

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:

KRISTAL ANNE BUTAY,
NMLS ID No. 1944815,

Applicant.

Docket No. 2020-16-64

**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 application submitted by KRISTAL ANNE BUTAY (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 California, holds NMLS number 1944815 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 by the Applicant on August 20, 2020 and submitted on the Applicant's behalf by Anastasiya Naydonova of Better Mortgage Corporation on the same date.

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 with a "no" to this disclosure 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. Additional research showed that the Applicant has an outstanding judgment entered against her. Following this, the examiner obtained a copy of the Default Judgment against the Applicant (at that time Kristal A. Butay-Trupp) in favor of Pacific Northwest Collections, Inc., Case No. 728624, for \$1,041.80, which was entered November 15, 2012, in the One District Court, Pierce County, State of Washington.

6. The Department has no evidence indicating that the judgment described above, which has been assigned to P.S.C., Inc., has been satisfied and/or released.

7. The Applicant's failure to acknowledge and provide details of the judgment described above constitutes a material omission.

8. In addition to the above, there may be additional concerns regarding the Applicant's financial responsibility that would serve as a separate basis to deny the 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.

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.

11. 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 of the Idaho Department of Finance (Director).

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 in her application, which is grounds to deny her application for licensure. She answered a question inaccurately and failed to disclose the existence of the Washington judgment. The incorrect answer and failure to disclose the judgment prohibit the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

16. The Department intends to present this Notice as a basis for the Director to find it appropriate to deny the Applicant's application because the Applicant's failure to disclose on the Form MU4 the judgment 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 Applicant will operate honestly, fairly, and efficiently within the purposes of the Act. Therefore the Director cannot make the requisite findings under Idaho Code § 26-31-306(1)(d), and it is appropriate to deny the Applicant's request for an Idaho mortgage loan originator license, pursuant to Idaho Code § 26-31-313(1).

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

17. The Applicant is HEREBY NOTIFIED that the foregoing Notice will result in the Department presenting and requesting a final order of the Director denying the license application, 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 the 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.

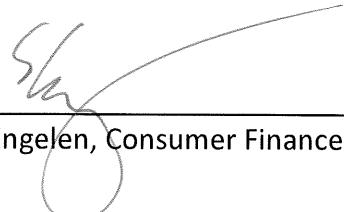
18. If the Applicant timely requests a hearing, the Director of the Department, or a Hearing Officer acting on the Director's behalf, will notify the Applicant of the date, time and place of the hearing, as well as the name and contact information of the presiding officer.

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. Alternatively, the Applicant can withdraw her application originally submitted on August 20, 2020. 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 29 day of October 2020.

STATE OF IDAHO
DEPARTMENT OF FINANCE



Erin Van Engelen, Consumer Finance Bureau Chief

DATED this 29th day of October 2020.

OFFICE OF ATTORNEY GENERAL



Thomas A. Donovan, Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 30th day of October 2020, 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:

Kristal Anne Butay
3093 Broadway Apt PH20
Oakland, CA 94611

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: kbutay@better.com

Paralegal