a Notice of Intent to Deny Loan Officer License & Notice of Opportunity for a Hearing together with a covering letter. (Exhibit 5).

In correspondence received by the Division on June 2, 2003, Respondent requested a hearing. (Exhibit 6).

On June 4, 2003, the Division wrote to the Respondent acknowledging receipt of the request for a hearing and scheduling the hearing for Tuesday, June 13, 2003 at 9:00 a.m. Simultaneously, the Division continued the hearing and rescheduled it for Thursday, July 24, 2003 at 1:30 p.m. in Room 1918 of the Vern Riffe Center, 77 South High Street, Columbus, Ohio. (Exhibit 7).

The hearing was held beginning at 1:45 p.m. on July 24, 2003 and was attended by the Respondent, pro se and Daniel P. Jones, Assistant Attorney General of the Executive Agencies Section of the Attorney General's Office of Ohio.

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 October 22, 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?

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

4. On July 10, 2002, the Division wrote to the Respondent to indicate that his background check showed an April 1, 1976 arrest for possession of marijuana, a February 20, 1982 arrest by the North Randall Police Department for possession of a stolen credit card and uttering and an April 9, 1982 charge in Cuyahoga County for receiving stolen property. (Exhibit 3)..

5. On March 5, 2003, the Respondent submitted a letter in which he wrote:

1. mar 05 2003

In regards to my possession charge dated April 1, 1976, I was caught with a small amount of marijuana, which was a

misdemeanor. I plead no contest to this charge. I was given probation, which I served without incident.

Regarding the charges on February 20, 1982 and April 5, 1982, which were one case, I was a passenger with a family friend in route to Randall Park Mall. We entered the store and my friend used a credit card, which did not belong to him and offered to make some purchases for me, which I did accept. Upon my poor decision, I was charged with receiving stolen property and possession of a stolen credit card. I, at no time, tried to disguise my involvement and therefore received probation. I was instructed to pay court costs and to gain employment, which I did comply. My youth and poor decision-making placed me in those unfortunate circumstances. Since then I have been gainfully employed in various positions of authority. My commitment to my family motivated me to pursue professions that would further educate and advance. I served as a Supervisor of telemarketing unit and also served as a Director of Admissions of a technical/vocational school. I have just completed a continuing education class, in hopes to secure a license to originate loans.

Thank you for this opportunity to explain my past misfortunes and I look forward to hearing from you.

Exhibit 4.

The letter was supported by the journal entry for the receiving stolen property conviction and by a statement from the Cleveland Municipal Court Clerk indicating that the marijuana conviction records were unavailable. (Id)

### **CONCLUSIONS OF LAW**

1. Ohio Revised Code Section 1322.031(A)(2) requires that in an application for a license as a loan officer, an applicant must submit a statement as to whether the applicant has been convicted of or pleaded guilty to any criminal offense involving theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks, money laundering, or drug trafficking or any criminal offense involving money or securities.

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

- (3) The applicant has not been convicted or pleaded guilty to any criminal offense described in division (A)(2) of section 1322.031 of the Revised Code, or, if the applicant has been convicted of or pleaded

guilty to such offense, the applicant has proven to the superintendent, by a preponderance of the evidence, that the applicant's activities and employment records since the conviction show that the applicant is honest, truthful and of good reputation, and there is no basis in fact for believing that the applicant will commit such an offense again.

...

- (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 sections 1322.01 to 1322.12 of the Revised Code.

3. Ohio Revised Code Section 1322.07(A) and (B) provide:

No mortgage broker, registrant, licensee, or applicant for a certificate of registration or license under Sections 1322.01 to 1322.07 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 misrepresentation in any registration or license application;
- (B) Make any false or misleading statements of a material fact, omissions or 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;

...

### **DISCUSSION**

1. Because of the Respondent's conviction in 1982 for receiving stolen property, the burden of proof shifted to the Respondent to show by a preponderance of the evidence that he is honest, truthful and of good reputation and there is no basis to believe he will commit such an offense again. The Respondent must also show his character and fitness command the confidence of the public to warrant the belief that the business will be operated honestly and fairly in compliance with the purpose of the Ohio Mortgage Broker Act.



