

**STATE OF ARKANSAS  
SECURITIES DEPARTMENT**

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**IN THE MATTER OF**

**CHARLES MARTON RUSK**

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**ORDER NO. C-06-031-06-FO01**

**ORDER DENYING RENEWAL APPLICATION**

On this date before the Arkansas Securities Commissioner (hereinafter referred to as the “Commissioner”) is the matter of the above referenced individual (hereinafter referred to as “Respondent”), and the issue of Respondent’s renewal application for a loan officer license in light of Respondent submitting false and misleading material information to the Commissioner under the Arkansas Fair Mortgage Lending Act (hereinafter referred to as “the Act”), Ark. Code Ann. § 25-39-501, *et. seq.* Respondent appeared pro se. The Securities Department (hereinafter referred to as “Department”) was represented by staff attorney Alexandra Stephens.

Having considered the pleadings, the exhibits, and the testimony of the witnesses, the Arkansas Securities Commissioner (hereinafter referred to as “Commissioner”) finds that Respondent’s renewal application is denied. The Order is entered pursuant to the provisions of the Act, and the Arkansas Administrative Procedures Act, Ark. Code Ann. § 25-15-201, *et. seq.*

## FINDINGS OF FACT

1. The Act became effective on January 1, 2004. A requirement of the Act is that any person applying to be employed or employed as a loan officer with a registered mortgage loan company be licensed with the Department in order to do business in the State of Arkansas.
2. Respondent submitted his initial loan officer license application to the Department on or about April 19, 2004.
3. In his application, Respondent answered a series of questions, including questions (6)(a) through (6)(f). Respondent gave negative responses to each question.

Question 6(a) of the application asks:

**“Have you ever been convicted of a crime punishable by one or more years imprisonment?”**

Respondent answered “No.”

4. In his application, Respondent answered a series of questions, including questions (6)(a) through (6)(f). Respondent gave negative responses to each question.

Question 6(d) of the application asks:

**“Have you been a subject of any action, order, or proceeding, pending or concluded, by any state or federal agency regulating the banking industry, securities industry, insurance industry, or any other financial services industry during the past five (5) years?”**

Respondent answered “No.”

5. Respondent was issued an Arkansas loan officer license number 15247.

6. Respondent submitted a renewal application for his loan officer license to the Department on or about June 23, 2005.
7. In his renewal application, Respondent answered a series of questions, including questions (2)(a) through (2)(f). Respondent gave negative responses to each question. Question 2(a) of the application asks:

**“Have you ever pled guilty or nolo contendere to, or been convicted of a crime punishable by one or more years imprisonment?”**

Respondent answered “No.”

8. In his renewal application, Respondent answered a series of questions, including questions (2)(a) through (2)(f). Respondent gave negative responses to each question. Question 2(d) of the application asks:

**“Have you been a subject of any action, order, or proceeding, pending or concluded, by any state or federal agency regulating the banking industry, securities industry, insurance industry, or any other financial services industry during the past five (5) years?”**

Respondent answered “No.”

9. Respondent submitted a renewal application for his loan officer license to the Department on or about May 22, 2006.
10. In his renewal application, Respondent answered a series of questions, including questions (2)(a) through (2)(f). Respondent gave negative responses to each question. Question 2(a) of the application asks:

**“Have you ever pled guilty or nolo contendere to, or been convicted of a crime punishable by one or more years imprisonment?”**

Respondent answered “No.”

11. In his renewal application, Respondent answered a series of questions, including questions (2)(a) through (2)(f). Respondent gave negative responses to each question. Question 2(d) of the application asks:

**“Have you been a subject of any action, order, or proceeding, pending or concluded, by any state or federal agency regulating the banking industry, securities industry, insurance industry, or any other financial services industry during the past five (5) years?”**

Respondent answered “No.”

12. Respondent pled guilty on August 15, 1989 to one (1) count of a Class C felony Hot Check / Personal Services \$200-\$2,500, a crime punishable by one or more years imprisonment in Case Number 72-1987-243A in Washington County, Arkansas.

13. Respondent pled guilty on September 5, 1989 to one (1) count of a Class C felony Hot Check / Personal Services \$200-\$2,500, a crime punishable by one or more years imprisonment in Case Number 04-1989-176 in Benton County, Arkansas.

14. Respondent is one of the subjects of a First Amended Cease and Desist Order issued by the Arkansas Securities Commissioner, No. S-02-011-02-CD02 on September 17, 2002, directing Respondent, along with others, to cease and desist

from engaging in or transacting business in connection with the issuance, offer, or sale of the securities activities in violation of the Arkansas Securities Act or Rules of the Arkansas Securities Commissioner.

