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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:

ABBY MIKAEL BEARD,
NMLS ID No. 433662,

Applicant.

Docket No. 2023-16-14

**ORDER DENYING MORTGAGE
LOAN ORIGINATOR LICENSE
APPLICATION AND NOTICE
OF THE OPPORTUNITY TO
REQUEST A HEARING**

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 §§ 26-31-305(10), 26-31-306(1)(d), 26-31-317(10), 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 for a Hearing.

FINDINGS OF FACT

1. The Applicant, Abby Mikael Beard (“Applicant”), a resident of the state of Idaho, 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 433662. This application was attested to and submitted by the Applicant on July 21, 2023.

2. The attestation signed by the Applicant with her license application through the NMLS states:

I ... (Applicant) on this date ... swear (or affirm) that I executed this application on my own behalf, that I am attesting to and submitting this application, and that I agree to and represent the following:

- (1) That 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;
- (3) That the jurisdiction(s) to which an application is being submitted may conduct any investigation into my background, in accordance with all laws and regulations;
- (4) To keep the information contained in this form current and to file accurate supplementary information on a timely basis; and
- (5) To comply with the provisions of law, including the maintenance of accurate books and records, pertaining to the conduct of business for which I am applying.

If the Applicant has knowingly made a false statement of a material fact in this application or in any documentation provided to support the foregoing application, then the foregoing application may be denied.

3. As with all MLO licensing applications, the Applicant authorized the Department to obtain an independent credit report from a consumer reporting agency. *See Idaho Code § 26-31-305(3)(b)*. An examiner with the Department conducted a review assessment using information provided by a credit bureau report from Transunion to determine whether the Applicant demonstrated the requisite financial responsibility, character, and general fitness in order to obtain an Idaho MLO license. *See Idaho Code § 26-31-306(1)(d)*. The examiner's review of the credit bureau report raised some concerns that required further information from the Applicant.

4. On July 21st, the examiner delivered written notice via email to the Applicant requiring documentation regarding some of the accounts listed on the Applicant's credit bureau report. The same day, the Applicant responded through NMLS, providing a letter of explanation regarding seven accounts. In particular, the Applicant's letter stated: "CAPED- This account fell behind but is now current. See attached payment history and confirmation of payment made 07/20/2023." The attachment submitted and attested to by the Applicant was a document that purported to show a payment history for some unidentified account, but it was not clear whether the CapEd account was current as claimed in Applicant's letter.

5. In response on July 24th, the examiner sent an email to the Applicant that detailed the additional information needed regarding six accounts in question. For various accounts, the examiner stated: "Explain what remedies you have in place

to bring the account current AND provide the most recent statement for the account.” Regarding the CapEd account, the email stated: “Provide the most recent statement for the account showing it has been paid in full.” The email further explained: “At a minimum, evidence of a payment arrangement must be provided for all creditors in order to be compliant with Idaho’s Financial Responsibility Policy. Please review the Financial Responsibility Policy 2020-01-CFB (finance.idaho.gov) for additional information on documents required.” See <https://www.finance.idaho.gov/legal/guidance/documents/mortgage/2020-01-cfb-gs-mtg-mlo-financial-responsibility.pdf> (guidance document posted on Department website that addresses numerous issues related to the financial responsibility/fitness requirement for MLO licensees or licensee applicants).

6. On July 25th, the Applicant submitted and attested to another document that addressed the six accounts in question. Regarding the CapEd account, the Applicant stated, “Most recent payment was made 07/20/2023. Account is current. Please see payment history attached.” Attached was the same document that purported to show a payment history for some unidentified account, but it was not clear whether the CapEd account was current as again claimed in Applicant’s letter.

7. That same day, the examiner responded via email to explain that “the following information is needed to complete your credit inquiry response for review: ... CAP EDU FCU Provide the most recent statement from the creditor for this account. NOTE – The “Submit A Payment” printout uploaded is not an account statement.” The examiner’s email again pointed the Applicant to the Financial

Responsibility Policy on the Department's website and indicated that the Applicant could submit any questions via email.

