

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

In the matter of:	)	Case No. 04-0253-LOD
	)	
<b>KEVIN D. BARCOMB</b>	)	<b><u>DIVISION ORDER</u></b>
15032 Boston Road	)	<b>Denial of loan officer license application</b>
Strongsville, Ohio 44136	)	&
	)	<b>Notice of Appellate Rights</b>

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Respondent, Kevin D. Barcomb, submitted a loan officer license application to the Division of Financial Institutions (“Division”) on March 28, 2002. On January 22, 2004, the Division notified Respondent that it intended to deny his loan officer license application because: (1) he had been convicted of numerous crimes, forty-two of which involved some degree of “theft, receiving stolen property, embezzlement, forgery, fraud, passing bad checks \*\*\* or involving money or securities,” 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 these types of offenses again; (2) he violated R.C. § 1322.07(A) by failing to disclose the large majority of his 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 his 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.

Respondent requested a hearing and an administrative hearing was held on June 18, 2004. A Report and Recommendation was filed with the Division on December 2, 2004, recommending that the Division deny Respondent’s application and not 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 disapproves the second sentence of paragraph 17 on page 10 of the Report and Recommendation, which reads: “The mens rea standard must be one of negligence—knew or should have known—in Respondent’s answering the questions on the license application.” R.C. §§ 1322.07(A), (B) and (C), do not set forth a culpability standard. These are strict liability provisions, and it is therefore immaterial why an applicant fails to disclose any criminal

conviction on his or her license application. Had the General Assembly intended to include a culpability standard, it would have done so as it did in R.C. §§ 1322.07(E) and (F), which requires an individual to act "knowingly."

With the exception of the foregoing, the Hearing Examiner's Report and Recommendation is approved, adopted, and incorporated herein. Accordingly, the loan officer license application submitted on March 28, 2002 by Kevin D. Barcomb is hereby denied.

It is so ordered.

### **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 25<sup>th</sup> day of May 2005.

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**ROBERT M. GRIESER**

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

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