2. The Respondent answered Question 5 of the Application incorrectly.
3. Admitted into evidence was a copy of the background arrest and conviction information on the Respondent. (Exhibit 2). This exhibit confirmed the two convictions.
4. The Respondent's last involvement with the criminal justice system appears to have occurred in 1982, twenty-one years ago. There is not evidence to suggest that any further involvement has taken place.
5. The Respondent acknowledges that the answer to Question 5 was a mistake. (Tr. 14). In fact, he states that the Application submitted by him was in fact a rough draft. (Tr.15).
6. For ten years the Respondent worked for the Veterans Administration as a Fiduciary Accounts Technician. (Tr. 16). In that position, he handled significant amounts of money and disbursed money on a daily basis. (Tr. 16, 25). His job included recording and taking custody of all patient valuables when patients were admitted to the Veterans Administration Hospital. (Tr. 25). In addition, the Respondent was also Director of Admissions of PSI Institute, a proprietary school that trained individuals for computer operations, computer programming and computer electronics. (Tr. 27). He held that job for ten years. (Id). He was directly in charge of eight admissions officers as well as telemarketing units. (Tr. 28).
7. He also serves a deacon of his church. (Tr. 29). No one in his church has questioned his honesty or integrity. (Id).
8. The Respondent completed his G.E.D. while he was in the Army and thereafter attended classes at Cuyahoga Community College. (Tr. 33).
9. The Respondent was forty-nine years of age at the time of the Hearing in this matter. (Tr. 21). At the time of his marijuana conviction, he was twenty-one. The amount of marijuana with which he was found was approximately two joints. (Tr. 22). With regard to the conviction of receiving stolen property, the Respondent received a sweater valued at \$40.00 purchased by a friend with a stolen credit card. (Tr. 22-34). At that time he was twenty-three years of age. (Tr. 24).
10. The Respondent's wife, Gloria Jackson, testified in support of her husband. They have three children together. (Tr. 38). She wholeheartedly supports her husband and indicated forcefully that while he may have had some rocky points in his earlier life, he has got his life together now. (Tr. 38). Mrs. Jackson has been with her husband for more than twenty-five years. (Id). The Respondent is a kidney patient and there are many days when he is ill. (Tr. 38).
11. The Respondent submitted correspondence from Rob McCoy, the owner of Money Management Financial, in support of Respondent's Application. Respondent's Exhibit A. Mr. McCoy wrote to attest the character, integrity and dedication the Respondent has shown. (Id). Respondent also submitted the written correspondence of

Jerome Castleberry, President of Challenge Financial Investments. He described the Respondent as an outstanding employee and as a businessman of character, poise and integrity. Respondent's Exhibit B. Finally, the Respondent submitted the written correspondence of Bishop John Harge of the Christian Church of Deliverance, Inc. Bishop Harge indicated that the Respondent has held the position of Financial Deacon for five years in that Church. Respondent's Exhibit C.

12. The Hearing Officer is presented with an undisputed set of facts. The Respondent has misdemeanor criminal conviction in his distant past for possession of marijuana and a 4th degree misdemeanor for receiving stolen property. Both convictions are for minor or *de minimis* matters. Both convictions occurred at least twenty-one years prior to the hearing in this matter. Neither conviction appears to have any even indirect relationship to the Respondent position in the financial services industry and both convictions seem to be long-distant examples of youthful exuberance. The Respondent's military service, service to the Veterans Administration, employment position in the proprietary computer school, service to his religious organization as a financial officer coupled with the supportive testimony and correspondence provided in the Record, the Hearing Officer concludes that the convictions are *de minimis* or nearly *de minimis* in nature and are so far in the distant past as to not serve as a nexus between the Respondent's license application and the language, spirit and intent of the Ohio Mortgage Broker Act.

13. However, the Respondent's failure to answer Question 5 of the Application (Exhibit 1) accurately is troubling. Criminal convictions are material facts. The failure to disclose a criminal conviction is a violation of Ohio Revised Code Section 1322.07(A). An omission of a criminal conviction is the making of a false or misleading statement of a material fact and a violation of Ohio Revised Code Section 1322.07(B). The Division has the right to expect each applicant will answer Question 5, as well as all other questions, fully, truthfully and accurately. No applicant should expect to be able to answer Question 5 untruthfully in the hope that the Division simply does not find a prior criminal conviction.

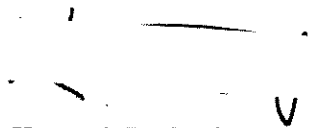
14. In this isolated instance, the Hearing Officer believes that the failure to answer Question 5 correctly was an oversight on the part of the Respondent and that moreover, the sincere and forceful presentation by the Respondent at the Hearing overcame the failure to have answered Question 5 accurately.

15. The Hearing Officer concludes that the Respondent has sustained his burden of proof by showing by a preponderance of the evidence that he is honest, truthful and of good reputation and that there is no basis to believe he will commit such an offense again. Further, the Respondent has shown that his character and fitness command the confidence of the public to warrant the belief that the business will be operated honestly and fairly in compliance with the purposes of the Ohio Mortgage Broker Act.

### RECOMMENDATION

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

Respectfully submitted,

  
Kenneth R. Cookson  
Hearing Officer  
September 9, 2003

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