8. In response on July 25th, the Applicant submitted and attested to a new document that purported to show a detailed account history for a vehicle loan from CapEd Federal Credit Union ("CapEd FCU"). However, the account history document was dated 05/24/2023, well before the date of the license application by Applicant. The document showed the last non-reversed payment was on March 8, 2023.

9. The examiner responded on July 26th: "I have reviewed your 7/25/2023 submissions. The documentation pertaining to the CapEd account is still incomplete. A copy of the recent loan statement issued by CapEd CU is still required. You can obtain a copy of your loan statement by calling CapEd at 208-884-0150, Opt. 2. A representative from CapEd will be able to email you a copy of the most recent loan statement."

10. Later on July 26th, the Applicant submitted and attested to another document related to the CapEd FCU account. This document showed a payment on July 21, 2023, but it did not indicate whether the account was current as claimed. The examiner then called the Applicant on the phone to again explain what was needed, *i.e.*, the complete, most recent account statement for the account.

11. Later on July 26th, the Applicant submitted and attested to another document related to the CapEd FCU account. This document appeared to be what had been requested numerous times by the examiner: the most recent account

statement for the account (“Purported Account Statement”). The document stated \$0 for the “Past Due Amount.”

12. However, during the review process, the Department noted several inconsistencies with the Purported Account Statement. Pursuant to its investigatory powers, on July 27, 2023, the Department issued a subpoena to CapEd FCU to obtain “Copies of auto loan statements for account ... re: 2017 Toyota 4Runner.”

13. In a letter dated July 28, 2023, CapEd FCU informed the Applicant of the subpoena received from the Department. Applicant now knew that the Department was going to obtain the original, unaltered account statements.

14. On August 3, 2023, at 6 P.M., the Applicant submitted and attested to an email to the Department stating, in part: “I had some confusion on my end thinking my last payment to Cap Ed had me all caught up. Their online system is very confusing. In no way was I intending to be dishonest, I was really simply confused.” That same day, the Applicant changed her NMLS application filings, to remove the Purported Account Statement. In its place, the Applicant submitted and attested to a document that she electronically signed stating: “I was mistaken when I thought I had my Cap Ed Account all caught up. Their system and statements are very confusing. I learned that I still [sic] 2 more payments that need to be paid.”

15. On August 9, 2023, the Department received the subpoenaed documents from CapEd FCU, including the original account statements for the vehicle loan in question. The subpoenaed account statements were materially different from the Purported Account Statement submitted by the Applicant. By comparing the

subpoenaed account statements with the Purported Account Statement, it appears that someone used the actual account statement for the period 05/01/23-05/31/23 and altered it significantly, such that it now stated that it was for the period 06/01/23-06/30/23 and did not have any “Past Due Amount.” It appears that this May 2023 account statement was altered in at least thirteen different ways to create the Purported Account Statement. The actual account statement for the CapEd FCU account in question, for the period up through 6/30/23, showed a Past Due Amount of \$2,710.35 and a Total Amount Due of \$3,392.42.

16. Department examiners concluded that the Purported Account Statement, submitted and attested to by the Applicant in conjunction with her license application, was falsified and did not reflect the actual status of her vehicle loan account.

17. On September 6, 2023, a Department examiner conducted a recorded interview of the Applicant. The Applicant explained that she had found a hard copy of the Purported Account Statement amongst “a box of mail that I had” and had scanned it herself and submitted through NMLS.

