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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:

JUSTIN ALLAN KAUTZ,  
NMLS ID No. 913358,

Applicant.

Docket No. 2022-16-02

**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, JUSTIN ALLAN KAUTZ, a resident of the state of California, holds NMLS number 913358 and applied for an Idaho Mortgage Loan Originator (MLO) license by filing an individual Form MU4 through the online Nationwide Multistate Licensing System (NMLS). This application was attested to and submitted by the Applicant on July 26, 2021.

2. The Applicant had previously attested to and submitted a Form MU4 to the Department of Finance of the State of Idaho (Department) on March 2, 2020. A Final Order Denying Mortgage Loan Originator License Application (Denial Order) was served against the Applicant on June 9, 2020, effectively denying the Applicant's March 2, 2020, application for failing to disclose required information pertaining to outstanding tax liens against the Applicant.

3. 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.

4. Pertinent to the Applicant's qualifications is question (D): "Do you have any unsatisfied judgments or liens against you?" The Applicant responded with a "no" to this question.

5. Also 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: "(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?” The Applicant responded with a “no” to this question as well.

6. 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>

7. The examiner obtained a public record background information report through LexisNexis, which showed that the Applicant has numerous tax liens entered against him. Following this, the examiner obtained copies of the following federal and state tax liens:

- a. A Notice of Federal Tax Lien, Serial Number 972479513. This tax lien was issued against the Applicant by the Internal Revenue Service on December 5, 2013, for \$60,911.56, and recorded with the Orange County Recorder, California, on December 19, 2013, as document No. 2013000699069.
- b. A Notice of Federal Tax Lien, Serial Number 176607215. This tax lien was issued against the Applicant by the Internal Revenue Service on September 15, 2015, for \$37,479.11, and recorded with the Orange County Recorder, California, on September 23, 2015, as document No. 2015000488311.
- c. A Notice of Federal Tax Lien, Serial Number 358729519. This tax lien was issued against the Applicant by the Internal Revenue Service on May 9, 2019, for \$55,458.63, and recorded with the Orange County Recorder, California, on May 22, 2019, as document No. 2019000174599.

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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.

- d. A Notice of State Tax Lien, Certificate Number 17283852613. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board, on October 10, 2017, for \$17,852.65, and recorded with the Orange County Recorder, California, on October 20, 2017, as document number 2017000447290.
  - e. A Notice of State Tax Lien, Certificate Number 19256389684. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board, on September 13, 2019, for \$4,420.62, and recorded with the Orange County Recorder, California, on September 25, 2019, as document number 2019000368775.
  - f. A Notice of State Tax Lien, Certificate Number 20253118539. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board, on September 9, 2020, for \$36,535.80, and recorded with the Orange County Recorder, California, on September 9, 2020, as document number 2020000476765.
8. The Department has no evidence indicating that any of the state and federal tax liens described above have been satisfied and/or released.
9. The examiner also reviewed information concerning the Applicant that is available online through the NMLS, which showed that the Applicant had his mortgage loan origination license application denied by the Non-Depository Financial Institutions Division of the State of Georgia Department of Banking and Finance (GDBF) on May 29, 2019. The Final Order of Denial of Application for Mortgage Loan Originator's License was issued on the grounds that the Applicant failed to demonstrate the requisite "financial responsibility, character and general

fitness such as to command the confidence of the community and to warrant a determination by the Department that the Applicant would operate honestly, fairly and efficiently within the purposes of the Georgia Residential Mortgage Practices Act. . ." The GDBF also determined that the Applicant withheld information requested by GDBF in connection with its investigation, which was in violation of Georgia Statutes §§ 7-1-1013(c)(3) and 7-1-1013(11).

10. Included in the Applicant's NMLS record was also information pertaining to the Denial Order that was issued by the Director against the Applicant in June 2020 as a result of the Applicant not disclosing five of the six tax liens referenced above in his March 2, 2020, application.

11. The Applicant's negative responses to the Form MU4 application disclosure questions (D) and (K)(6) are material misrepresentations, and the failures to provide details of the state and federal tax liens and the two state regulatory agencies actions against him described above constitute material omissions.

12. On December 7, 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.

#### **LEGAL CONCLUSIONS**

13. 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 mortgage loan originator license must apply through the Nationwide Multistate Licensing System (NMLS), in a form required by the Director.

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 § 26-31-313(1)(a) and (b), the Director may deny a license if an applicant violates the Act and/or withholds information or makes a material misstatement in an application for a license.

19. The Applicant made material misstatements of fact in his application, which is grounds to deny his application for licensure. The Applicant failed to affirmatively answer disclosure questions (D) and (K)(6) to reflect the outstanding state and federal tax liens and GDBF's and the Department's enforcement actions against him 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).

20. 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 and regulatory actions 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) and (h), 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 JUSTIN ALLAN KAUTZ, NMLS #913358, ON JULY 26, 2021, IS DENIED.**

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

21. 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 her 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:

Attn: Lisa Baker  
Assistant to the Director  
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:

Erick M. Shaner  
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).

22. If the Applicant timely requests a hearing, the Director, 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.

23. 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).

24. 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 2<sup>nd</sup> day of February 2022.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

PATRICIA R. PERKINS, Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 2<sup>nd</sup> day of February 2022, 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:

Justin Allan Kautz  
504 Orchid Ave  
Corona Del Mar, CA 92625

- U.S. mail, postage prepaid
- certified mail
- facsimile \_\_\_\_\_
- email: justinkautz@me.com

  
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-Paralegal