

JEAN R. URANGA  
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BEFORE THE DIRECTOR OF THE DEPARTMENT OF FINANCE

STATE OF IDAHO

In re Mortgage Loan Originator)  
License Application of: )  
JOSE IGNACIO CORTEZ, ) Docket No. 2013-16-02  
Applicant. ) HEARING OFFICER'S FINDINGS  
OF FACT, CONCLUSIONS OF LAW  
AND PRELIMINARY ORDER

This matter came on for an evidentiary hearing on February 11, 2014, at 9:00 a.m. Brian Nicholas, Deputy Attorney General, appeared on behalf of the Department of Finance. Jose Cortez appeared by telephone.

**FINDINGS OF FACT**

1. Mr. Cortez is a resident of the State of California and has never held an Idaho Mortgage Loan Originator License. On August 5, 2013, Mr. Cortez submitted an on-line application to the Department of Finance for a Mortgage Loan Originator License". (Exhibit A.)

2. On Exhibit A, Page 7, Section (F) specifically asks:

1. Have you ever been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any felony?

Section (H) asks whether the applicant has ever been convicted or pled guilty or nolo contendere in a domestic, foreign, or military court to committing a misdemeanor involving financial services, fraud, false statements, theft and other financial crimes. Mr. Cortez answered these questions: "No." In his application, Mr. Cortez agreed to a federal criminal background check. Page 9 of the application further certifies that the information provided is current, true, accurate and complete and has been provided under penalty of perjury.

3. Thereafter, the Department of Finance through Erin Van Engelen obtained a criminal background check. A copy of that report was admitted as Exhibit C. The FBI report noted various criminal charges against Mr. Cortez. Ms. Van Engelen prepared a summary of the Department's concerns which was admitted as Exhibit B which includes a copy of a page of the NMLS Guidebook.

4. Ms. Van Engelen sent a letter to Mr. Cortez dated August 9, 2013, providing him with a copy of the FBI report and requesting that he provide copies of all court documents and explanation of the circumstances of all criminal charges. She further requested an explanation as to why he had answered "no" to the questions regarding criminal disclosures on the application form.

5. Mr. Cortez's written response was admitted as Exhibit E. In his response to the question on why he failed to disclose any

criminal charges, he responded that he did not think he needed to answer for any arrests or convictions unless they had occurred in the last 7 years.

6. In response to the specific military charge, his response indicates that he was court-martialed and found guilty of larceny regarding an incident where a roommate took a 9mm pistol from the Army without properly checking it out.

7. Exhibit F includes additional documents which were provided to Ms. Van Engelen at the Department on August 1, 2013, regarding the military charge. Those documents list Mr. Cortez with the name of Jose Saucido. The evidence at the hearing establishes that Mr. Cortez was formerly known as Jose Saucido. Those military documents confirm that Mr. Cortez was found guilty of a crime of larceny and was sentenced to a dishonorable discharge, six years of confinement and forfeiture of all pay and allowances. An appeal was taken and the confinement was partially suspended and the dishonorable discharge was executed.

8. On October 1, 2013, Mr. Cortez attempted to correct his false answers by updating his disclosure questions. (Exhibit G.)

9. The NMLS Guidebook defines "felony" to include an offense punishable by sentence of at least one year imprisonment and/or fine of at least \$1,000. The Guidebook states: "The term also includes a general court martial." Consequently, the Hearing Officer finds that the military proceedings qualify as a felony.

10. In his defense, Mr. Cortez did not provide any clear explanation on why he made false disclosures on his application.

11. The Hearing Officer finds that Mr. Cortez was convicted of a felony and did provide a material misstatement responses to the criminal disclosures on his license application. The Department has grounds to deny Mr. Cortez's application for a Mortgage Loan Originator License.

### CONCLUSIONS OF LAW

12. 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).

13. 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.

14. The Director shall require mortgage loan originators to be licensed and as part of the application, and the Director can require applicants to submit to background checks and provide records of criminal history. Idaho Code §26-31-311

15. 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. Further, Idaho Code §26-31-305 requires that all applicants for licensure update application forms as necessary to keep all information current.

16. In his initial application, the Applicant made a material misstatement of fact. He indicated he did not have any felony or misdemeanor convictions. Even after the criminal background check was brought to his attention, he did not change his answer

regarding the misdemeanor. He did admit to the felony but then he misrepresented the nature of his sentence.

17. The Applicant has made a material misstatement of fact in his application which is grounds to deny his application for licensure.

### PRELIMINARY ORDER

Based upon the foregoing, IT IS HEREBY ORDERED That the Department's Order Denying Mortgage Loan Originator License Application dated November 22, 2013 should be AFFIRMED.

DATED This 14 day of March, 2014.

**JEAN R. URANGA**

JEAN R. URANGA  
Hearing Officer

### CERTIFICATE OF MAILING

I HEREBY CERTIFY That on this 14 day of March, 2014, I served true and correct copies of the foregoing HEARING OFFICER'S FINDINGS OF FACT, CONCLUSIONS OF LAW AND PRELIMINARY ORDER by depositing copies thereof in the United States mail, postage prepaid, in envelopes addressed to:

Jose Ignacio Cortez  
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