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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:

MARK PATRICK HERBOLD,
NMLS ID No. 251998,

Applicant.

Docket No. 2024-16-07

**ORDER DENYING MORTGAGE
LOAN ORIGINATOR LICENSE
APPLICATION AND NOTICE
OF THE OPPORTUNITY TO
APPEAL**

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 §§ 26-31-306(1)(d) and/or (h) and 26-31-313(1)(a) and/or (b) of the Act, hereby issues the following Findings of Fact, Conclusions of Law, and Order Denying Mortgage Loan Originator License Application, and Notice of the Opportunity to Appeal (Order).

FINDINGS OF FACT

1. The Applicant, Mark Patrick Herbold, a resident of the state of Arizona, applied for an Idaho Mortgage Loan Originator (MLO) license by filing an individual Form MU4, which seeks information about an applicant's qualifications to be licensed as a mortgage loan originator, through the online Nationwide Mortgage Licensing System and Registry (NMLSR), a.k.a. Nationwide Multistate Licensing System (NMLS) under NMLS number 251998. This application was attested to and submitted by the Applicant on February 23, 2024.

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" to this question on February 23, 2024, application.

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 that reflected the Applicant has outstanding federal tax liens entered against him. Following this, the examiner obtained copies of Notices of Federal Tax Liens as follows:

- a. Notice of Federal Tax Lien against the Applicant for \$200,791.77, Serial Number 479256223, dated September 14, 2023, and was recorded in the Pinal County, Arizona Recorder's Office on September 28, 2023, under Instrument Number 2023072052;
- b. Notice of Federal Tax Lien against the Applicant for \$14,393.57, Serial Number 305812018, dated April 24, 2018, and was recorded in the Maricopa County, Arizona Recorder's Office on May 4, 2018, under Instrument Number 20180342439;
- c. Notice of Federal Tax Lien against the Applicant for \$54,226.04, Serial Number 269869317, dated July 11, 2017, and was recorded in the Maricopa County, Arizona Recorder's Office on July 18, 2017, under Instrument Number 20170521923;

6. On February 23, 2024, the Department provided the Applicant a notice of an intent to deny the application within approximately one month based on the information set forth above unless the Applicant was able to provide documentation to satisfy the Department that the noted items had been resolved prior to the application submission date of February 23, 2024, and that disclosure of the outstanding tax liens was not required. The notice alternatively provided the

Applicant the opportunity to withdraw the application.

7. Based upon its investigation, the Department has concluded that the tax liens against the applicant described above have not been satisfied and/or released.

8. The Applicant's February 23, 2024, negative response to the Form MU4 application disclosure question (D) is a material misrepresentation, and the failure to provide the details of the tax liens described above that were still outstanding as of the date of the application constitutes a material omission.

FINDINGS AND CONCLUSIONS OF LAW

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

10. 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.

11. Idaho Code § 26-31-305(1) provides that an applicant for a mortgage loan originator license must apply through the NMLSR in a form required by the Director of the Idaho Department of Finance (Director).

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 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.

13. 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.

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

15. The Applicant made a material misstatement of fact in his application, which is grounds to deny his application for licensure. He answered a question inaccurately and failed to disclose tax liens. The false answer to disclosure question (D) and failure to disclose the outstanding tax liens prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(d) and (h) and § 26-31-313(1)(a) and (b).

16. The Director finds it appropriate to deny the application because the Applicant's failure to provide the information on the Form MU4 regarding the tax liens 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) and/or (h), it is appropriate to

deny the Applicant's request for an Idaho mortgage loan originator license, pursuant to Idaho Code § 26-31-313(1).

ORDER

NOW, THEREFORE, BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND PURSUANT TO IDAHO CODE §§ 26-31-313(1)(a) and (b), IT IS HEREBY ORDERED THAT THE APPLICATION FOR A MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION ATTESTED TO AND SUBMITTED BY MARK PATRICK HERBOLD, NMLS #251998, ON FEBRUARY 23, 2024, IS DENIED.

NOTICE OF THE OPPORTUNITY TO APPEAL

17. The Applicant is HEREBY NOTIFIED that he may appeal from this ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION AND NOTICE OF THE OPPORTUNITY TO APPEAL. Such appeal must be in writing and submitted to the Department within fifteen (15) days after the service of this Order. A copy of the request for hearing shall be served on the following:

Attn: Lisa Baker
Assistant to the Director
Idaho Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031

A copy of the request for an appeal shall also be served on the Department's counsel, Erick M. Shaner, Deputy Attorney General, at the same address.

Applicant may also email his appeal to Lisa.Baker@finance.idaho.gov and Erick.Shaner@ag.idaho.gov.

18. If the Applicant timely appeals this action, the Department will assign the contested case proceeding to the Office of Administrative Hearings pursuant to Idaho Code § 67-5280(2)(a). The Office of Administrative Hearings will notify the Applicant and the Department of any subsequent hearings or proceedings. 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 of the Attorney General (IDAPA 04.11.01).

19. Pursuant to Idaho Code § 26-31-305(6), if an appeal is made, the Applicant shall reimburse, pro rata, the Director for her reasonable and necessary expenses incurred as a result of the appeal.

IT IS SO ORDERED.

DATED this 2nd day of April 2024.



STATE OF IDAHO
DEPARTMENT OF FINANCE

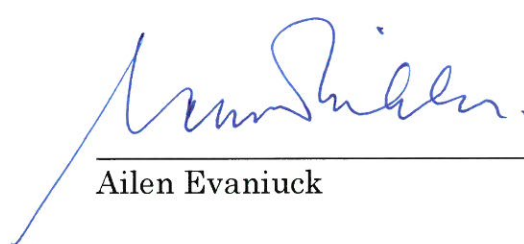
PATRICIA R. PERKINS, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 2nd day of April 2024, I caused a true and correct fully executed copy of the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION AND NOTICE OF THE OPPORTUNITY TO APPEAL to be served on the following by the designated means:

Mark Patrick Herbold
8075 N. Pueblo Cir
Casa Grande, AZ 85194

- U.S. Mail, Postage Paid
- Certified mail
- Facsimile
- Email: mark.herbold@wvmb.com



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