

LAWRENCE WASDEN
Attorney General

Thomas A. Donovan – I.S.B. #4377
Deputy Attorney General
State of Idaho
Department of Finance
P.O. Box 83720
Boise, Idaho 83720-0031
Telephone: (208) 332-8091
Facsimile: (208) 332-8016
Tom.donovan@finance.idaho.gov

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

In re Mortgage Loan Originator
License Application of:

DERRICK TRENTON BREW,
NMLS ID No. 1931698,

Applicant.

Docket No. 2021-16-24

**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)(b)(ii), (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, DERRICK TRENTON BREW, a resident of the state of California, holds NMLS number 1931698 and applied for an Idaho Mortgage Loan Originator (MLO) license by filing

an individual Form MU4 through the online Nationwide Mortgage Licensing System and Registry (NMLSR or NMLS). This application was attested to on January 15, 2021 by the Applicant and was submitted on the Applicant's behalf on January 19, 2021 by Sean Wetherhold of Freedom Mortgage Corporation.

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 were questions under section (K) "Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:

- (1) found you to have made a false statement or omission or been dishonest, unfair or unethical?
- (2) found you to have been involved in a violation of a financial services-related business regulation(s) or statute(s)?
- ...
- (4) entered an order against you in connection with a financial services-related activity?
- ...
- (6) denied or suspended your registration or license or application for licensure, disciplined you, or otherwise by order, prevented you from associating with a financial services-related business or restricted your activities?
- (7) barred you from association with an entity regulated by such commissions, authority, agency, or officer, or from engaging in a financial services-related business?
- (8) issued a final order against you based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?
- (9) entered an order concerning you in connection with any license or registration?"

4. Also pertinent to the Applicant's qualifications is question (N), which asks: "Is there a pending regulatory action proceeding against you for any alleged violation described in (K)...?"

5. The applicant responded with a “no” to each of the questions quoted above.

6. Consistent with normal practice, a Department examiner conducted an assessment of the Applicant using various sources of public information, as well as the Applicant’s NMLS record, to determine if the Applicant demonstrates sufficient financial responsibility, character, and general fitness in order to be licensed as a mortgage loan originator.¹

7. While reviewing the Applicant’s NMLS record, a Department examiner noted that the California Department of Financial Protection and Innovation (DFPI) issued an Order Denying Mortgage Loan Originator License Application (Order) on February 2, 2021 regarding the Applicant’s California mortgage loan originator license application he submitted to DFPI. The examiner obtained a copy of the Order, which indicated that DFPI issued a Notice of Intention to Issue Order Denying Application for Mortgage Loan Originator License on January 4, 2021 and served it on the Applicant at his “last address on file” on January 14, 2021.

8. The Order was issued because the Applicant pled guilty to two counts of felony bank fraud on October 6, 2009 in the U.S. District Court for the Eastern District of Missouri. DFPI found that these felonies involved acts of “fraud, dishonesty, and breach of trust, or money laundering” and that the Applicant failed to demonstrate “financial responsibility, character, and general fitness as to command the confidence of the community and to warrant a determination that he will operate honestly, fairly, and efficiently” as a mortgage loan originator in California. The Order further cited California Financial Code § 22109.1(a)(2), which states in pertinent part:

The commissioner shall deny an application for a mortgage loan originator license unless the commissioner makes, at a minimum, the following findings:

...

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.

The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court during the seven-year period preceding the date of the application for licensing and registration, or at any time preceding the date of application, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.

9. The Applicant provided negative responses on his Form MU4 to disclosure questions (K)(1), (2), (4) and (7) through (9), as well as (N), at the time his application was submitted to the Department on January 19, 2021. The Applicant was required to amend his responses to reflect affirmative answers to disclosure questions (K)(1), (2), (4) and (7) through (9) after the Order was issued and he was required to affirmatively answer disclosure question (N) because, at the time he submitted and attested to his Idaho application, he had a regulatory agency, DFPI, taking enforcement action to deny his California mortgage loan originator license for alleged violations found in question (K). Part of the Applicant's attestation on his Form MU4 application provided that he agreed and represented that he would, "keep the information contained in this form current and to file accurate supplementary information on a timely basis. . . ." This duty to supplement and keep the application current is also required pursuant to Idaho Code § 26-31-305(1).