18. The Department’s examiner showed the Applicant the actual account statements obtained from CapEd FCU and compared them side-by-side with the Purported Account Statement, showing the Applicant the 13 changes. The Applicant could not explain why the Purported Account Statement was different than the actual account statements received from CapEd FCU via subpoena. The Applicant repeatedly claimed that she had not altered the CapEd FCU account statements and

that she had no idea who could have altered account statements to create the Purported Account Statement. The Applicant denied that any of her family members would have altered account statements. The Applicant indicated that she had not noticed anything altered when she scanned the original. The Applicant could not explain why the Purported Account Statement had various inconsistencies with how CapEd FCU generates account statements, *e.g.* using XX/XX/2023 instead of XX/XX/23 when stating dates. The Applicant could not explain why the Purported Account Statement was for the month of June, but CapEd FCU does not issue a June-only account statement; rather it issues an end-of-quarter account statement at the end of June.

19. The examiner asked the Applicant to produce the original document for the Purported Account Statement, but she claimed that she did not have it anymore because she had “cleaned out her desk.” The Applicant has not provided any information from CapEd FCU to explain how the Applicant obtained the Purported Account Statement (containing incorrect information and incorrectly stating that the account was current).

20. The Applicant admitted that she received the letter from CapEd FCU alerting her to the subpoena. The Applicant admitted she then removed the Purported Account Statement from NMLS, though she claimed that it was because she had checked her account statements and realized she was not current.

21. During the interview, the Applicant admitted that she knew the CapEd FCU account was not current, prior to submitting her license application on July 21,

2023. She had no reasonable explanation for why she submitted the Purported Account Statement, showing no amount owing, when she already knew from multiple communications with Tim of CapEd FCU that she was not current on the account.

22. After the interview, the Applicant submitted additional documents that showed she was communicating with “Tim”, a Credit Resolution Expert at CapEd FCU, in June of 2023, and Tim informed the Applicant that she was several months past due, from missing payments in February, March, October, and November of 2022 and having a payment returned in April of 2023. The Applicant could not provide a reasonable explanation for why she was telling the Department’s examiner repeatedly from July 21-26, 2023 that the CapEd FCU account was current. The Applicant did not bring the CapEd FCU account current until approximately August 24, 2023, making a payment of \$2,674.49.

LEGAL CONCLUSIONS

23. The Findings Of Fact stated above are fully incorporated herein by this reference.

24. Idaho Code § 26-31-302(1) states, in relevant part: “PURPOSE OF THIS PART. (1) The activities of mortgage loan originators and the origination or offering of financing for residential real property have a direct, valuable and immediate impact upon Idaho consumers, Idaho’s economy, the neighborhoods and communities of Idaho, and the housing and real estate industry. ... The legislature also finds that it is essential for the protection of the citizens of Idaho and the stability of Idaho’s economy that reasonable standards for licensing and regulation of the business

practices of mortgage loan originators be imposed. The legislature further finds that the obligations of mortgage loan originators to consumers in connection with originating or making residential mortgage loans are such as to warrant the regulation of the mortgage loan origination process. The purpose of this part is to protect consumers seeking mortgage loans and to ensure that the mortgage industry is operating without unfair, deceptive, and fraudulent practices on the part of mortgage loan originators. ...”

25. Idaho Code § 26-31-302(1) further states, “Therefore, the legislature establishes within this part an effective system of supervision of mortgage loan originators and enforcement authority, including: ... (b) The authority of the director to deny, suspend, condition or revoke licenses issued under this part;”

26. Idaho Code § 26-31-305(10) states, in relevant part, “A license applicant under this part shall make complete disclosure of all information required in the license application.”

27. Idaho Code § 26-31-306(1) states, in relevant part: “The director shall not issue a mortgage loan originator license under this part unless ... (d) 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.”

28. Idaho Code § 26-31-313(1) states, in relevant part: “the director may ... (b) Deny, suspend, revoke, condition or decline to renew a license if an applicant or

licensee under this part fails at any time to meet the requirements of section 26-31-306, Idaho Code ..., or withholds information or makes a material misstatement in an application for a license or renewal of a license; ...”

