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**BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE  
OF THE STATE OF IDAHO**

In re Mortgage Loan Originator	)	Docket No. 2013-16-02
License Application of:	)	
	)	<b>ORDER DENYING MORTGAGE</b>
JOSE IGNACIO CORTEZ,	)	<b>LOAN ORIGINATOR LICENSE</b>
	)	<b>APPLICATION AND NOTICE OF</b>
Applicant.	)	<b>THE OPPORTUNITY TO REQUEST</b>
	)	<b>A HEARING</b>
	)	

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The Director of the State of Idaho, Department of Finance (Director), pursuant to the Idaho Residential Mortgage Practices Act, Idaho Code § 26-31-101 *et seq.* (the Act), and in particular §§ 26-31-313(1)(b) and 26-31-306(1)(h), of the Act, hereby issues the following Findings of Fact, Conclusions of Law, and Order Denying Mortgage Loan Originator License Application.

Pursuant to Idaho Code § 26-31-305(6), JOSE IGNACIO CORTEZ (the Applicant) has the right to a hearing on the question of his qualifications, but to do so he must make a written request for a hearing within fifteen (15) days after the date this Order was mailed him.

The Order is based on the following:

**ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION AND NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING – Page 1**

## FINDINGS OF FACT

1. The Applicant is a resident of the state of California and has never held an Idaho mortgage loan originator license.
2. Idaho Code § 26-31-304 provides that an individual shall not engage in the business of a mortgage loan originator without first obtaining, and maintaining annually, a license.
3. Idaho Code § 26-31-305 sets forth the information that needs to be included in an application for a license. Idaho Code § 26-31-305(3)(b)(ii) provides that applicants must submit to the Nationwide Mortgage License System and Registry (NMLSR) “[p]ersonal history and experience ... [and] information related to any administrative, civil or criminal findings by any governmental jurisdiction. . . .”
4. On August 5, 2013 the Applicant applied for a Idaho mortgage loan originator license. The application Form MU4 contained a question inquiring whether the applicant had ever been convicted of a felony in a domestic, foreign or military court and the Respondent answered “No”. The application form also contained a question inquiring whether the applicant had ever been convicted of a misdemeanor in a domestic, foreign or military court and the Respondent again answered “No”.
5. As with all applicants, the Department conducted a criminal background check and received a written report on August 6, 2013. At least five records appeared on the report pertaining to the applicant. Of those two were military actions.
6. Based on the inconsistencies between the criminal background report inconsistencies and the application information, a Department examiner sent a letter to the Applicant requesting an explanation of the items identified on the criminal background check.

7. On August 15, 2013, the Applicant emailed an explanation and related documents for the non-military related items described on the criminal background check. He did not address the military related items. Accordingly, the Department examiner placed a deficiency notification on the Applicant's NMLS license record.

8. On October 1, 2013, the Applicant amended his application to answer "Yes" to the felony question, uploaded the related documents and provided an explanation that he was charged with the theft of a military firearm and that he was "reprimanded," served his sentence and the case was closed. He did not change his answer to the misdemeanor question.

9. The Applicant provided several documents related to the felony charge. The first was a General Court Martial Conveying Authority Action. This document established that the Applicant on September 22, 1995, plead guilty to the charge of stealing a 9mm pistol from the government. He was court-martialed and sentenced to a dishonorable discharge, six years of confinement and forfeiture of all pay. An additional document entitled "General Court-Martial Supplemental Order No. 97-1856 was provided. In relevant part it stated:

In the general court-martial of [Applicant] the approved sentence to confinement for six years, forfeiture of all pay and allowances, and a dishonorable discharge . . . the dishonorable discharge will be executed.

10. In addition to the felony documents, the Applicant provided information relating to an Article 15 Hearing. The Article 15 Hearing, the subject matter which is the equivalent to a misdemeanor involved offenses of underage drinking, carnal knowledge and the theft and usage of a military calling card. The Applicant's punishment included forfeiting of a month's pay, a reduction in rank, and a restriction on his activities for a period of time.

11. The Applicant's written response to the Department concerning his felony is misleading. He stated he was reprimanded, but in fact he was court-martialed.

12. The Applicant's misstatements on his application are material. He initially said he did not have a misdemeanor or felony conviction. After being contacted by an examiner, he did modify his answer to the felony question but then he explained that he was reprimanded when in fact he was court martialed. He has not changed his answer to the misdemeanor question.

#### CONSLUSION OF LAW

13. Paragraphs 1 through 12 above are fully incorporated herein by this reference.

14. Idaho Code § 26-31-305(1) provides that an Applicant for a mortgage loan originator license must apply through the Nationwide Mortgage License System and Registry (NMLSR), in a form required by the Director.

15. Pursuant to Idaho Code § 26-31-306(1)(h), before an application for license can be approved the Applicant must provide all information on the application.

16. Idaho Code § 26-31-311 the Director shall require mortgage loan originators to be licensed and as part of the application, and the Director can require applicants to submit to background checks and provide records of criminal history.

17. Pursuant to Idaho Code § 26-31-313 the Director may deny a license if an applicant withholds information or makes a material misstatement in an application for licensure. Further, Idaho Code § 26-31-305 requires that all applicants for licensure update application forms as necessary to keep all information current.

18. In his initial application the Applicant made a material misstatement of fact. He indicated he did not have any felony or misdemeanor convictions. Even after the criminal background check was brought to his attention, he did not change his answer regarding the misdemeanor. He did admit to the felony but then he misrepresented the nature of his sentence.

19. The Applicant has made a material misstatement of fact in his application which is grounds to deny his application for licensure.

**ORDER**

**NOW, THEREFORE, BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND PURSUANT TO IDAHO CODE §§ 26-31-305 AND 26-31-313, IT IS HEREBY ORDERED THAT THE APPLICATION FOR A MORTGAGE LOAN ORIGINATOR LICENSE SUBMITTED TO THE DEPARTMENT ON AUGUST 5, 2013 BY JOSE IGNACIO CORTEZ IS HEREBY DENIED.**

**NOTICE**

20. The Applicant is HEREBY NOTIFIED that the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION is a final order of the Director, subject to the Applicant's right to timely request a hearing, pursuant to Idaho Code § 26-31-305(6)(a). Such request for a hearing must be in writing and submitted to the Department within fifteen (15) days after the service of this Order. A copy of the request for contested case and hearing shall be served on Michael Larsen, Consumer Finance Bureau Chief, at the following address:

Michael Larsen  
Consumer Finance Bureau Chief  
Idaho Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031

A copy of the request for contested case and hearing shall also be served on the Department's counsel in this matter, Brian D. Nicholas, Deputy Attorney General, at the same address.

21. If the Applicant timely requests a hearing, the Department will notify the Applicant of the date, time and place of the hearing, as well as the name and contact information of the presiding officer.

22. Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.*

**IT IS SO ORDERED.**

DATED this 22<sup>ND</sup> day of NOVEMBER, 2013.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

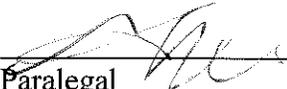
  
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GAVIN M. GEE, Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 22<sup>nd</sup> day of November, 2013, I caused a true and correct fully-executed copy of the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION AND NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING to be served on the following by the designated means:

Jose Ignacio Cortez  
5082 Edinger Ave.  
Huntington Beach, CA 92649

- U.S. mail, postage prepaid
- certified mail
- facsimile \_\_\_\_\_
- overnight delivery

  
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Paralegal