

LAWRENCE WASDEN
Attorney General

Thomas A. Donovan – I.S.B. #4377
Deputy Attorney General
State of Idaho
Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031
Telephone: (208) 332-8091
Facsimile: (208) 332-8016
Tom.donovan@finance.idaho.gov

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

In re Mortgage Loan Originator
License Application of:

AMANDA TAYLOR ZMAK,
NMLS ID No. 1104957,

Applicant.

Docket No. 2019-16-56

**NOTICE OF INTENT TO ISSUE ORDER OF
DENIAL OF MORTGAGE LOAN
ORIGINATOR LICENSE RENEWAL
APPLICATION**

AND

**NOTICE OF THE OPPORTUNITY TO
REQUEST A HEARING**

The Director of the 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 §§ 26-31-306(1)(d) and (h) and 26-31-313(1)(a) and (b) of the Act, hereby issues the following Notice of Intent to Issue Order of Denial of Mortgage Loan Originator License Renewal Application and Notice of the Opportunity to Request a Hearing (Notice).

Because there may be a dispute as to the Applicant's qualifications, pursuant to Idaho Code §§ 26-31-309(1) and (2), 67-5254, and IDAPA 04.11.1.270.01, AMANDA TAYLOR ZMAK, NMLS ID No. 1104957 (the Applicant) has the right to a hearing on the question of her qualifications, but to do so she must make a written request for a hearing within twenty-one (21) days after the date of mailing of this Notice. If the written request is not timely made, the Director shall issue a Final Order of Denial of Mortgage Loan Originator License Renewal Application.

The Notice is based on the following:

MATTERS ASSERTED

1. The Applicant, a resident of the state of Texas, has held Idaho Mortgage Loan Originator License No. MLO-1129957 (NMLS No. 1104957) to conduct business in the state of Idaho as a mortgage loan originator since approximately May 10, 2018. She renewed the license for 2019.

2. On December 2, 2019, the Applicant applied for a renewal of her Idaho Mortgage Loan Originator license through the Nationwide Mortgage Licensing System and Registry (NMLSR). Her renewal application form MU4 indicated in Disclosure question (A)(1) that she had not filed for bankruptcy within the last ten years. This representation is inaccurate.

3. The loan originator license renewal process requires applicants to submit an affirmation stating whether there have been any changes to their originally filed Form MU4, and if so to update the relevant information. The renewal process affirmation contains the following language: "...to the best of my knowledge and belief the information contained in my online record, including jurisdiction specific requirements where I am licensed or registered, is true,

accurate and complete in accordance with the appropriate jurisdiction's law. Additionally, I acknowledge that I have a duty and agree to expediently update and correct the information as it changes." The affirmation further states that "I understand that submitting any false or misleading information, or omitting pertinent or material information, may be grounds for administrative action and/or criminal action."

4. Specifically, for item #5 of the affirmation, the Applicant must attest that she has "updated the documents on file with the jurisdiction(s) to disclose any new event or proceeding requiring an affirmative answer to any Disclosure Question which has occurred since submission of [her] license/registration application or renewal application to the applicable jurisdiction(s)."

5. The examiner obtained a public record background information report through LexisNexis. Following this, the examiner obtained a current Case Summary showing that the Applicant filed a Chapter 13 bankruptcy in the United States Bankruptcy Court, Northern District of Texas, Case Number 19-44419-ELM on October 31, 2019.

6. The examiner determined that the Applicant had failed, as required, to update/correct her online record in the NMLS to reflect the bankruptcy the Applicant filed on October 31, 2019, thus rendering the Applicant's affirmation on this renewal application false.

7. The failure to disclose the above-described bankruptcy is a relevant, pertinent, or material omission in the Applicant's responses to the Form MU4 application disclosure question (A)(1).

LEGAL CONCLUSIONS

8. Paragraphs 1 through 7 above are fully incorporated herein by this reference.

9. 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.

