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BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE

STATE OF IDAHO

In re Mortgage Loan Originator  
License Application of:

ALLAN RAY EICHHORN,  
NMLS ID No. 117272,  
Applicant

Docket No. 2018-16-03

**HEARING OFFICER'S FINDINGS  
OF FACT, CONCLUSIONS OF LAW  
AND PRELIMINARY ORDER**

This matter came before the hearing officer on an evidentiary hearing on February 26, 2019, at 9:00 a.m.. Brian Nicholas, Deputy Attorney General appeared on behalf of the Department of Finance. Allan Eichhorn appeared representing himself. Mr. Eichhorn by agreement of the parties appeared telephonically.

**FINDINGS OF FACT**

1. Mr. Eichhorn, pursuant to a 2015 application for a Mortgage Loan Originator License with the Department of Finance (hereinafter the Department), had his application denied based upon a failure to provide accurate information regarding prior criminal convictions and outstanding tax liens. Exhibits 1, 2, and 3; Hearing Transcript Pg 17, Lines 20-25; Pg 18, Ln 1-25; Pg 20, Ln 1-25. (hereinafter Hrg Tr Pg/Ln).
2. Mr. Eichhorn's submitted an application in 2016 for a Mortgage Loan Originator License with the Department. This resulted in a grant of a Conditional Mortgage Loan Originator License. Exhibits 4 and 5; Hrg Tr Pg 22, Ln 11-25.

**HEARING OFFICER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND PRELIMINARY ORDER**

3. The Department granted a Conditional License based upon a determination that Mr. Eichhorn had failed to meet the financial responsibility requirements of the Idaho Residential Mortgage Practices Act, but did show efforts to satisfy these requirements and provided information illustrating his intent to resolve his financial difficulties. Under the terms of this Conditional License Agreement, Mr. Eichhorn was required to continue his efforts to improve his financial condition and provide evidence to the Department of his ongoing satisfaction of payment plans with creditors and other information including updates to the information contained in his license application. Exhibits 5, 7 and 8; Hrg Tr Pg 23, Ln 9-25.

4. The Department, in December of 2016 determined that Mr. Eichhorn failed to comply with these requirements. Exhibit 9; Hrg Tr Pg 24, Ln 5-13; Pg 28, Ln 3-17.

5. On January 5, 2017 Mr. Eichhorn applied for a license renewal and reinstatement. In this application Mr. Eichhorn failed to disclose all relevant information pertaining to outstanding judgments against him. As a result, The Department denied Mr. Eichhorn's application for a License. Exhibits 10 and 11; Hrg Tr Pg 29, Ln 18-22; Pg 30, Ln 9-25; Pg 31, Ln 1-11.

6. Mr. Eichhorn waived his right to a hearing on the matter and subsequently filed a new application for a Mortgage Loan Originator License in March of 2017, providing a disclosure of the judgments. Exhibits 12, 13 and 14; Hrg Tr Pg 32, Ln 13-22; Pg 34, Ln 1-4, 15-18.

7. The disclosures made in this second application of 2017 revealed a pending bankruptcy action as well as outstanding federal and state tax liens. Exhibits 10 and 14.

8. The Department again granted Mr. Eichhorn a Conditional License. By agreement this Conditional License required him to satisfy any payment plan he had in place with creditors, remain current with all payments owed to creditors, provide evidence of timely payments, provide additional documentation concerning his liabilities and provide the Department with updates regarding his financial information. Exhibit 15; Hrg Tr Pg 36, Ln 17-25.

9. On May 14, 2018, Mr. Eichhorn filed an application for a Mortgage Loan Originator License with the Department. Exhibit 18.

10. The Department suspended action on Mr. Eichhorn's application pursuant to Idaho Code Section 26-31-305(9), based upon the pending status of the bankruptcy action filed by Mr. Eichhorn. Exhibit 19.

11. On August 14, 2018 the Department issued a Notice of Intent to deny Mr. Eichhorn's License Application. The basis for this denial included the identification of existing debts and concerns over Mr. Eichhorn's financial responsibility, character and general fitness. Hrg Tr Pg 46, Ln 19-25.

