

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
OFFICE OF FINANCIAL AND INSURANCE REGULATION

Before the Commissioner of the Office of Financial and Insurance Regulation

In the matter of:

TIM RUTHERFORD
NMLS No. 125961,

Enforcement Case No. 11-11259

Applicant.

_____/

This 25th day of August, 2011,
By Annette E. Flood,
Chief Deputy Commissioner

ORDER OF DENIAL
OF MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION

I.
STATEMENT OF LAW

1. The Commissioner of the Office of Financial and Insurance Regulation (OFIR) regulates and licenses Mortgage Loan Originators in Michigan pursuant to the Mortgage Loan Originator Licensing Act, 2009 P.A. 75, as amended, MCL 493.131 *et seq.* (the "Act").
2. Section 9(1)(d) of the Act prohibits the Commissioner from issuing a license unless the Commissioner finds that "[t]he applicant has demonstrated financial responsibility, character, and general fitness that commands the confidence of the community and warrants a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this act." MCL 493.139(1)(d).
3. Section 33(1)(a) of the Act empowers the Commissioner to investigate an applicant for licensing to determine compliance with the Act. MCL 493.163(1)(a).

II.
FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. An application was received on or about July 30, 2010, in the name of Tim Rutherford ("Applicant"), NMLS No. 125961, requesting transition to the Mortgage Loan Originator License under the Act.

Order of Denial
Enforcement Case No. 11-11259

2. OFIR's Consumer Finance Licensing Unit conducted a background investigation of Applicant, pursuant to Section 33(1)(a) of the Act, MCL 493.163(1)(a), to determine whether Applicant satisfied the conditions of Section 9(1) of the Act, MCL 493.139(1).
3. The background investigation revealed the following:
 - a. On September 8, 1988, Applicant was found guilty of Prostitution - Soliciting or Accosting, a misdemeanor in violation of MCL 750.448.
 - b. On October 2, 1990, Applicant pled guilty to Drawing on Insufficient Funds, \$100 or more but less than \$500, a misdemeanor in violation of MCL 750.131(3)(b)(1).
 - c. On December 18, 1998, Applicant pled guilty to Criminal Sexual Conduct, 4th Degree (force or coercion), a misdemeanor in violation of MCL 750.520E(1)(a).
 - d. On October 23, 2007, Applicant was found guilty of Disturbing the Peace, a misdemeanor in violation of MCL 750.170.
 - e. On February 13, 2009, Applicant pled guilty to Failure to Comply with Reporting Duties, a misdemeanor in violation of MCL 28.729(2).
 - f. Applicant is currently registered as a Sex Offender with the Michigan Public Sex Offender Registry.
4. On or about October 29, 2010, Applicant sent OFIR an e-mail and fax, admitting to the convictions detailed above and providing the following additional relevant information:
 - a. Applicant stated that the 1988 Soliciting or Accosting conviction occurred because he snapped a girl's bra strap.
 - b. Applicant stated that the 1990 Drawing on Insufficient Funds conviction occurred because he spent money which had been deposited with his business on layaway.
5. Based on the foregoing facts, the Commissioner finds and concludes that the Applicant's criminal history indicates that the Applicant is unable to conform his behavior to comply with the law and, therefore, the Applicant has failed to demonstrate the "character" and "general fitness that commands the confidence of the community" and warrants a determination that the Applicant "will operate honestly, fairly and efficiently," as required to satisfy Section 9(1)(d) of the Act, MCL 493.139(1)(d).
6. Based on the foregoing facts, the Commissioner finds and concludes that the Applicant has failed to meet the minimum licensing requirements of Section 9(1)(d) of the Act, MCL 493.139(1)(d), and is, therefore, ineligible for licensure under the Act.

**III.
ORDER**

Based on the Statement of Law, Findings of Fact, and Conclusions of Law above, it is **ORDERED** that:

1. The application of TIM RUTHERFORD for licensure as a Mortgage Loan Originator under the Act shall be and hereby is DENIED.
2. TIM RUTHERFORD shall immediately cease and desist from conducting any activities that require licensure under the Act.

**OFFICE OF FINANCIAL AND
INSURANCE REGULATION**



Annette E. Flood
Chief Deputy Commissioner

Dated: P-25-11

**IV.
APPEAL**

This Order of Denial is an administrative order subject to judicial review pursuant to the Michigan Constitution, MCL Const. Art. 6, § 28, and subject to the Revised Judicature Act, MCL 600.631.