29. Idaho Code § 26-31-317 states, in relevant part: “PROHIBITED ACTS AND PRACTICES. It is a violation of this part for a person or individual subject to this part, in connection with mortgage loan origination activity in this state ... (10) Negligently make any false statement or knowingly and willfully omit a material fact in connection with any information or reports filed with a government agency or the NMLSR or in connection with any investigation conducted by the director or another governmental agency; ...”

30. The Applicant attested to false information submitted to the Department in support of her license application. The Department’s examiners were properly and routinely investigating issues related to the Applicant’s “financial responsibility, character and general fitness” when they requested information about various accounts listed on the credit bureau report for the Applicant. Rather than provide an accurate account statement for the CapEd FCU account and explain how she was going to bring the account current, the Applicant repeatedly and incorrectly claimed that the account was current and then submitted and attested to altered and falsified documents to the Department, again falsely claiming the account was current. When interviewed, the Applicant provided explanations that did not adequately explain how false information and altered documents were provided by the Applicant to the Department. The Applicant’s submission and attestation to false information and of

altered and falsified documents constitutes material misstatements in the Applicant's license application in violation of Idaho Code § 26-31-305(10) and § 26-31-317(10).

31. 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. Based on the false representations and submission of and attestation to altered documents, the Director finds that the Applicant has not demonstrated the necessary financial responsibility, character and general fitness sufficient to command the confidence of the community that she can operate honestly, fairly and efficiently within the purposes of the Act.

32. Therefore, pursuant to § 26-31-313(1)(a) & (b), the Director finds it appropriate to deny the mortgage loan originator license of the Applicant because of the Applicant's misrepresentations to the Department and by submitting altered and falsified statements in support of her Idaho mortgage loan originator license application.

ORDER

**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 ABBY MIKAEL BEARD, NMLS
#433662, ON JULY 21, 2023, IS DENIED BY THE DIRECTOR.**

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

The Applicant is HEREBY NOTIFIED that the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION (“Order”) is a final order of the Director of the Department of Finance denying the license application, subject to the Applicant’s right to timely file a request for a hearing on the question of her qualifications for a mortgage loan originator license under the Act, pursuant to Idaho Code § 26-31-305(6)(a). Such request for a hearing must be in writing and submitted to the Department of Finance 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 contested case and hearing shall also be served on the Department’s counsel in this matter:

Loren K. Messerly
Deputy Attorney General
Idaho Department of Finance
Loren.messerly@finance.idaho.gov

Alternatively, the Applicant may email the request for hearing to:

CFLegal@finance.idaho.gov.

If the Applicant timely requests a hearing, the Director of the Department of Finance, or a Hearing Officer acting on the Director's behalf, will notify the Applicant of further steps including the date, time, and place of the hearing.

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).

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

IT IS SO ORDERED.

DATED this 7th day of September 2023.



STATE OF IDAHO
DEPARTMENT OF FINANCE

A handwritten signature in cursive script, appearing to read "Patricia R. Perkins", written over a horizontal line.

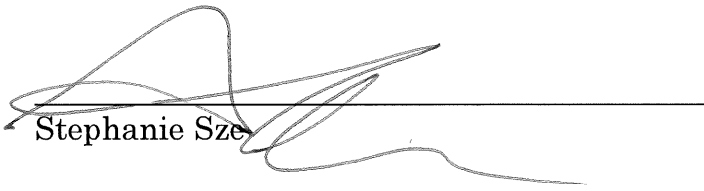
PATRICIA R. PERKINS, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7th day of September 2023, I caused a true and correct fully-executed copy of the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION AND NOTICE OF THE OPPORTUNITY FOR A HEARING to be served on the following by the designated means:

Abby Mikael Beard
4133 N Waterford Pl
Boise, Idaho 83703

U.S. mail, postage prepaid
 certified mail
 facsimile _____
 email: 19abby81@gmail.com


Stephanie Sze