12. Mr. Eichhorn exercised his right to have a hearing on the matter.

13. Information provided in Mr. Eichhorn's application for a license, submitted on May 14, 2018, indicated the existence of an outstanding tax lien from the Internal Revenue Service, judgments from two creditors, two mortgage foreclosures, the existence of several payment plan arrangements with creditors and the pending bankruptcy action. Exhibit 18.

14. Mr. Eichhorn's bankruptcy proceeding was finalized on an unknown date in February 2019 and a discharge granted to him. The tax lien from the Internal Revenue Service survived the bankruptcy discharge. Hearing Transcript Pg 62, Lines 22-25; Pg 63, LI 1-7.

#### CONCLUSIONS OF LAW

1. Pursuant to Idaho Code §26-31-306(1)(d) the Director shall not issue a mortgage loan originator license unless the Director first makes, among other requirements, a finding that the applicant has demonstrated:

financial responsibility, character and general fitness sufficient to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this part.

2. As also found in the language of the statute, the Director when making this determination may consider that:

a license applicant is not financially responsible if he has shown a disregard for the management of his personal financial affairs.

Idaho Code §26-31-306(1)(d).

3. Further:

A determination that an individual has not shown financial responsibility may include, but is not limited to, consideration of the following: (i) A current outstanding judgment, except a judgment issued solely as a result of medical expenses (ii) A current outstanding tax lien or other government lien or filing; (iii) A foreclosure within the past three (3) years; or (iv) A pattern of delinquent accounts within the past three (3) years.

Idaho Code §26-31-306(1)(d).

4. The pattern illustrated by Mr. Eichhorn over the past three years provides the Director with legitimate concerns over Mr. Eichhorn's financial responsibility, character

and general fitness.

5. Throughout the series of license applications, conditional grants of licensing and administrative actions taken, Mr. Eichhorn's difficulties in demonstrating substantive efforts at resolving his financial problems is apparent. Of further note is the fact that limited time has passed since the financial indiscretions which gave rise to his numerous debts and creditors. Also of importance is the nature and size of these obligations. Combined with this are the errors or omissions in past submitted applications and multiple failures to meet the obligations of his conditional licensing. These activities reach beyond the underlying issue of financial responsibility as they reflect on Mr. Eichhorn's efficacy and ethics. These concerns present adequate grounds for the Director to determine inadequate character or fitness for a license. In addition, no practical mitigation of these concerns was presented outside of efforts by Mr. Eichhorn to simply provide debt relief by way of bankruptcy.

6. Even though the bankruptcy may have resolved, through discharge, the outstanding status of certain debts, creditor claims and judgments against Mr. Eichhorn, it is clear that a pattern of behavior gave rise to the initial underlying need for the bankruptcy filing. Satisfaction or extinguishment of the debts alone does not establish financial responsibility.

7. The evidence establishes that the Director can conclude that Mr. Eichhorn was not financially responsible as Mr. Eichhorn illustrated a clear disregard for the management of his personal financial affairs. Further grounds exist for the determination that Mr. Eichhorn was not financially responsible under Idaho Code §26-31-306(1)(d)(ii) as

the tax lien noted in his application still survives the bankruptcy discharge.

8. The Director's denial of Mr. Eichhorn's 2018 license application was appropriate and within the guidelines of Idaho Code §26-31-306(1)(d), based upon a determination that Mr. Eichhorn lacked sufficient financial responsibility, character and general fitness to be granted a license.

PRELIMINARY ORDER

Based upon the foregoing, IT IS HEREBY ORDERED That the Department's Notice of Intent to Issue Order of Denial of Mortgage Loan Originator License Application of Mr. Eichhorn dated August 14, 2018, should be AFFIRMED.


DATED this 14<sup>th</sup> day of March, 2019.

By: David V. Nielsen  
David V. Nielsen  
Hearing Officer

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 14th day of March, 2019, I served a true and correct copy of the foregoing by delivering the same to each of the following party, by the method indicated below, addressed as follows:

Brian D. Nicholas Deputy Attorney General State of Idaho Department of Finance P.O. Box 83720 Boise, Idaho 83720-0031	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile
Allan R. Eichhorn 2866 S Bay Star Way Meridian, ID 83642	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight mail <input type="checkbox"/> Facsimile

  
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David V. Nielsen