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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:

BRIAN ALWIN KOERNER,  
NMLS ID No. 1828084,

Applicant.

Docket No. 2021-16-73

**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 §§ 26-31-306(1)(d) and (h) and 26-31-313(1)(a) and (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 (Order).

**FINDINGS OF FACT**

1. The Applicant, BRIAN ALWIN KOERNER, a resident of the state of California, holds NMLS number 1828084 and applied for an Idaho Mortgage Loan Originator (MLO) license by filing an individual Form MU4 through the online Nationwide Mortgage Licensing System (NMLSR or

NMLS). This application was attested to and submitted to the Idaho Department of Finance on June 8, 2021 by the Applicant.

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.

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.<sup>1</sup>

5. The examiner obtained a public record background information report through LexisNexis, which showed that the Applicant had an undisclosed federal tax lien that was entered against him. The examiner obtained copies of the tax lien as follows:

- a. Notice of Federal Tax Lien against the Applicant for \$8,455.56, Serial Number 902799712, dated October 26, 2012, and was recorded in the Los Angeles County, California Recorder's Office on November 5, 2012, under Instrument Number 20121676260. The Notice of Federal Tax Lien (for tax years 2008 and 2009) indicates that \$1,830.62 of the total balance had expired as of May 18, 2021,

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<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 § 26-31-306.

and thus was not required to be disclosed. However the remaining balance of \$6,624.94 remained in effect through August 24, 2021, and was active as of the date of the application.

6. The Department has no evidence indicating that the federal tax lien described above has been satisfied and/or released.

7. 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 described above that was still outstanding as of the date of the application constitutes a material omission.

8. On October 5, 2021, the Department provided the Applicant 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 item had been resolved and that disclosure was not required. The notice alternatively provided the Applicant the opportunity to withdraw the application. The Applicant failed to provide the requisite documentation or withdraw the application by the stated deadline of November 2, 2021.

#### **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. 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.

13. 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.

14. 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.

15. The Applicant made a material misstatement of fact by omission in his application, which is grounds to deny his application for licensure. He failed to disclose and provide information regarding the federal tax lien that was entered against him. The failure to disclose the tax lien 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 provide complete information on the Form MU4 regarding the tax lien 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), 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 BRIAN ALWIN KOERNER, NMLS #1828084, ON JUNE 8, 2021, IS DENIED.**

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

17. The Applicant is HEREBY NOTIFIED that the foregoing ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION is a final order of the Director denying the license application, subject to the Applicant's right to timely file a request for a hearing on the question of his 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 within fifteen (15) days after the service of this Order. A copy of the request for hearing shall be served on the following:

Erin Van Engelen  
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](mailto:CFLegal@finance.idaho.gov).

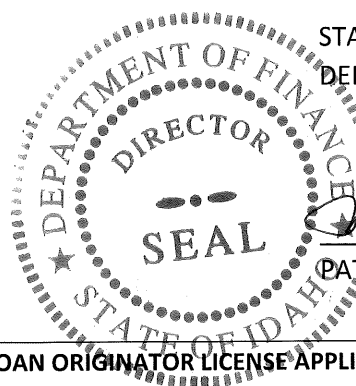
18. If the Applicant timely requests a hearing, the Director of the Department, or a Hearing Officer acting on the Director's behalf, will notify the Applicant of further steps including the date, time and place of the hearing.

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

20. 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 29<sup>th</sup> day of November 2021.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

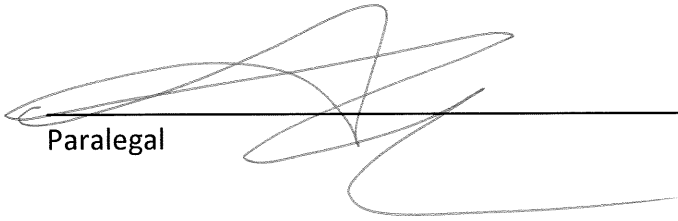
PATRICIA R. PERKINS, Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 30<sup>th</sup> day of November 2021, 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:

Brian Alwin Koerner  
16061 Tellim Lane  
Huntington Beach, CA 92647

- U.S. mail, postage prepaid
- certified mail
- facsimile \_\_\_\_\_
- email: brian.koerner@lrhloans.com

  
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Paralegal