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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:

MICHAEL STEPHEN TIMOSCHUK,  
NMLS ID No. 270794,

Applicant.

Docket No. 2021-16-62

**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, Michael Stephen Timoschuk, a resident of the state of California, holds NMLS number 270794 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 on April 26, 2021 by the Applicant and was submitted on the Applicant's behalf on April 27, 2021, by Steven Sheasby of Landmark Mortgage Capital, Inc.

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 are the following questions:

(D): "Do you have any unsatisfied judgments or liens against you?"

...

(K) "Has any State or federal regulatory agency or foreign financial regulatory authority or self-regulatory organization (SRO) ever:

(1) found you to have made a false statement or omission or been dishonest, unfair or unethical?

(2) found you to have been involved in a violation of a financial services related business regulation(s) or statute(s)?

...

(4) entered an order against you in connection with a financial services-related activity?

...

(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?

...

(9) entered an order concerning you in connection with any license or registration?"

4. The applicant responded with a "no" to questions (K)(1), (2), (4), (6), and (9) regarding the regulatory action but responded with a "yes" to question (D).

5. Regarding his "yes" response to question (D), the Applicant included a brief explanation indicating that he had a "\$347 Property tax lien on vessel." No other documentation

or explanation was provided at that time. The Applicant then amended his application on July 20, 2021, to reflect a “no” response to disclosure question (D) and uploaded four lien release documents that were issued by the Orange County Tax Collector, State of California, for “unpaid unsecured property taxes” for tax years 2007 through 2010. The Applicant identified these releases as belonging to the \$347 property tax lien he disclosed.

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 other California state and county tax liens filed against him, as well as an outstanding judgment and a regulatory action that was taken against him in 2012. Regarding the tax liens and the judgment, the examiner obtained copies of the relevant documents as follows:

- a. Notice of State Tax Lien, Certificate Number 20255454162. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board on September 11, 2020, for \$5,509.29 for tax year 2017. It was recorded with the Orange County California Recorder, on September 11, 2020, as document No. 2020000485639.

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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.

b. Notice of State Tax Lien, Certificate Number 18324996124. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board on November 20, 2018, for \$5,462.32 for tax year 2016. It was recorded with the Orange County California Recorder, on December 3, 2018, as document No. 2018000450960.

c. Notice of State Tax Lien, Certificate Number 18244658823. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board on September 1, 2018, for \$27,976.63 for tax year 2006. It was recorded with the Orange County California Recorder, on September 5, 2018, as document No. 2018000326124.

d. Notice of State Tax Lien, Certificate Number 18157330728. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board on June 6, 2018, for \$6,713.75 for tax year 2015. It was recorded with the Orange County California Recorder, on June 6, 2018, as document No. 2018000207400.

e. Notice of State Tax Lien, Certificate Number 17327387752. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board on November 23, 2017, for \$24,896.53 for tax years 1997, 2003, 2004, and 2005. It was recorded with the Orange County California Recorder, on November 28, 2017, as document No. 2017000512069.

f. Certificate of Tax Lien, Assessment/Bill No. 2017 067357. This tax lien was issued against the Applicant by the Orange County Treasurer-Tax Collector, California, for \$339.98 for delinquent unsecured property tax for 2017-2018. It

was recorded with the Orange County, California, Recorder, on November 14, 2017, as document No. 2017-000487022.

g. Notice of State Tax Lien, Certificate Number 17094634551. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board on April 4, 2017, for \$10,473.39 for tax years 2013 and 2014. It was recorded with the Orange County California Recorder, on April 4, 2017, as document No. 2017000135065.

h. Certificate of Tax Lien, Assessment/Bill No. 2016 068187. This tax lien was issued against the Applicant by the Orange County Treasurer-Tax Collector, California, for \$358.09 for delinquent unsecured property tax for 2016-2017. It was recorded with the Orange County, California, Recorder, on November 8, 2016, as document No. 2016-000559140.

i. Certificate of Tax Lien, Assessment/Bill No. 2015 027585. This tax lien was issued against the Applicant by the Orange County Treasurer-Tax Collector, California, for \$361.60 for delinquent unsecured property tax for 2015-2016. It was recorded with the Orange County, California, Recorder, on October 13, 2015, as document No. 2015-000526528.

j. Notice of State Tax Lien, Certificate Number 15111301273. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board on April 21, 2015, for \$15,558.66 for tax year 2012. It was recorded with the Orange County California Recorder, on April 21, 2015, as document No. 2015000202697.

k. Certificate of Tax Lien, Assessment/Bill No. 2013 082141. This tax lien was issued against the Applicant by the Orange County Treasurer-Tax Collector, California, for \$396.82 for delinquent unsecured property tax for 2013-2014. It was recorded with the Orange County, California, Recorder, on December 10, 2013, as document No. 2013-000680737.

l. Notice of State Tax Lien, Certificate Number 13316662677. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board on November 12, 2013, for \$9,430.45 for tax years 2010 and 2011. It was recorded with the Orange County California Recorder, on November 21, 2013, as document No. 2013000640828.

m. Certificate of Tax Lien, Assessment/Bill No. 2012 034084. This tax lien was issued against the Applicant by the Orange County Treasurer-Tax Collector, California, for \$397.22 for delinquent unsecured property tax for 2012-2013. It was recorded with the Orange County, California, Recorder, on October 3, 2012, as document No. 2012-000599048.

