

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 Renewal Application of:

JORGE ANGEL FERNANDEZ,
NMLS ID No. 1560303,

Applicant.

Docket No. 2021-16-74

**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, JORGE ANGEL FERNANDEZ, a resident of the state of Utah, holds NMLS number 1560303 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 by the Applicant on June 2, 2021 and submitted on the

Applicant's behalf by Danielle Macias of Fairway Independent Mortgage Corporation on June 3, 2021.

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.¹

5. The examiner obtained a public record background information report through LexisNexis, which showed that the Applicant has three outstanding tax liens entered against him by the Utah State Tax Commission. All three liens were filed on July 20, 2020 in the Third District Court, Salt Lake County, State of Utah. The examiner contacted the court's judicial assistant, who explained that the Utah State Tax Commission uses a paperless system to record its liens and only copies of electronic dockets were being provided. The examiner obtained three printouts representing the liens against the Applicant as follows:

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.

- a. Judgment Case Number 206917769 for \$2,640.04 for tax filing period January 2015 to December 2015;
- b. Judgment Case Number 206918614 for \$3,175.41 for tax filing period January 2016 to December 2016;
- c. Judgment Case Number 206918109 for \$789.49 for tax filing period January 2017 to December 2017.

6. The Department has no evidence indicating that the tax liens described above have 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 Utah tax liens described above constitutes a material omission.

8. On September 29, 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 October 27, 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), and further that the application form shall be updated as necessary to keep the information current.

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 Utah tax liens that were entered against him. The failure to disclose the tax liens 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 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(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 JORGE ANGEL FERNANDEZ, NMLS #1560303, ON JUNE 2, 2021, AND SUBMITTED ON HIS BEHALF BY DANIELLE MACIAS OF FAIRWAY INDEPENDENT MORTGAGE CORPORATION ON JUNE 3, 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.

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 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.* 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 29th day of November 2021.



STATE OF IDAHO
DEPARTMENT OF FINANCE

PATRICIA R. PERKINS, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th 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:

Jorge Angel Fernandez
2909 S Upland Lake Dr #3-207
West Valley City, UT 84119

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: Jorge.fernandez@fairwaymc.com

Paralegal