

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:

NEIL DAVID ANDERS,
NMLS ID No. 223539,

Applicant.

Docket No. 2021-16-18

**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, NEIL DAVID ANDERS, a resident of the state of California, holds NMLS number 223539 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 initially attested to and submitted November 10, 2020 by the Applicant and then was attested to and submitted again by the Applicant on March 12, 2021 after he made amendments to the Disclosure Explanation section of his application in response to the Department's inquiries regarding his answers to specific questions.

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 the following question: (D): "Do you have any unsatisfied judgments or liens against you?" The applicant responded, "No."

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 an outstanding judgment entered against him from 2011. While researching this judgment, the examiner came across a separate outstanding judgment that was entered against the Applicant in 2019.

6. On March 4, 2021, the Department provided the Applicant notice of an intent to deny the application within one month based on the information the examiner obtained from the

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.

LexisNexis report unless the Applicant was able to provide documentation to satisfy the Department that the judgments had been resolved prior to the date the Applicant submitted his license application 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, but he did respond to the Department's notice.

7. On March 8, 2021, the Applicant made an amendment to his application in the Disclosure Explanations section regarding the Department's inquiry into these judgments. The Applicant stated the following:

I do not have any open or active judgments. The 2 listed: Angela Mehtematian judgment entered on 8/26/2011 in Orange County Superior Court case #30-2011-00466710-CL-UD-HNB, - This was erroneous and was not me, it was cleared up many years ago and was never associated with m[y] record. It came up when I went to purchase a home around 2015 and title had me complete a statement of information form which cleared my name. American Express National Bank judgment entered on 10/31/2019 in Orange County Superior Court case # 30-2019-01056028-CU-CL-NJC – This was fraud, I filed a police report, (attached) worked with the credit bureaus and my record was fully cleared. Please see recent credit report I sent as well to confirm.

8. The documentation that the Applicant attached with his disclosure explanation is merely evidence that he filed a police report on February 9, 2019 regarding the American Express account giving rise to a judgment entered October 31, 2019. He did not provide any other evidence that the account was fraudulently opened and used in his name or, more importantly, that the civil case and resulting judgment against him had been dismissed or otherwise invalidated. He provided no documentation regarding any resolution of the first judgment. This amendment was attested to by the Applicant on March 12, 2021.

9. On March 8, 2021, the Department responded to Applicant via the NMLS that his explanation set forth above in paragraph 7 was incorrect and unsatisfactory to favorably resolve the issue.

10. On March 24, 2021, the examiner researched the electronic docket for both judgments on the website for the Orange County Superior Court, www.occourts.org. For the second judgment, the examiner downloaded a copy of the Judgment, which was entered by default on October 31, 2019, in the case of American Express National Bank f/k/a American Express Centurion Bank as Plaintiff against Neil D. Andes aka Neil David Anders as Defendant in the amount of \$115,108.46 (Case Number 30-2019-01056028-CU-CL-NJC).

11. Subsequently, the examiner also obtained documents for the first judgment as well. She obtained a copy of the Default Judgment, which was entered on August 26, 2011, in the case of Angela Mehtematian, Trustee for the Mehtematian Family Trust against Neil D. Anders in the amount of \$4,835 (Case Number 30-2011-00466710-CL-UD-HNB).

12. The Department has no evidence indicating that either of the judgments described above have been satisfied and released or invalidated.

13. 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 judgments described above constitutes a material omission.

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 Nationwide Mortgage Licensing System (NMLS), 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 answered a question inaccurately and failed to disclose the judgments. The false answer to disclosure question (D) and failure to disclose the judgments prohibits the Director from issuing a license to the Applicant pursuant to Idaho Code § 26-31-306(1)(h). When questioned about the judgments and given an opportunity to

demonstrate that they did not need to be disclosed, the Applicant failed to provide documentation establishing that they should not have been disclosed in the MU4 application.

21. The Director finds it appropriate to deny the application because the Applicant's failure to provide complete information on the Form MU4 regarding the judgments 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 INITIALLY ATTESTED TO AND SUBMITTED ON NOVEMBER 10, 2020 BY NEIL DAVID ANDERS, NMLS #223539, AND SUBSEQUENTLY ATTESTED TO AND SUBMITTED AGAIN BY THE APPLICANT ON MARCH 5, 2021 IS HEREBY DENIED.

NOTICE OF THE OPPORTUNITY TO REQUEST A HEARING

22. 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-
ORDER DENYING MORTGAGE LOAN ORIGINATOR LICENSE APPLICATION AND NOTICE OF THE OPPORTUNITY FOR A HEARING – Page 6

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.

23. 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.

24. 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).

25. 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 19th day of April 2021.



STATE OF IDAHO
DEPARTMENT OF FINANCE

PATRICIA R. PERKINS, Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 19th day of April 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:

Neil David Anders
919 Hyde Court
Costa Mesa, CA 92626

- U.S. mail, postage prepaid
- certified mail
- facsimile _____
- email: nanders@afncorp.com

Paralegal