

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

In the matter of:)	Case No. 04-0224-LOD
)	
RUSSELL R. MONCHEIN)	<u>DIVISION ORDER</u>
26171 Shoreview)	
Euclid, Ohio 44132)	Denial of Loan Officer License Application
)	

DIVISION ORDER

On September 15, 2003, Russell R. Monchein ("Respondent") submitted a loan officer license application to the Division of Financial Institutions ("Division"). On January 23, 2004, the Division issued Respondent a notice of the Division's intent to deny Respondent's application, and notified Respondent of his right to a hearing on the matter. Respondent requested a hearing, and pursuant thereto, an administrative hearing was held in accordance with Ohio Revised Code Chapter 119 on May 10, 2004.

The hearing officer filed her written report and recommendation with the Division on September 1, 2004, recommending that the Division deny Respondent's application. A copy of the report and recommendation and a letter explaining Respondent's right to submit written objections to the report was served on Respondent. Respondent did not file objections.

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 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 5 on page 4 of the Report and Recommendation.

Paragraph 5 on page 4 reads:

"Because the Respondent answered "yes" to Question 5 of the Application, the burden of proof shifted to the Respondent to show by a preponderance of the evidence 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 purpose of the Mortgage Broker Act."

Answering "yes" to Question 5 does not shift any burden of proof to the Respondent. The Division must prove that the Respondent's "character and general 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 sections 1322.01 to 1322.12 of the Revised Code." See Revised Code Section 1322.041(A)(5)

The Division hereby denies the Loan Officer License Application of Respondent, Russell R. Monchein.

NOTICE OF RIGHT TO APPEAL

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 7th day of November 2005.

ROBERT M. GRIESER

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