

LAWRENCE G. WASDEN  
Attorney General

BRIAN D. NICHOLAS, I.S.B. # 3585  
Deputy Attorney General  
State of Idaho  
Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031  
Telephone: (208) 332-8092  
Facsimile: (208) 332-8016  
brian.nicholas@finance.idaho.gov

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

STATE OF IDAHO, DEPARTMENT OF )  
FINANCE, CONSUMER FINANCE )  
BUREAU, )  
Complainant, )  
vs. )  
SMART FUNDING CORP., a Nevada )  
corporation, )  
Respondent. )

Docket No. 2012-8-01

**ORDER DENYING MORTGAGE  
BROKER/LENDER LICENSE RENEWAL  
APPLICATION, AND NOTICE OF THE  
OPPORTUNITY TO INITIATE A  
CONTESTED CASE AND REQUEST A  
HEARING**

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 §§ 26-31-204(5), and 26-31-206 of the Act, hereby issues the following Findings of Fact, Conclusions of Law, and Order Denying Mortgage Broker/Lender License Renewal Application and Notice of the Opportunity to Initiate a Contested Case and Request a Hearing (Order).

This Order is effective fifteen days (15) days from the date of issuance, unless Smart Funding Corp. (the Applicant) initiates a contested case and requests a hearing pursuant to Idaho Code § 67-5254. The Order is based on the following:

**FINDINGS OF FACT**

1. The Applicant is a Nevada corporation conducting a mortgage brokering/lending business from 1809 East Dyer Road, Suite 301, Santa Ana, California. The Applicant has held Idaho Mortgage Broker/Lender License No. MBL-6359 since August 1, 2007. The Applicant's Nationwide Mortgage License System (NMLS) unique identifying number is NMLS-1376.

2. Madhulika Baid (Madhulika) is the Applicant's Owner/CEO, and until January 12, 2012, was the Applicant's Qualified Person in Charge (QPIC). On January 13, 2012, the Applicant filed an amendment through the NMLS changing its QPIC to Ratan Baid (Ratan).

3. On March 21, 2011, the State of Idaho, Department of Finance, Consumer Finance Bureau (Department) issued a letter of warning to the Applicant because it filed a false attestation in conjunction with its 2010 license renewal application. That application indicated that the QPIC, Madhulika, had completed the required annual continuing education requirement, when in fact she had not completed the requirement at the time of attestation.

4. On November 30, 2011, the Applicant submitted its 2012 renewal application. The application was signed by Ratan as the authorized representative for the Applicant, even though Madhulika was the QPIC pursuant to the Applicant's filings with the Department. On all prior filings, Madhulika was identified as the sole owner of the stock of the Applicant and only officer of the Applicant. As the identified QPIC, Madhulika was required to complete statutory mandated continuing education requirements and to authorize the Department to obtain an individual credit report. As of November 30, 2011, Madhulika had not satisfied either of these

requirements. On the November 30, 2011 renewal application, Ratan attested that Madhulika had completed the continuing education requirements.

5. On three separate occasions, a representative of the Department contacted the Applicant's contact person, Ratan, and left messages that the application was not complete; that Madhulika needed to provide evidence that the continuing education requirements had been met; and that she needed to provide the credit report authorization. On January 11, 2012, the Applicant submitted a QPIC change request to the Department, outside the NMLS, naming Ratan as the QPIC. However, the submission was deficient for four reasons: 1) Ratan, as the new QPIC, needed to provide evidence of his education requirements; 2) authorize a credit report; 3) explain a bankruptcy filing; and 4) provide a resume to demonstrate industry experience to operate as a QPIC of a mortgage broker business.

6. On January 13, 2012, the Applicant submitted a filing through the NMLS to change its QPIC to Ratan. Department staff reviewed the submission, noted the deficiencies described in the above paragraph, and set a deadline of January 20, 2012 for the Applicant to cure the deficiencies. The Applicant did not respond by the deadline date.

7. On January 23, 2012, Department staff notified the Applicant that because its 2012 license application had not been approved, it was not authorized to engage in business in Idaho, and must cease all Idaho activities.

8. On January 26, 2012, Madhulika and Ratan submitted credit report authorizations. Based on these authorizations, the Department was able to review the credit reports of Madhulika and Ratan. On February 8, 2012, Ratan completed his continuing education requirements. This completion was not timely. However, he has still not cured the remaining deficiencies described in paragraph 5 above.

## CONCLUSIONS OF LAW AND VIOLATIONS

9. The allegations set forth in paragraphs 1 through 8 above are fully incorporated herein by this reference.

10. Idaho Code § 26-31-208(3) provides that a mortgage broker and mortgage lender licensee must file with the Director a license renewal form providing complete information as required by the Director, and pay a fee of \$150 by December 31 of each year, in order for a license to be renewed.