15. Respondent is one of the subjects of a Final Order issued by the Arkansas Securities Commissioner, No. S-02-011-02-FO01 on October 23, 2002, finding that Cease and Desist Order No. S-02-011-02-CD02 is a final and binding order.
16. Respondent intentionally misled the Department by submitting false documentation in order to obtain a loan officer license in the State of Arkansas.

#### **APPLICABLE CODE PROVISIONS**

17. Ark. Code Ann. § 23-39-502 (8) defines a loan officer as an individual, who in exchange for compensation as an employee of a mortgage broker or mortgage banker licensed under the act, solicits, accepts, or offers to accept applications for a mortgage loan.
18. Ark. Code Ann. § 23-39-503 (b) provides that it is unlawful for any person, other than an exempt person, to act or attempt to act, directly or indirectly, as a loan officer with any person located in Arkansas without first obtaining a license from the Commissioner.
19. Ark. Code Ann. § 23-39-514 (a) (1) provides that the Commissioner by Order may deny, suspend, revoke, or refuse to issue or renew a license of a licensee or an applicant if the Commissioner finds that the order is in the public interest.
20. Ark. Code Ann. § 23-39-514 (a) (2) (A) provides that the Commissioner by Order may deny, suspend, revoke, or refuse to issue or renew a license of a licensee or

an applicant if the Commissioner finds that the person has filed an application for license that, as of its effective date or as of any date after filing, contained any omission or statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact.

### **CONCLUSIONS OF LAW**

21. This matter has been properly brought before the Commissioner and is in the public interest. Ark. Code Ann. § 23-39-514 (a) (1).
22. The Act requires that individuals who desire to be licensed loan officers in the State of Arkansas must first file an application with the Commissioner. Ark. Code Ann. § 23-39-503 (b) and § 23-39-505 (a) (1).
23. The Act requires that applicants make full disclosure if they are the subject of an order of the commissioner directing that person to cease and desist from any activity regulated by the commissioner. Ark. Code Ann. § 23-39-505 (a) (2) (E) (ii).
24. The Act requires that applicants who desire to be licensed loan officers in the State of Arkansas file applications that do not contain any false or misleading statements to material facts. Ark. Code Ann. § 23-39-514 (a) (2) (A)
25. Respondent pled guilty on August 15, 1989 to one (1) count of a Class C felony Hot Check / Personal Services \$200-\$2,500, a crime punishable by one or more years imprisonment in Case Number 72-1987-243A in Washington County, Arkansas.

26. Respondent pled guilty on September 5, 1989 to one (1) count of a Class C felony Hot Check / Personal Services \$200-\$2,500, a crime punishable by one or more years imprisonment in Case Number 04-1989-176 in Benton County, Arkansas.
27. Respondent is one of the subjects in a First Amended Cease and Desist Order issued by the Arkansas Securities Commissioner, No. S-02-011-02-CD02 entered on September 17, 2002 directing him to cease and desist from engaging in or transacting business in connection with the issuance, offer, or sale of the securities activities in violation of the Arkansas Securities Act or Rules of the Arkansas Securities Commissioner.
28. Respondent is one of the subjects in a Final Order issued by the Arkansas Securities Commissioner, No. S-02-011-02-FO01 entered on October 23, 2002 finding that Cease and Desist Order No. S-02-011-02-CD02 is a final and binding order.
29. Respondent submitted applications to the Arkansas Securities Commissioner for a mortgage loan officer license that were received by the Department on April 19, 2004, June 23, 2005 and May 22, 2006. Respondent's notarized signature was dated March 26, 2004, June 9, 2005, and May 16, 2006, respectively. Respondent represented that he had not been convicted, pled guilty, or nolo contendere to a crime punishable by one or more years imprisonment, or been a subject of an order of the Commissioner directing him to Cease and Desist from any activity regulated by the Commissioner.
30. The Commissioner is authorized to refuse to renew an applicant's application if the order is in the public interest and the person has filed an application for

license that, as of its effective date or as of any date after filing, contained any omission or statement that, in light of the circumstances under which it was made, is false or misleading with respect to any material fact. Ark. Code Ann. § 23-39-514 (a) (1), (a) (2) (A).

**ORDER**

IT IS HEREBY ORDERED that the renewal application submitted by CHARLES MARTON RUSK for a mortgage loan officer license is hereby DENIED. Respondent is prohibited from conducting mortgage loan business in the State of Arkansas as a loan officer in any capacity.

Respondent may request a review of the final order of the Arkansas Securities Commissioner in accordance with Ark. Code Ann. § 23-39-515 (a) (1). Any person aggrieved by a final order of the Commissioner may obtain a review of the order by filing in the Circuit Court of Pulaski County, within sixty (60) days after entry of the order, a written petition praying that the order be modified or set aside in whole or in part.

IT IS SO ORDERED:

  
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Michael B. Johnson  
Arkansas Securities Commissioner

  
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Date