10. The Applicant's failure to disclose or amend his Form MU4 with the DFPI's pending enforcement action and the failure to amend his Form MU4 to reflect that a regulatory agency action had been taken against him constitute material misrepresentations and relevant omissions in the Applicant's responses to the application disclosure questions (K)(1), (2), (4) and (6) through (9) and (N).

11. Additionally, the Director is prohibited from issuing a mortgage loan originator license to the Applicant because the felony convictions for bank fraud renders the Applicant ineligible to be licensed in Idaho under similar law as was the basis for the DFPI denial order.

12. The failure to disclose DFPI's pending enforcement action, the failure to update his license application as required, and the felony fraud convictions themselves, are bases to justify the denial of the Applicant's Idaho mortgage lender license application. These issues also demonstrate that the Applicant does not have the character and fitness sufficient to warrant belief that he will operate honestly and fairly within the purposes of the Act, which is also a justification to deny the Applicant's license application.

FINDINGS AND CONCLUSIONS OF LAW

13. The findings set forth in paragraphs 1 through 12 above are fully incorporated herein by this reference.

14. 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.

15. Idaho Code § 26-31-305(1) provides that an applicant for a license shall apply through the NMLS in a form prescribed by the Director and that "Each form shall include such content as the director may reasonably require," and "shall be updated as necessary to keep the information current..."

16. 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.

17. 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.

18. Pursuant to Idaho Code § 26-31-306(1)(b)(ii), the Director shall not issue a mortgage loan originator license to an applicant if at any time preceding the date of his application, the applicant was convicted of, found guilty of or pled guilty or nolo contendere to a felony in a domestic, foreign or military court, if the felony involved an act of fraud, dishonesty, or a breach of trust, or money laundering.

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

20. The Applicant failed to affirmatively answer disclosure question (N) to reflect the pending DFPI enforcement action against him and he failed to update his Form MU4 with information regarding DFPI's pending enforcement action and ultimately the final order denying his California license application, as required by Idaho Code § 26-31-305(1). This justifies the Director denying the Applicant's mortgage loan originator license pursuant to Idaho Code § 26-31-306(1)(d) and (h) and § 26-31-313(1)(a) and (b). The Applicant's felony convictions for bank

fraud also render him ineligible to hold an Idaho mortgage loan originator license and justify the Director denying the license pursuant to Idaho Code § 26-31-306(1)(b).

21. The Director finds it appropriate to deny the application because the Applicant's failure to provide complete information on the Form MU4 regarding the DFPI regulatory action 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 BY DERRICK TRENTON BREW, NMLS NUMBER 1931698, ON JANUARY 15, 2021 AND SUBMITTED ON MR. BREW'S BEHALF ON JANUARY 19, 2021 BY SEAN WETHERHOLD OF FREEDOM MORTGAGE CORPORATION IS DENIED.

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

22. 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.

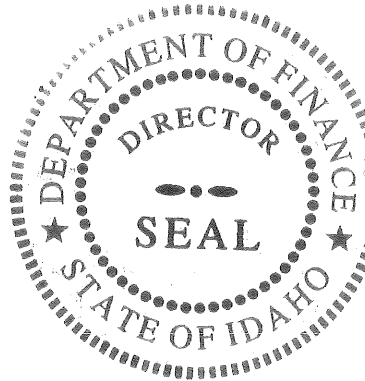
23. If the Applicant timely requests a hearing, the Director of the Department, or a Hearing Officer acting on the Director's behalf, will notify the Applicant of the date, time and place of the hearing, as well as the name and contact information of the presiding officer.

24. 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).

25. 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 24th day of May 2021.



STATE OF IDAHO
DEPARTMENT OF FINANCE

PATRICIA R. PERKINS, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of May 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:

Derrick Trenton Brew
1431 Spectrum
Irvine, CA 92618

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: derrick.brew@freedommortgage.com,
- email: derrick.brew@nafinc.com
- email: dbrewagency@gmail.com

Paralegal