11. Idaho Code § 26-31-206(10) provides that a license applicant shall make complete disclosure of all information required in the license application.

12. Idaho Code § 26-31-206(2) provides that the Director may deny a license application if he finds that:

(a) The financial responsibility, character and fitness of the license applicant, or of the officers and directors thereof, if the applicant is a corporation, ... and individuals designated in charge of the applicant's places of business, are not such as to warrant belief that the business will be operated honestly and fairly within the purposes of this part;

(b) The qualified person in charge of the applicant's places of business does not have a minimum of three (3) years' experience in residential mortgage brokering or mortgage lending;

...

(e) The applicant has filed an application for a license which is false or misleading with respect to any material fact; [or]

...

(h) The applicant has not provided information on the application as reasonably required by the director pursuant to subsection (1) of this section, or has provided materially false information.

13. Idaho Code § 26-31-212 provides that each QPIC must meet a minimum continuing education requirement of at least eight (8) hours of instruction.

14. As of December 31, the Applicant here is unable to demonstrate that its QPIC meets the requirements of the Act, as described above.

15. Further, the Applicant's act of attesting that its QPIC had met the continuing education and experience requirements, when the QPIC did not, is false and misleading with respect to a material fact. In addition, by filing a false and misleading attestation in its application, the Applicant has not demonstrated that the individuals designated in charge of its place of business have the character and fitness sufficient to warrant belief that the business will be operated honestly and fairly within the purposes of the Act to justify the denial of an Idaho mortgage broker/lender license renewal application.

16. In addition, the Applicant's failure to completely disclose information required in the license renewal application timely, as described above, establishes a separate basis to justify the Director in denying the Applicant's license renewal application.

17. Based on these facts, the Director finds it appropriate to deny the Applicant's request to renew its Idaho mortgage broker/lender license, pursuant to Idaho Code §§ 26-31-206(2)(a), -(b), -(e), and -(h).

#### **ORDER**

**NOW, THEREFORE, BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND PURSUANT TO IDAHO CODE §§ 26-31-206(2) AND 67-5254, IT IS HEREBY ORDERED THAT THE RENEWAL APPLICATION FOR A MORTGAGE BROKER/LENDER LICENSE SUBMITTED TO THE DEPARTMENT ON NOVEMBER 30, 2011 BY SMART FUNDING CORP. IS HEREBY DENIED.**

#### **NOTICE**

18. The Applicant is HEREBY NOTIFIED that the foregoing ORDER DENYING MORTGAGE BROKER/LENDER LICENSE RENEWAL APPLICATION is a final order of the Director, subject to the Applicant's right to timely initiate a contested case and request a

hearing, pursuant to Idaho Code §§ 26-31-206(4)(a) and 67-5254. Such request for a hearing must be in writing and submitted to the Department within fifteen (15) days after the service of this Order. Idaho Code § 26-31-206(4)(b). A copy of the request for contested case and hearing shall be served on:

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.

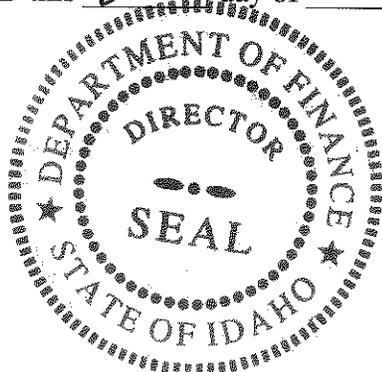
19. If the Applicant timely initiates a contested case and request for hearing, the Department will notify the Applicant of the date, time and place of the hearing, as well as the name and contact information of the presiding officer.

20. 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.*

21. Pursuant to Idaho Code § 26-31-(206(4)(b), if a hearing is held, the Applicant shall reimburse, pro rata, the Director for his reasonable and necessary expenses incurred as a result of the hearing.

**IT IS SO ORDERED.**

DATED this 26<sup>th</sup> day of JUNE, 2012.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

  
\_\_\_\_\_  
GAVIN M. GEE, Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 26 day of June, 2012, I served a true and correct copy of the foregoing ORDER DENYING MORTGAGE BROKER/LENDER LICENSE RENEWAL APPLICATION, AND NOTICE OF THE OPPORTUNITY TO INITIATE A CONTESTED CASE AND REQUEST A HEARING on the following by the designated means:

Smart Funding Corp.  
Attn: Ratan Baid, Manager  
1809 E. Dyer Rd., Ste. 301  
Santa Ana, CA 92705

- U.S. Mail, postage prepaid
- Certified mail
- Facsimile: (949) 838-1859
- Email: [rbaid@smartfundingcorp.com](mailto:rbaid@smartfundingcorp.com)

  
\_\_\_\_\_  
Paralegal