10. The renewal form provides that applicants agree to and represent that: “(1) ...the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part of this application, are current, true, accurate and complete and are made under the penalty of perjury, or un-sworn falsification to authorities, or similar provisions as provided by law; (2) To the extent any information previously submitted is not amended and hereby, such information remains accurate and complete;” and “(4) ...keep the information contained in this form current and to file accurate supplementary information on a timely basis;...”

11. Idaho Code § 26-31-309(1)(c) provides that a licensee shall file through the NMLSR, on or before December 31 of each year, a renewal application containing such information as the director may require.

12. Pursuant to Idaho Code § 26-31-306(1)(h), before an application for license can be approved, an applicant must provide all information on the application as required per Idaho Code § 26-31-309.

13. Idaho Code § 26-31-306(1)(d) provides that the Director shall not issue a mortgage loan originator license under the Act unless the Director makes a finding that an 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 the Act.

14. Pursuant to Idaho Code § 26-31-313(1)(b), the Director may decline to renew a license if an applicant withholds information or makes a material misstatement in an application for a license.

15. The Applicant made a material misstatement of fact in her application, which is grounds to deny her application for licensure. She failed to disclose the existence of a personal bankruptcy in the United States Bankruptcy Court, District of Texas within a mere two months prior to the submission of the renewal application, and which bankruptcy case is not even closed as of this date. The failure to disclose the bankruptcy prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

16. The Director finds it appropriate to deny the renewal application because the Applicant's failure to disclose on the Form MU4 the bankruptcy demonstrates that the Applicant lacks the appropriate character and 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 the Act. Because the Director cannot make the requisite findings under Idaho Code § 26-31-306(1)(d), it is appropriate to deny the Applicant's request for renewal of her Idaho mortgage loan originator license, pursuant to Idaho Code § 26-31-313(1).

17. The Applicant did not update her Form MU4 information to show an affirmative response to disclosure question (A)(1) and to reflect the October 2019 bankruptcy, and she submitted a false affirmation in her renewal application. Both of these prohibit the Director from issuing a renewed license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

The Applicant is HEREBY NOTIFIED that the foregoing NOTICE OF INTENT TO ISSUE ORDER OF DENIAL OF MORTGAGE LOAN ORIGINATOR LICENSE RENEWAL APPLICATION will result in a final order of the Director, unless the Applicant timely submits a request for hearing as provided for in Idaho Code § 67-5254. Such request for a hearing must be in writing and submitted to the Department within twenty-one (21) days after the service of this NOTICE. A copy of the request for contested case and hearing shall be served on the Department's counsel in this matter:

Thomas A. Donovan
Deputy Attorney General
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

Alternatively, the Applicant may email the request for hearing to: CFLegal@finance.idaho.gov.

18. 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.

19. Any hearing and subsequent proceedings in this matter will be conducted in accordance with the Act and the Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.* and the Idaho Rules of Administrative Procedure (IDAPA 04.11.01).

DATED this 26th day of December, 2019.

STATE OF IDAHO
DEPARTMENT OF FINANCE



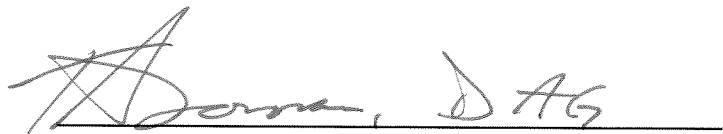
MARY E. HUGHES, Acting Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 27th day of December, 2019, I caused a true and correct fully-executed copy of the foregoing NOTICE OF INTENT TO ISSUE ORDER OF DENIAL OF MORTGAGE LOAN ORIGINATOR LICENSE RENEWAL APPLICATION AND NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING to be served on the following by the designated means:

Amanda T. Zmak
3021 Montserrat Creek Dr.
Little Elm, TX 75068

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: Amanda.t.peterson09@gmail.com



Paralegal