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

In re Mortgage Loan Originator
License Renewal/Reinstatement
Application of:

KAITLIN ELIZABETH HORTON,
NMLS ID No. 1949240,

Applicant.

Docket No. 2021-16-12

**NOTICE OF INTENT AND OPPORTUNITY
TO REQUEST A HEARING**

The Idaho Department of Finance, Consumer Finance Bureau (Department), 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 this Notice of Intent and Opportunity to Request a Hearing (Notice). The Department intends to

seek an order denying the mortgage loan originator license reinstatement and renewal application submitted by KAITLIN ELIZABETH HORTON (the Applicant) to the Department.

Pursuant to Idaho Code § 26-31-305(6), the Applicant has the right to a hearing on the question of her qualifications, but to do so she 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 Department staff intends to ask the Director to issue an Order of Denial of Mortgage Loan Originator License Application. Alternatively, the Applicant may withdraw the application prior to the expiration of the time within which to request a hearing and thereby prevent an order of denial from being entered.

The Notice is based on the following:

MATTERS ASSERTED

1. The Applicant, a resident of the state of Arizona, was previously licensed in Idaho to conduct business in the state of Idaho as a mortgage loan originator. She failed to renew her license prior to the statutory license expiration date of December 31, 2020, pursuant to Idaho Code § 26-31-309.

2. On February 3, 2021, the Applicant submitted an updated application Form MU4, and requested a reinstatement and renewal of her Idaho Mortgage Loan Originator license through the Nationwide Mortgage Licensing System and Registry (NMLSR). The updates that the applicant made to her Form MU4 application only included amendments pertaining to her identifying and residential information. She made no updates to the reinstatement/renewal application form regarding Disclosure question (F)(2), which asked the Applicant whether she

had any pending charges against her for any felony. The February 3, 2021, reinstatement application answered this question in the negative. This representation is inaccurate.

3. The loan originator license reinstatement and renewal process requires applicants to submit an affirmation stating whether there have been any changes to their originally filed Form MU4, and if so to update the relevant information. The renewal process affirmation contains the following language: "...to the best of my knowledge and belief the information contained in my online record, including jurisdiction specific requirements where I am licensed or registered, is true, accurate and complete in accordance with the appropriate jurisdiction's law. Additionally, I acknowledge that I have a duty and agree to expediently update and correct the information as it changes." The affirmation further states that "I understand that submitting any false or misleading information, or omitting pertinent or material information, may be grounds for administrative action and/or criminal action."

4. Below this affirmation, includes relevant item numbers 1, 2, and 4, in which the Applicant must attest to the following:

- (1) That the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part of this application, are current, true, accurate and complete and are made under the penalty of perjury, or un-sworn falsification to authorities, or similar provisions as provided by law;
- (2) To the extent any information previously submitted is not amended and hereby, such information remains accurate and complete; and
- ...
- (4) To keep the information contained in this form current and to file accurate supplementary information on a timely basis

5. 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, which included a Criminal Background Check (CBC), to determine if

the Applicant demonstrated sufficient financial responsibility, character, and general fitness in order to have her mortgage loan originator license reinstated and renewed.¹

6. This review reflected a “RAP,” which meant that a criminal action had been reported in the Applicant’s background check. A Department examiner reviewed this RAP and noted that the Applicant was arrested for three felony criminal charges filed in Maricopa County, Arizona. Information was obtained from the Maricopa County Superior Court Clerk website that indicates the Applicant was charged with the following on November 28, 2020: Drug Paraphernalia-Possess/Use (Class 6 Felony), Dangerous Drug-Possess/Use (Class 4 Felony), and Narcotic Drug-Possess/Use (Class 4 Felony). As of the date of this Notice, the Applicant has a Preliminary Hearing scheduled for February 26, 2021.

7. At the time she submitted her reinstatement/renewal application on February 3, 2021, the Applicant had not changed her response from a negative to an affirmative regarding disclosure question (F)(2), indicating that she had pending charges against her for a felony. The Applicant was required pursuant to Idaho Code § 26-31-305(1) to amend her response to reflect affirmative answers during the time she was licensed, as well as at the time she submitted her application that she had been charged with three felonies. The failure to amend her Form MU4 to reflect that she had pending felony charges against her, constitutes a material misrepresentation and a relevant omission in the Applicant’s response to the application disclosure question (F)(2).

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.

8. The failure to update her license application as required is a basis to justify the denial of the Applicant's Idaho mortgage lender license application. This issue also demonstrates that the Applicant does not have the character and fitness sufficient to warrant belief that she will operate honestly and fairly within the purposes of the Act, which is also a justification to deny the Applicant's license application.

LEGAL CONCLUSIONS

9. 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 § 26-31-309(1)(c) provides that a licensee shall file through the NMLSR, on or before December 31 of each year, a renewal application containing such information as the director may require. Further, Idaho Code § 26-31-309(3) provides that a licensee who fails to reinstate by December 31 may still reinstate the license from January 1 to February 28 after submitting a new application for renewal and paying renewal fees plus a \$100 reinstatement fee.

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 § 26-31-309.

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 decline to renew 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 in her application, which is grounds to deny her application for licensure. She failed to disclose that she had been charged with three felonies. The failure to disclose the pending charges prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

16. 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 renewal of her Idaho mortgage loan originator license, pursuant to Idaho Code § 26-31-313(1).

17. The Applicant did not update her Form MU4 information to show an affirmative response to disclosure question (F)(2) and to reflect the pending felony charges, and she submitted a false affirmation in her renewal application. Both of these prohibit the Director from issuing a renewed license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

18. The Applicant is HEREBY NOTIFIED that the foregoing Notice will result in the Department presenting and requesting a final order of the Director revoking the mortgage loan originator license, 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 Department's Consumer Finance Bureau Chief, at the following address:

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.

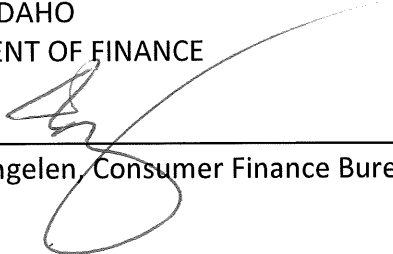
19. If the Applicant timely requests a hearing, the Director of the Department, or a Hearing Officer acting on the Director's behalf, will notify the Applicant of the date, time and place of the hearing, as well as the name and contact information of the presiding officer.

20. 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).

21. Alternatively, the Applicant can withdraw the application she submitted on February 3, 2021. If the Applicant withdraws the application before the deadline to submit a request for a hearing, the Department will not seek to have the Director issue a final order denying the mortgage loan originator license application. The Applicant can then submit a new complete application, which will be reviewed by the Department.

DATED this 22nd day of February 2021.

STATE OF IDAHO
DEPARTMENT OF FINANCE



Erin Van Engelen, Consumer Finance Bureau Chief

DATED this 22nd day of February 2021.

OFFICE OF ATTORNEY GENERAL



Thomas A. Donovan, Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 22nd day of February 2021, I caused a true and correct fully-executed copy of the foregoing NOTICE OF INTENT AND OPPORTUNITY TO REQUEST A HEARING to be served on the following by the designated means:

Kaitlin Elizabeth Horton
8004 E Oak St
Scottsdale, AZ 85257

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: khorton@jfqllending.com

Paralegal