

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

In the matter of:	)	Case No. 05-0092-LOD
	)	
<b>DONALD D. CLARK</b>	)	<b><u>DIVISION ORDER</u></b>
34 North Avenue	)	<b>Denial of Loan Officer License Application</b>
Geneva, OH 44041	)	<b>&amp;</b>
	)	<b>Notice of Appellate Rights</b>
	)	

---

Respondent, Donald D. Clark ("Respondent"), first submitted a loan officer license application to the Division of Financial Institutions ("Division") on December 24, 2003. That application was withdrawn pursuant to R.C. 1322.031(D). On December 20, 2004, Respondent submitted a second loan officer license application ("Application"). On May 25, 2005, the Division notified Respondent that it intended to deny his Application because: (1) In or around 2003 in the Lyndhurst, Ohio Municipal Court, Respondent was convicted of theft; (2) Respondent attested in a sworn statement that information he provided in his 2003 and 2004 Applications was truthful when it was not; (3) Respondent provided untruthful information to the State of Ohio, Department of Commerce, Division of Financial Institutions; (4) Respondent violated R.C. 1322.07(A), (B), and (C) by attesting to the accuracy of the Applications and not disclosing his criminal history in his Applications, which were filed with the Division; and (5) because 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 R.C. sections 1322.01 to 1322.12, the Ohio Mortgage Broker Act.

Respondent requested an administrative hearing, which was held on October 4, 2005. A Report and Recommendation ("Report") was filed with the Division on February 8, 2006, recommending that the Division deny Respondent's Application. No objections were filed.

In accordance with R.C. 119.09, the Division has considered the record, consisting of the Report, the transcript of testimony and exhibits, as well as all applicable laws. As a result, the Division makes the following findings and conclusions. Any finding and/or conclusion not specifically addressed below is approved, adopted and incorporated herein. (The Report is attached).

The Division disapproves of the first sentence of paragraph 14 on page 6 and paragraph 15 on page 6 of the Report.

The first sentence of paragraph 14 on page 6 of the Report is in error in that R.C. 1322.07(A), (B), and (C) do not require a deliberative act for their violation. In contrast to 1322.07(E) and (F), which contain language of intent by use of the term “knowingly,” R.C. 1322.07(A), (B), and (C) do not employ such language. Accordingly, an applicant that fails to carefully read and answer each question in a loan officer application, swears to its veracity, and then files such application with the Division is in violation of R.C. 1322.07(A), (B), and (C) when such answer is patently untrue. Here, Respondent’s failure to disclose his criminal background on the Application was due to his own carelessness. Yet, Respondent affirmed before a notary that his Application was “complete and true” and shortly thereafter filed the Application, containing a false answer as to his criminal history, with the Division. (State’s Ex. A). Respondent’s actions constitute a violation of 1322.07(A), (B), and (C).

Paragraph 15 on page 6 of the Report is in error. R.C. 1322.07 does not state that a person’s action or misconduct can only be a violation of one provision of that section. Section 1322.07(A), (B) and (C) contain different language and the paragraphs are not mutually exclusive.

With the exceptions stated above the Division hereby adopts the hearing officer’s recommendation and denies the loan officer license application of Donald D. Clark.

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 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 3<sup>rd</sup> day of January 2007.

---

**ROBERT M. GRIESER**  
Deputy Superintendent for Consumer Finance  
Division of Financial Institutions  
Ohio Department of Commerce