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

In re Mortgage Loan Originator
License Application of:

DANIEL JOHN YSAIS,
NMLS ID No. 1064501,

Applicant.

Docket No. 2018-16-07

**NOTICE OF INTENT TO ISSUE
ORDER OF DENIAL OF
MORTGAGE LOAN ORIGINATOR
LICENSE 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), 26-31-306(1)(h) and 26-31-313(1)(b) of the Act, hereby issues the following Notice of Intent to Issue Order of Denial of Mortgage Loan Originator License Application and Notice of the Opportunity to Request a Hearing.

Pursuant to Idaho Code § 26-31-305(6), DANIEL JOHN YSAIS (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 of mailing of this Notice. If the written request

is not timely made, the Director shall issue an Order of Denial of Mortgage Loan Originator License Application.

The Notice is based on the following:

MATTERS ASSERTED

1. The Applicant, a resident of the State of California, applied for an Idaho Mortgage Loan Originator license by filing a Form MU4 through the online Nationwide Multistate Licensing System (NMLS) on October 15, 2018.

2. The application Form MU4, seeks information about an applicant's qualifications to be licensed as a mortgage loan originator. Section 6 of the application form is entitled "Disclosure Questions" and it consists of a series of questions that inquire into an applicant's history regarding financial, criminal, civil judicial and regulatory matters. Pertinent to the Applicant's qualifications are two questions. Question (A)(3) reads "Have you been the subject of a foreclosure action within the past 10 years?" The Applicant responded with a "no" to this question.

3. The next pertinent question is (K)(6), which asks "Has any State or federal regulatory agency . . . denied or suspended your registration or license or application for licensure, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?" The applicant responded "yes" and explained that the California Department of Real Estate had suspended his realtor license.

4. As with all application reviews, a Department examiner conducted an assessment of the Applicant using various sources of public information to determine if the applicant demonstrates sufficient financial responsibility, character, and general fitness in order to be

licensed as a mortgage loan originator.¹ The examiner found three omissions in the applicant's responses to the disclosure questions. The first two are foreclosure actions and the third is a license denial by the California Department of Real Estate.

5. First, the examiner obtained a public records background information report through LexisNexis. The report showed that in 2010, Downey Savings and Loan foreclosed on property owned by the applicant located at 6911 Costero Vientos in San Clemente, California. The Notice of Default was recorded on March 3, 2009, the Notice of Trustee's Sale was recorded on December 16, 2009, and the Trustees Deed evidencing the sale of the property was recorded on April 21, 2010. The report also showed that in 2013, Bac Home Loans Servicing LP foreclosed on property owned by the applicant located at 2210 Camino Laurel, Unit 129, in San Clemente, California. The Notice of Trustee's Sale was recorded on April 22, 2013, and the Trustee's Deed evidencing the sale of the property was recorded on May 31, 2013.

6. The examiner also determined that on August 18, 2010, the California Department of Real Estate denied the applicant's request for a real estate license for failure to disclose the prior suspension. The applicant was later granted a real estate license and continues to hold one.

7. The examiner determined that the Applicant had failed, as required, to disclose the two foreclosure actions and the real estate license denial thus rendering the Applicant's affirmation on his application false.

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.

¹ Conducted pursuant to Part 3 of the Act titled "The Idaho Secure and Fair Enforcement for Mortgage Licensing Act" (Idaho S.A.F.E. Mortgage Licensing Act), Idaho Code § 26-31-305.

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

11. 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.

12. 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 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 the Act.

13. 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.

14. The Applicant made a material misstatement of fact in his application, which is grounds to deny his application for licensure. He failed to disclose two mortgage foreclosure actions and a license application denial by a state agency.

15. The failure to disclose these items 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 application because the Applicant's failure to disclose on the Form MU4 the two foreclosure actions and the license application denial shows 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 an Idaho mortgage loan originator license, pursuant to Idaho Code § 26-31-313.

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

17. The Applicant is HEREBY NOTIFIED that the foregoing NOTICE OF INTENT TO ISSUE ORDER OF DENIAL OF MORTGAGE LOAN ORIGINATOR APPLICATION will become a final order of the Director, unless the Applicant timely submits a request for 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 NOTICE. A copy of the request for contested case and hearing shall be served on Anthony Polidori, Consumer Finance Bureau Chief, at the following address:

Anthony Polidori
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.

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 Idaho Administrative Procedure Act, Idaho Code § 67-5201 *et seq.*

20. Alternatively, the Applicant can withdraw the application he submitted on October 15, 2018. If the Applicant withdraws the application before the deadline to submit a request for a hearing, the Department will not issue a Final Order of Denial of Mortgage Loan Originator

License Application. The Applicant can then submit a new complete application, which will be reviewed by the Department.

DATED this 11th day of DECEMBER, 2018.



STATE OF IDAHO
DEPARTMENT OF FINANCE

A handwritten signature in black ink, appearing to read "Gavin M. GEE", is written over a horizontal line.

GAVIN M. GEE, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of December, 2018, 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 APPLICATION AND NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING to be served on the following by the designated means:

Daniel John Ysais
26395 Camino De vista, Unit E
San Juan Capistrano, CA 92675

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

Paralegal