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

In re Mortgage Loan Originator
License Renewal Application of:

AUSTIN LEE SHARP,
NMLS ID No. 395481,

Applicant.

Docket No. 2020-16-11

**NOTICE OF INTENT AND OPPORTUNITY TO
REQUEST A HEARING**

The Idaho Department of Finance, Consumer Finance Bureau (Department), 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 this Notice of Intent and Opportunity to Request a Hearing (Notice). The Department intends to seek an order of denying the mortgage loan originator license application submitted by AUSTIN LEE SHARP, (the Applicant) to the Department.

Pursuant to Idaho Code § 26-31-305(6), 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 Department staff intends to ask the Director to issue an Order of Denial of Mortgage Loan Originator License Application. Alternatively, the Applicant may withdraw the application prior to the expiration of the time within which to request a hearing and thereby prevent an order of denial from being entered.

The Notice is based on the following:

MATTERS ASSERTED

1. The Applicant, a resident of the state of California, holds NMLS number 395481 and applied for an Idaho Mortgage Loan Originator (MLO) license by filing an individual Form MU4 through the online Nationwide Mortgage Licensing System and Registry (NMLSR or NMLS) attested to by the Applicant on December 31, 2019, and submitted on the Applicant's behalf by Kia Thompson of Synergy One Lending, Inc. on December 31, 2019.

2. The application Form MU4 seeks information about an individual applicant's qualifications to be licensed as a mortgage loan originator. A section of the application is entitled "Disclosure Questions" and consists of a series of questions that inquire into an applicant's history regarding financial, criminal, civil, judicial and regulatory matters.

3. Pertinent to the Applicant's qualifications is question (D): "Do you have any unsatisfied judgments or liens against you?" The applicant responded, "No."

4. Consistent with normal practice, 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

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 § 26-31-306.

5. The examiner obtained a public record background information report through LexisNexis. Following this, the examiner obtained a copy of a Notice of Federal Tax Lien against the Applicant for \$97,652.69, Serial Number 723480910, dated November 19, 2010, and recorded in the County of San Diego, California on December 17, 2010, under Document Number 2010-0700840. The Notice of Federal Tax Lien indicates that \$6,635.76 of that total balance remains in effect through September 1, 2020.

6. The examiner also obtained a copy of a Notice of State Tax Lien against the Applicant for \$4,901.73, Certificate Number 10145679274, dated May 28, 2010, and recorded in the County of San Diego, California on June 2, 2010, under Document Number 2010-0276929.

7. The examiner further obtained a copy of an Abstract of Judgment against the Applicant in favor of Plaintiff Chicago Title Company, in the San Diego County Superior Court of California, Case Number 30-2011-00467972 for \$19,018.13, entered August 26, 2011, which was recorded March 8, 2012, in the County of San Diego, California as Document Number 2012-0138248.

8. The Department has no evidence indicating that either of the tax liens or the judgment described above have been satisfied and released.

9. The Applicant's negative response to the Form MU4 application disclosure question (D) is a material misrepresentation, and the failure to provide the details of the federal tax lien, the State of California tax lien, and the judgment described above constitute material omissions.

10. In addition to the above, there may be additional concerns regarding the Applicant's financial responsibility that would serve as a separate basis to deny the license application.

LEGAL CONCLUSIONS

11. Paragraphs 1 through 10 above are fully incorporated herein by this reference.

12. 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.

13. 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 of the Idaho Department of Finance (Director).

14. 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 § 26-31-305. Idaho Code § 26-31-305(10) further provides that an applicant shall make complete disclosure of all information as set forth in the application.

15. 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.

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

17. The Applicant made a material misstatement of fact in his application, which is grounds to deny his application for licensure. He failed to disclose the existence of a California state tax lien, a federal tax lien, and a California judgment. The failure to disclose the tax liens

and judgment prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

18. The Department intends to present this Notice as a basis for the Director to find it appropriate to deny the Applicant's application because the Applicant's failure to disclose on the Form MU4 the tax liens and judgment 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. Therefore, the Director cannot make the requisite findings under Idaho Code § 26-31-306(1)(d), and it is appropriate to deny the Applicant's request for an Idaho mortgage loan originator license, pursuant to Idaho Code § 26-31-313(1).

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

19. The Applicant is HEREBY NOTIFIED that the foregoing Notice will result in the Department presenting and requesting a final order of the Director denying the license application, 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:

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.

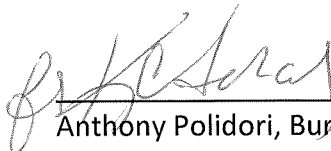
20. If the Applicant timely requests a hearing, the Director of the Department, or a Hearing Officer acting on the Director's behalf, will notify the Applicant of the date, time and place of the hearing, as well as the name and contact information of the presiding officer.

21. 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.* and the Idaho Rules of Administrative Procedure (IDAPA 04.11.01).

22. Alternatively, the Applicant can withdraw his application submitted on December 31, 2019. If the Applicant withdraws the application before the deadline to submit a request for a hearing, the Department will not seek to have the Director issue a final order denying the mortgage loan originator license application. The Applicant can then submit a new complete application, which will be reviewed by the Department.

DATED this 2 day of April, 2020.

STATE OF IDAHO
DEPARTMENT OF FINANCE



Anthony Polidori, Bureau Chief

DATED this 2nd day of April, 2020.

OFFICE OF ATTORNEY GENERAL



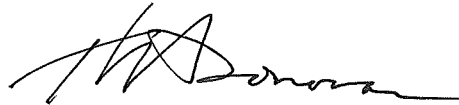
Thomas A. Donovan, Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of April, 2020, I caused a true and correct fully-executed copy of the foregoing NOTICE OF INTENT AND OPPORTUNITY TO REQUEST A HEARING to be served on the following by the designated means:

Austin Lee Sharp
2729 Camulos St
San Diego, CA 92107

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: asharp@mutualmortgage.com



for Paralegal