

LAWRENCE WASDEN  
Attorney General

BRIAN D. NICHOLAS – I.S.B. #3585  
Deputy Attorney General  
State of Idaho  
Department of Finance  
P.O. Box 83720  
Boise, Idaho 83720-0031  
Telephone: (208) 332-8092  
Facsimile: (208) 332-8016  
brian.nicholas@finance.idaho.gov

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

	)	
	)	Docket No. 2015-16-03
In re Mortgage Loan Originator	)	
License Application of:	)	<b>NOTICE OF DENIAL OF</b>
	)	<b>MORTGAGE LOAN ORIGINATOR</b>
ALLAN RAY EICHHORN,	)	<b>LICENSE APPLICATION</b>
NMLS ID No. 117272,	)	
	)	<b>AND</b>
Applicant.	)	
	)	<b>NOTICE OF THE OPPORTUNITY</b>
	)	<b>TO REQUEST A HEARING</b>
	)	

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 §§ 26-31-313(1)(b) and 26-31-306(1)(h), of the Act, hereby issues the following Notice 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), ALLAN RAY EICHHORN (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 this Notice was mailed him.

The Notice is based on the following:

**MATTERS ASSERTED**

1. On October 7, 2015, the Applicant, a resident of the State of Idaho, applied for an Idaho mortgage loan originator license through the National Mortgage Licensing System (NMLS).

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 Applicants' qualifications are the following questions:

\* \* \* \*

(D) Do you have any unsatisfied judgements or liens against you?

\* \* \* \*

(H)(1) Have you ever been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to committing or conspiring to commit a misdemeanor involving: (i) financial services or financial services-related business, (ii) fraud, (iii) false statements or omissions, (iv) theft or wrongful taking of property, (v) bribery, (vi) perjury, (vii) forgery, (viii) counterfeiting, or (ix) extortion?

3. The Applicant responded with a "no" to both of these questions.

4. As with all application reviews, a Department examiner conducted a review assessment on the Applicant using information provided through the NLMS regarding the Applicant's criminal background check and from a credit reporting agency to determine whether

the Applicant demonstrated the requisite financial responsibility, character, and general fitness in order to be licensed as a mortgage loan originator.<sup>1</sup>

5. The examiner's search revealed that the Applicant was charged in Canyon County, Idaho with a felony in 2009 for theft by deception. The examiner subsequently obtained copies of relevant documents from the District Court for Canyon County. These documents revealed that the Applicant had been charged with a felony, but he pleaded guilty to misdemeanor petit theft. The Applicant was ordered to pay restitution to the victims in the amount of \$22,928.06. As noted, the Applicant affirmatively represented in his application that he had never pleaded guilty to a misdemeanor involving theft. This statement is false.

6. The actions surrounding this criminal matter call into question the Applicant's ability to obtain employment in the financial services industry. Initially the Applicant was charged with Grand Theft by Deception. The complaint alleges that he intentionally deposited into his own bank account several checks drawn on an account that he knew lacked the funds to cover the checks and then intentionally withdrew a portion of those funds. If those facts are true, the Applicant could not seek employment in the financial services industry pursuant to the Idaho Financial Fraud Prevention Act, Idaho Code §67-2750 *et seq.* Specifically, Idaho Code § 67-2753 provides the following:

Except with the prior written consent of the director, no person who has been convicted of, or who has pled *nolo contendere* [contendere] to, any criminal offense involving dishonesty, breach of trust or fiduciary duty, or money laundering, or who has been granted a withheld judgment based on such offense, or who has been found to have violated this act, shall seek employment with, accept employment by, become employed by, or continue in their employment with an Idaho state chartered or licensed financial institution.

---

<sup>1</sup> 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 § 26-31-301, *et seq.*

Thus, if the actions of the Applicant that give rise to this misdemeanor theft conviction involve dishonesty, then pursuant to this statute, he could not be employed by any state-chartered or licensed financial institution<sup>2</sup> without the prior written consent of the director.

7. A credit report received through NMLS, issued by TransUnion, shows that the Applicant owes approximately \$125,000 in federal taxes. These debts have been secured by federal tax liens that were recorded in the Ada County Recorder's office on November 14, 2013, and July 15, 2014. The examiner confirmed with the Idaho Secretary of State that these liens are still valid and no release of lien has been filed by the Internal Revenue Service. As noted, the Applicant affirmatively stated in his application that he did not have any outstanding liens filed against him. This statement is 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.

10. Idaho Code § 26-31-305(1) provides that an Applicant for a mortgage loan originator license must apply through the Nationwide Mortgage License System and Registry (NMLSR), in a form required by the Director. Idaho Code § 26-31-305(3)(b)(ii) provides that applicants must submit to the Nationwide Mortgage License System and Registry (NMLSR) “[p]ersonal history and experience ... [and] information related to any administrative, civil or criminal findings by any governmental jurisdiction. . . .”

---

<sup>2</sup> Financial Institution, as defined in the Idaho Financial Fraud Prevention Act, Idaho Code § 67-2751(4), includes any mortgage lender, mortgage broker, or loan originator licensed under the Idaho Residential Mortgage Practices Act.

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 two material misstatements of fact in his application which is grounds to deny his application for licensure. He indicated that he had never pled guilty to a crime involving theft. However, he did in fact plead guilty to a petit theft charge. He further indicated that there were no unsatisfied liens of record on file against him. However, there are a number of federal tax liens representing unpaid taxes on file. 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).

15. The Director finds it appropriate to deny the application because the Applicant's failure to disclose on the Form MU4 the misdemeanor conviction of theft against him 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.

16. The Director finds it appropriate to deny the application because the Applicant's failure to disclose on the Form MU4 the tax liens filed against him 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.

### **DENIAL OF MORTGAGE LOAN ORIGINATOR**

#### **LICENSE APPLICATION**

**NOW, THEREFORE, BASED ON THE FOREGOING, AND PURSUANT TO IDAHO CODE §§ 26-31-305 AND 26-31-313, THE APPLICATION FOR A MORTGAGE LOAN ORIGINATOR LICENSE SUBMITTED TO THE DEPARTMENT ON OCTOBER 7, 2015, BY ALLAN RAY EICHHORN IS HEREBY DENIED.**

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

18. The Applicant is HEREBY NOTIFIED that the foregoing 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 Proposed Order. A copy of the request for contested

case and hearing shall be served on Michael Larsen, Consumer Finance Bureau Chief, at the following address:

Michael Larsen  
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.*

DATED this 28<sup>th</sup> day of OCTOBER, 2015.



STATE OF IDAHO  
DEPARTMENT OF FINANCE


  
GAVIN M. GEE, Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 28<sup>th</sup> day of October, 2015, 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 REQUEST A HEARING to be served on the following by the designated means:

Allan Ray Eichhorn  
2866 S Bay Star Way  
Meridian, ID 83642

- U.S. mail, postage prepaid
- certified mail
- facsimile \_\_\_\_\_
- email: aeichhorn20@hotmail.com

  
\_\_\_\_\_  
Paralegal