n. Notice of State Tax Lien, Certificate Number 11194529831. This tax lien was issued against the Applicant by the State of California, Franchise Tax Board dated July 18, 2011, for \$8,358.78 for tax years 2008 and 2009. It was recorded with the Orange County California Recorder, on July 15, 2011, as document No. 2011000345491.

o. Application for and Renewal of Judgment, filed on December 6, 2016. According to the Application for and Renewal of Judgment, a judgment was

originally entered in favor of Transworld Systems, Inc., against the Applicant on June 30, 2008, for \$5,246.77 by the Orange County Superior Court, Central Justice Center, California, Case No. 30200800060791. The judgment was then renewed on December 7, 2016, for \$9,703.33, which included accrued interest and the court filing fee.

8. The Department has no evidence indicating that the California state and county tax liens or the judgment described above have been satisfied and/or released.

9. Pertaining to the Applicant's "no" responses to disclosure questions (K)(1), (2), (4), (6), and (9) regarding regulatory actions, the examiner obtained copies of documents related to the Applicant's real-estate license suspension in California, including an Accusation and a Stipulation and Agreement. The Accusation was issued by the State of California, Department of Real Estate (the DRE) and filed on October 7, 2011, Case Number #H-37579 LA. In the Accusation, the DRE alleged on three separate occasions that the Applicant "for or in expectation of compensation...solicited and negotiated a re-finance loan and loan modification on real property" without informing his employer broker of these transactions as required. The DRE also alleged that the Applicant misappropriated the funds he received from the borrowers in these transactions without their knowledge or permission.

10. The Stipulation and Agreement (Stipulation) was entered into by the DRE and the Applicant on May 29, 2012, and became effective on September 4, 2012. In the Stipulation, the Applicant agreed that his conduct alleged in the Accusation constituted cause for the suspension or revocation of his real estate license. The Stipulation effectively suspended the Applicant's California real-estate license, pursuant to the California Business and Professions Code, Section

10177(g) for a period of 90 days from the effective date of the Stipulation, but was stayed for one year upon the conditions that the Applicant “obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California;” that “no final subsequent determination be made...that cause for disciplinary action occurred within one (1) year of the effective date” of the Stipulation, and that the Applicant’s license and licensing rights were suspended indefinitely unless and until he refunded the advance fees he received and misappropriated from the three borrowers named in the Accusation.

11. Regarding the Applicant’s affirmative response to disclosure question (D), the Applicant’s failure to provide details of the additional tax liens and the judgment entered against him described above constitutes a material omission.

12. The Applicant’s failure to disclose the suspension of his California real-estate license on his Form MU4 to reflect that a self-regulatory organization had taken disciplinary action against him constitutes a material misrepresentation and relevant omission in the Applicant’s responses to the application disclosure questions (K)(1), (2), (4), (6), and (9).

13. On August 31, 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 items 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 September 28, 2021.



## **FINDINGS AND CONCLUSIONS OF LAW**

14. The allegations set forth in paragraphs 1 through 13 above are fully incorporated herein by this reference.

15. 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.

16. 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).

17. 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.

18. 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.

19. 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.

20. The Applicant made a material misstatement of fact in his application, which is grounds to deny his application for licensure. He failed to disclose the additional California tax

liens and the judgment. The failure to disclose the additional tax liens and judgment prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h).

21. Additionally, the Applicant failed to affirmatively answer disclosure questions (K)(1), (2), (4), (6), and (9) to reflect the DRE enforcement action 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).

22. The Director finds it appropriate to deny the application because the Applicant's failure to provide complete information on the Form MU4 regarding the various California tax liens, the California judgment, and the stipulated order of the California Department of Real Estate 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 MICHAEL STEPHEN TIMOSCHUK, NMLS #270794, ON APRIL 26, 2021, AND SUBMITTED ON MR. TIMOSCHUK'S BEHALF ON APRIL 27, 2021, BY STEVEN SHEASBY OF LANDMARK MORTGAGE CAPITAL, INC. IS DENIED.**

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

23. 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](mailto:CFLegal@finance.idaho.gov).

24. 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.

25. 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).

26. Pursuant to Idaho Code § 26-31-305(6), if a hearing is held, the Applicant shall reimburse, pro rata, the Director for his reasonable and necessary expenses incurred as a result of the hearing.

**IT IS SO ORDERED.**

DATED this 19th day of October 2021.



STATE OF IDAHO  
DEPARTMENT OF FINANCE

A handwritten signature in cursive script, appearing to read "Patricia R. Perkins", written over a horizontal line.

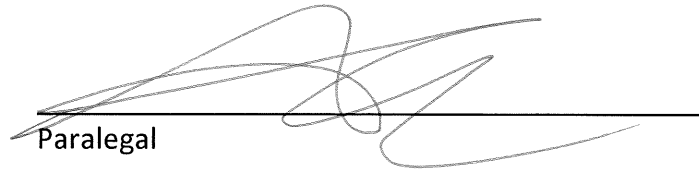
PATRICIA R. PERKINS, Director

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 20<sup>th</sup> day of October 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:

Michael Timoschuk  
141 Toretta  
Irvine, CA 92602

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

  
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Paralegal