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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:

JERMAINE LAMONT WHIGHAM,
NMLS ID No. 1289509,

Applicant.

Docket No. 2019-16-12

**NOTICE OF INTENT TO ISSUE ORDER OF
DENIAL OF MORTGAGE LOAN
ORIGINATOR LICENSE APPLICATION**

AND

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

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 §§ 26-31-306(1)(d), 26-31-306(1)(h) and 26-31-313(1)(b) of the Act, hereby issues the following Notice of Intent to Issue Order 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), JERMAINE LAMONT WHIGHAM (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 of mailing of this Notice. If the written request is not timely made, the Director shall issue a Final Order of Denial of Mortgage Loan Originator License Application.

The Notice is based on the following:

MATTERS ASSERTED

1. The Applicant, a resident of the state of California, applied for an Idaho Mortgage Loan Originator license by filing a Form MU4 through the online Nationwide Mortgage Licensing System and Registry (NMLSR) on February 15, 2019.

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 Applicant's qualifications is question (D), which reads: "Do you have any unsatisfied judgments or liens against you?"

3. The Applicant responded with a "no" to this question.

4. As with all application reviews, 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.¹ The examiner found a relevant omission in the Applicant's responses to the disclosure questions.

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 § 26-31-305.

5. The examiner obtained a public records background information report through LexisNexis, which revealed that the Applicant gave a false response regarding whether he had any unsatisfied liens or judgments against him.

6. The report showed that there are two outstanding State of California tax liens filed against the Applicant. The examiner contacted the California Franchise Tax Board and confirmed with one of its representatives that the following tax liens remain outstanding: File No. 201408060111, filed on August 6, 2014, in the amount of \$4,205; and File No. 201807021034, filed on July 2, 2018, in the amount of \$4,346.

LEGAL CONCLUSIONS

7. Paragraphs 1 through 6 above are fully incorporated herein by this reference.

8. 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.

9. Idaho Code § 26-31-305(1) provides that an applicant for a mortgage loan originator license must apply through the Nationwide Mortgage Licensing System and Registry (NMLSR), in a form required by the Director.

10. 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.

11. 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.

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

13. The Applicant made material misstatements of fact in his application, which is grounds to deny his application for licensure. He indicated that he had no outstanding judgments or liens against him. However, as described in above, the Applicant has two outstanding tax liens against him. This material misstatement by the Applicant prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

14. The Director finds it appropriate to deny the application because the Applicant's failure to disclose on the Form MU4 the two tax liens 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.

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

15. The Applicant is HEREBY NOTIFIED that the foregoing NOTICE OF INTENT TO ISSUE ORDER OF DENIAL OF MORTGAGE LOAN ORIGINATOR LICENSE 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 NOTICE. A copy of the request for

contested case and hearing shall be served on Anthony Polidori, Consumer Finance Bureau Chief, at the following address:

Anthony Polidori
Consumer Finance Bureau Chief
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.

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.


16. 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.

17. 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.*

18. Alternatively, the Applicant can withdraw the application he submitted on February 15, 2019. If the Applicant withdraws the application before the deadline to submit a request for a hearing, the Department will not issue a Final Order of Denial of Mortgage Loan Originator License Application. The Applicant can then submit a new complete application, which will be reviewed by the Department.

DATED this 20th day of March, 2019.

STATE OF IDAHO
DEPARTMENT OF FINANCE



MARY E. HUGHES, Acting Director




CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of March, 2019, I caused a true and correct fully-executed copy of the foregoing NOTICE OF INTENT TO ISSUE ORDER OF DENIAL OF MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION AND NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING to be served on the following by the designated means:

Jermaine Lamont Whigham
3049 Copperwood Way
El Dorado Hills, CA

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: jermainewhigham@gmail.com



Paralegal